

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

December 6, 2019

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, DECEMBER 6, 2019, BEGINNING AT 9:01 A.M., WITH CHAIR KELLY T. KING PRESIDING.

COUNCIL CHAIR KELLY T. KING: Okay, Members, it's 9:01. I'd like to call the meeting of the Maui County Council regular Council meeting of December 6, 2019 to order. My name is Kelly King. I'm the Chair of the Maui County Council. And at this time, we'll take roll.

Mr. Clerk.

### ROLL CALL

PRESENT: COUNCILMEMBERS NATALIE A. KAMA, ALICE L. LEE, MICHAEL J. MOLINA, TAMARA A.M. PALTIN, YUKI LEI K. SUGIMURA, VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ AND CHAIR KELLY T. KING.

EXCUSED: COUNCILMEMBERS G. RIKI HOKAMA AND SHANE M. SINENCI.

*(Councilmember Sinenci was not present when roll was called; however, he arrived at 9:02 a.m.)*

CHAIR KING: And we have just been joined by Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha kakahiaka.

CHAIR KING: Aloha kakahiaka. Thank you for joining us. So, we have all Councilmembers here. Mr. Hokama is off-island today. So, looks like we have a quorum and we will proceed.

Members, I'll be giving opening remarks today. And I wanted to thank Councilmember Paltin for relinquishing her, her, her rotation of Council--

COUNCILMEMBER PALTIN: `A`ole pilikia, Chair.

CHAIR KING: Thank you. I guess I should remind everybody, also, to silence their noisemakers, since my phone just went off.

### OPENING REMARKS

The opening remarks were offered by Council Chair Kelly King.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I was wondering if perhaps we could honor your father's memory with a moment of silence?

CHAIR KING: Thank you. I would like that.

MEMBERS OF THE COUNCIL, AND OTHERS IN ATTENDANCE,  
OBSERVED A MOMENT OF SILENCE IN MEMORY OF THE LATE  
JAY TAKAYA.

CHAIR KING: Mahalo, Members.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Thank you for that. I appreciate it. And then just to let you know too, I'll be leaving on a red-eye tonight. So, I'll be gone for the first part of next week and then I'll return on December 11. So, I'll be here for the meeting on the 12th.

Okay. Mr. Clerk, can you go through the requirements of testimony, please.

Oh, I'm sorry. I got so distracted. Okay, for those of you who would like to join me in the Pledge of Allegiance, please stand.

## PLEDGE OF ALLEGIANCE

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

CHAIR KING: Thanks for that reminder. Okay, onto public testimony.

Mr. Clerk.

COUNTY CLERK: Madam 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. Please also identify to the Council if you are a paid lobbyist.

The first person to testify in the chamber is Katie Folio, testifying on County Communication 19-491.

CHAIR KING: Okay, Ms. Folio, I think you know the routine with the lights. Okay. Thank you.

## PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. KATIE FOLIO, COALITION FOR A TOBACCO-FREE HAWAII (testifying on County Communication No. 19-491):

Yes. Good morning and my condolences.

CHAIR KING: Thank you.

MS. FOLIO: I'm also sick this morning, so I apologize. I'll try to get through this. Good morning. My name is Katie Folio. I'm here on behalf of the Coalition for a Tobacco-

Free Hawaii, Program of the Hawaii Public Health Institute. I am a paid lobbyist in strong support of the proposed bill for inclusion in the 2020 HSAC Legislative Package relating to tobacco products, covered by resolution 14-491 [sic]. Thank you for putting this on the agenda this morning.

The proposed bill urges the State Legislature to repeal the preemption of local ordinances that regulate the sale of tobacco products, to allow counties to enact ordinances is more stringent than State law.

Preemption of tobacco sales was added to a bill related to dialysis centers during a legislative conference committee behind closed doors in 2018. This new language, which was never seen by or commented on by the public during the legislative session stripped counties of their authority to protect the health of their residents through existing or future laws and regulations relating to the sales of all tobacco products, including electronic smoking devices often referred to as e-cigarettes or vapes.

Stripping the counties of their authority to regulate tobacco sales is an industry tactic to keep the fight at the State level where they can more easily monitor and implement legislation.

There's a famous quote by a former tobacco institute lobbyist who said, "We could never win at the local levels, so the tobacco institute and tobacco companies first priority has always been to preempt the field; preferably to put it all at the Federal level, but if they can't do that at least at the State level".

By successfully inserting this language into that dialysis bills, bill, counties have been significantly impacted. So, now we are preempted in our ability to tailor policy solutions designed to create healthier environments for the protection of our youth. We are preempted from proven public health evidence-based strategies that reduce tobacco consumption and initiation; such as tobacco pricing and access regulations, like tobacco-free buffer zones around schools, prohibiting the sales of tobacco in pharmacies, or a flavored tobacco restriction which is now law in 122 local jurisdictions. But we cannot do that.

Limiting authority to the State to address the youth tobacco epidemic will allow the tobacco industry to actively push weaker proposals that exempt or protect their products from regulation and that criminalize the very youth that they are targeting, shifting responsibility from the industry onto the individual, which is what they want to do.

So, restoring the county's authority will protect local residents and address health and social justice disparities. Counties have a long history of being proactive in adoption

innovative tobacco control policies based on community concerns and needs. Strong local laws serve as an example of good public health policy and changing social norms and for building support for State and national legislation.

Removing the ability of local government to take stronger action is of particular concern as high school students in the neighbor-islands are experimenting and using e-cigarettes at higher rates compared to the State average. These products used by our kids across our County and State are the newer pod-based devices that contain very high concentrations of nicotine, all of them. There are no nicotine-free options, which means our kids are becoming addicted to nicotine at alarming rates. So, they form the basis of that industry.

There is also social justice disparities with our Native Hawaiian high school youth using at even higher rates. And so, we really want this, to see this happen at the State level and we appreciate your support.

CHAIR KING: Thank you, Ms. Folio. Just one question from myself. Have you, what kind of a response have you gotten from State Legislators on this bill this year?

MS. FOLIO: It's hard to say this year. I know last year it was, it was dropped fairly quickly, all of the different bills that were making their way through.

CHAIR KING: Right. But when you talked to them individually, are you getting support?

MS. FOLIO: Depends on who you talk to.

CHAIR KING: Okay.

MS. FOLIO: A lot of this, a lot of things happen behind closed doors around this issue as well. So, it would be hard to know until we're in it.

CHAIR KING: Any other questions?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you for being here. Hi. So, you're saying, well, this bill is basically so that the counties, you're supporting it so the counties can, can get back the opportunity to pass laws. So, maybe not now, but if you could send us, if you could send me or us information on the kind of laws that you guys were, you know, working on that didn't go through. Or I know that you had some success last year with the flavor ban, and if you could just kind of refresh me later.

MS. FOLIO: Right. That's definitely one that we would love to see. If it doesn't happen at the State level, that we would love to see at the local level just like a lot of our smoke-free air laws which that, those weren't preempted. It's just sales, thank goodness, because that's where all of the laws have happened; is at the County level before they ever make it to the State. So, if we have that kind of information--

CHAIR KING: Ms. Folio, if you could maybe send that information to Ms. Sugimura, as well as the Healthy Families and Communities Committee, that might be helpful.

MS. FOLIO: Okay. Sure thing.

COUNCILMEMBER SUGIMURA: Thank you. Nice seeing you.

MS. FOLIO: You too.

CHAIR KING: Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Ms. Folio for being here. I just wanted to ask if you have any legislative bill numbers that you have been tracking last year, similar to what Ms. Sugimura is asking for. And I would like to see some of that.

MS. FOLIO: There's, I can find the ones from last year. As far as we're aware, we're going to be starting from scratch this year.

COUNCILMEMBER KAMA: Okay.

MS. FOLIO: The one that made it the furthest for the flavor ban, or are you talking about preemptions specifically or?

COUNCILMEMBER KAMA: Both.

MS. FOLIO: Both. Okay. I'll find that out--

CHAIR KING: But let's not go into too much detail on the--

MS. FOLIO: I'll find some numbers--

CHAIR KING: --cause that's not on the agenda today.

MS. FOLIO: Thank you.

COUNCILMEMBER KAMA: Thank you.

CHAIR KING: Okay. Thank you and then we'll get those numbers and the proposals.

Any other questions? Okay. Mr. Clerk.

COUNTY CLERK: Madam Chair, there are no other individuals signed up to testify in the District Offices nor the chamber. And we have received written testimony.

CHAIR KING: Okay. So, we have, we have no district testifiers? Members, is there any objection to receiving testimony into the record? We have one from the Hawaii Public Health Institute.

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM KATIE FOLIO OF THE MAUI, MOLOKAI, LANAI COALITION FOR A TOBACCO-FREE HAWAII, WAS MADE A PART OF THE RECORD OF THIS MEETING.

COUNCILMEMBER SUGIMURA: There's somebody.

CHAIR KING: Okay. So, ordered. We'll receive that into the record.

Is there anyone else in the chambers who wishes to testify? He's not signed up. Would you like to come down and introduce yourself? And then, did you sign up outside?

MR. SCOTT CRAWFORD: No.

CHAIR KING: Okay. So, you can go ahead and testify and then sign up afterwards if you would? Introduce yourself and--

MR. SCOTT CRAWFORD, KE AO HALI'I (testifying on County Communication No. 19-494):

Good morning, Madam Chair and Members of the Council. My name is Scott Crawford and I'm here on behalf of Ke Ao Hali'i. Just, I didn't even see the agenda item, but.

VICE-CHAIR RAWLINS-FERNANDEZ: 19-494.

MR. CRAWFORD: 19-494. Thank you.

CHAIR KING: You got here just in time, Mr. Crawford. So, thanks if you came all the way out from Hana.

MR. CRAWFORD: Raining all the way out from Hana. So, mainly just want to express, on behalf of Ke Ao Hali`i, express our appreciation and for your support of our efforts to protect and steward these precious lands in Hana. And just make myself available for any questions that you may have about this item.

CHAIR KING: Okay. So, you'll be available, you'll be here for the morning session?

MR. CRAWFORD: Yes.

CHAIR KING: Okay. Any objections to Mr. Crawford being a resource if that item comes up for floor action? Okay. Thank you.

MR. CRAWFORD. Okay. Mahalo.

CHAIR KING: And thanks for driving all the way out from Hana in the rain.

MR. CRAWFORD: Sure. No problem. Thank you.

CHAIR KING: I hope you have other business here too.

MR. CRAWFORD: Yes. Of course, we always take care of other things.

CHAIR KING: Mr., Mr. Sinenci will take you out to lunch I'm sure. I'm offering for you.

Okay. Mr. Clerk.

COUNTY CLERK: Madam Chair, we have no further individuals signed up to testify in the chamber or at the District Offices.

CHAIR KING: Okay. If there are no objections, we'll close testimony now.

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Testimony is closed.

Mr. Clerk, we're going to go ahead and go through the, because we had minimal testimony, go through the filing actions and then we'll look at priorities of the action items since we have one Member who has to leave early.



COUNTY CLERK: Madam Chair, proceeding with county communications.

## COUNTY COMMUNICATIONS

NO. 19-481 - KAY S. FUKUMOTO, ECONOMIC DEVELOPMENT DIRECTOR,  
(dated November 19, 2019)

Transmitting a copy of WIOA Bulletin No. 28-19 from the State of Hawaii, Workforce Development Council, with the allocations for Program Year 19 for the Youth, Adult, Dislocated Worker and Local Administration Programs.

CHAIR KING: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 19-481.

COUNCILMEMBER LEE:

SE, I MEAN, SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. This letter is purely information. No action is necessary at this time. Mahalo, Chair.

CHAIR KING: Okay. Any comments or discussion? If not, all those in favor of the motion say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

NO. 19-482 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 20, 2019)

Transmitting a summary of the temporary transfers/loans that have occurred from the General Fund and Department of Water Supply Revenue Fund to the 2020 Proposed General Obligation Bond Fund, as of October 31, 2019.

CHAIR KING: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I request that this item be referred to your EDB Committee?

CHAIR KING: Okay. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Item is referred.

Mr. Clerk.

The recommended action is that County Communication No. 19-482 be referred to the Economic Development and Budget Committee.

NO. 19-483 - MICHAEL P. VICTORINO, MAYOR,  
(dated November 18, 2019)

Informing of a vacancy on the Real Property Tax Review Board due to the resignation of Scott Innes effective December 31, 2019.

CHAIR KING: Mr., Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO FILE COUNTY COMMUNICATION NO. 19-483.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Moved by Councilmember Molina, seconded by Councilmember Sinenci.

Mr. Molina

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. The Mayor received notice of Mr. Innes's resignation from the Real Property Tax Review Board on November 14, 2019, with an effective date of December 31 of this year. I'd like to thank Mr. Innes for his service to our community in this capacity. Thank you.

CHAIR KING: Okay. Thank you. Any discussion? If not, all those in favor of the motion say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

NO. 19-484 - MICHAEL P. VICTORINO, MAYOR,  
(dated November 27, 2019)

Informing of the appointment of Makale`a Ane to the Conservation Planning Committee.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO FILE COUNTY COMMUNICATION NO. 19-484.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Councilmember Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. According to Section 2.82.040 of the Maui County Code, one of the nine members must be appointed by the Mayor to this commission without approval by the Council for a term concurrent with the Mayor's term of office. I want to thank Ms. Ane for her wanting to serve on this particular planning committee. Thank you.

CHAIR KING: Okay. Thank you. And Mr. Molina, do you know if this makes the full complement of members for this committee?

COUNCILMEMBER MOLINA: Madam Chair, I'd have to check with, I guess, maybe Ms. Baisa up in the Mayor's Office to, I haven't had an opportunity to check if this is, you know, if fully, the board, the committee is fully staffed at this point.

CHAIR KING: Okay. So, I know that they were waiting for members to be appointed so they could have their first meeting.

COUNCILMEMBER MOLINA: As a matter of fact, I believe we have three. There's going to be three nominees coming out--

CHAIR KING: Oh, okay. Okay great. So, we can get this committee going.

COUNCILMEMBER MOLINA: --at our next GET meeting.

CHAIR KING: Any other comments or discussion? If not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Okay. Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

NO. 19-485 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 18, 2019)

Informing of the acceptance of a Warranty Deed for a Road Widening Lot, Lot d-2,  
Kaimana Subdivision, TMK: (2) 2-7-002:042 POR.

CHAIR KING: Councilmember Lee.

COUNCILMEMBER LEE: Chair, if there are no objections, I would ask the Clerk to call  
County Communications 19-485 through 19-487.

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Alright. Mr. Clerk.

NO. 19-486 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 19, 2019)

Informing of the acceptance of Waterline Easements "W-1" & "W-2", Jordan Santos  
Subdivision, TMK: (2) 2-4-002:010 POR.

NO. 19-487 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 25, 2019)

Informing of the acceptance of Sewerline Easement, portion of Sewerline  
Easement 15, Mahinahina Ventures, Lot 90, TMK: (2) 4-3-009:028 POR.

CHAIR KING: Okay. Ms. Lee.

COUNCILMEMBER LEE:

I MOVE TO FILE COUNTY COMMUNICATIONS 19-485  
THROUGH 19-487.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay. Moved by Member Lee, seconded by Member Sugimura.

Any discussion or comments, Ms. Lee.

COUNCILMEMBER LEE: These communications are purely informational, and no further action is required by the Council. Thank you, Chair.

CHAIR KING: Okay. Thank you. All those in favor of the motion say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

NO. 19-488 - TASHA KAMA, PRESIDING OFFICER PRO TEMPORE,  
(dated November 22, 2019)

Relating to Councilmembers' report on Community Meeting on Real Property Tax Changes.

CHAIR KING: Okay. Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 19-488.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay. Moved by Pro Tem Kama, seconded by Member Sugimura.

Ms. Kama.

COUNCILMEMBER KAMA: Thank you. Councilmembers Lee, Sugimura, and I attended a community meeting on November 20, 2019, at the Kahului Community Center regarding the proposed changes to the real property classification system, including the use of tiers.

I'm making this report about a meeting which complied with State Sunshine Law, specifically all requirements of Section 92-2.5(e) of the Hawaii Revised Statutes.

According to the sign-in sheet, 17 members of the public attended the meeting. Marcy Martin, Real Property Tax Administrator, made a brief presentation describing the proposed real property tax changes that Council has been considering. I'd like to thank the Administration for the technical support we have received in the Temporary Investigative Group process and during our public outreach on this issue.

Some suggestions and concerns addressed at the meeting were the idea that we are only setting the table for future deliberations during the budget process that left many unsettled, especially without knowing the values of the tiers and their associated tax rates. The Council shouldn't move too quickly to actually establish those tiers. Long-term residents should be placed in the lowest tier regardless of the evaluation, the valuation. Tax rates should be adjusted so that it is financially beneficial to build lower cost housing. And the exemptions or reductions for long-term rentals or affordable rentals should be made prior to implementing any of the other changes.

A quorum of the Council was not present at the meeting. The community meeting on real property taxes was not specifically and exclusively organized for or directed toward Members of the Council. It was a public meeting for which a press release was issued. No commitment relating to a vote on any Council business was made or sought at the meeting.

And Chair King, that concludes my report. But if possible, I'd like to ask the other two Members of the Council who attended to comment if they so desire. Thank you.

CHAIR KING: Okay. Thank you, Member Kama. Any comments from Members Lee or Sugimura on the report?

Okay. Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I think that, well not, I think that evening when I walked in, thank you, Councilmember Lee, was, was taking the lead in terms of presenting. And Marcy Martin was there for, to answer technical questions, as Tasha said. Other things that came up of concern were circuit breaker. I think there were two people in the audience out of the 17, I thought there were 20 of us, or 20 residents, but 17 people that talked about the concern for circuit breakers. And the, in the proximity--

CHAIR KING: Ms. Sugimura, I think the, the order is to, if you have a comment about the report that Ms. Kama did.

COUNCILMEMBER SUGIMURA: So, this is adding to the report, Chair.

CHAIR KING: Okay. Let's just not get into too much detail because the, the reports been given, so.

COUNCILMEMBER SUGIMURA: Yea, so I think this is important information, though, because it was brought up in discussion and Ms. Lee can contribute if there's more. But I think the circuit breaker issue was brought up and as well as commercial. Thank you.

CHAIR KING: Okay. Thank you. If there are no other comments, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.



CHAIR KING: Motion passes eight to zero to file. And one "excused", Mr. Hokama.

Mr. Clerk, let's go to 19-489, because we have, we have the appointee in the audience and we can address this issue.

NO. 19-489 - KELLY T. KING, COUNCIL CHAIR,  
(dated November 27, 2019)

Transmitting a proposed resolution entitled "APPROVING THE APPOINTMENT OF RICHARD E. MITCHELL AS A LEGISLATIVE ATTORNEY IN THE OFFICE OF COUNCIL SERVICES".

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RESOLUTION FOR RICHARD E. MITCHELL, ATTACHED TO THE COUNTY COMMUNICATION 19-489, AND TO FILE COUNTY COMMUNICATION 19-489.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Mitchell received his law degree from Syracuse University. He also has a Master's degree in Urban Planning from the University of Michigan.

Mr. Mitchell served as general counsel for Washington State Governor Christine O. Gregoire. Sorry. While at the Office of the Governor, Mr. Mitchell's responsibility including legislation review, executive orders, administrative rule appeals, judicial appointments, emergency powers, ethics, public disclosure, transfer of state realty, and tax-exempt revenue bond issues.

He was also previously employed in private practice, focusing on real estate transactions, design and construction matters, land use, procurement, municipal law issues, and served as outside general counsel for public and private entities, including municipal corporations.

Mr. Mitchell's legal experience in government will make him a great asset in the Office of Council Services.

To any Councilmember who haven't, hasn't met with him yet, I would strongly encourage you to do so. I met with him yesterday and was thoroughly impressed by his background, his experience, and his passion for social justice. I truly look forward to working with him if it's the will of this body to adopt this resolution. I ask for the Members full support in adopting this resolution for Mr. Mitchell. Mahalo.

CHAIR KING: Okay. Thank you, Vice-Chair. Would Office of Council Services like to make any comments?

DIRECTOR OF COUNCIL SERVICES TRACI FUJITA: We just urge the Council to support this resolution, and we're available for any questions. And Mr. Mitchell is also here if the Members have questions for him.

CHAIR KING: Okay. So, if anyone has any questions, we can bring him to the podium if you need. Personally, I did get a chance to interview him last week. So, are there any Members who would like to have Mr. Mitchell come to the podium? No. Okay. Alright.

If there are no other comments or questions, I will just say I agree with everything Vice-Chair Rawlins-Fernandez said. I think he's going to be an asset. He will also be the, the last opening we have in Office of Council Services. So, for the first time since I've been on the Council, we will be fully staffed. And I would like to thank everybody for their support ahead of time to get that to happen. And we also have had some pretty high-level applicants. So, there were I think three, three candidates for this position.

Okay. If there are no other comments or questions, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Welcome aboard, Mr. Mitchell. Thank you for joining our staff.

Okay, Mr. Clerk, can you give me a resolution number on that?

COUNTY CLERK: For the record, RESOLUTION 19-191.

CHAIR KING: Okay. And then, Members, because we have someone who has to leave early, there was a request to just move the agenda around a little bit and go to County Communication 19-492. So, if there are no objections, we'll go to that item next.

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

NO. 19-492 - KELLY T. KING, COUNCIL CHAIR,  
(dated November 29, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL TO ADVISE AND REPRESENT THE MAUI COUNTY COUNCIL IN THE CASE OF MCKELVEY V. VICTORINO."

CHAIR KING: Okay. Councilmember Molina.

COUNCILMEMBER MOLINA: Madam Chair, I know this is a bit unusual; before I consider action, would it be okay to, for me to ask some clarifying questions either of you or Office of Council Services Attorney Mr. Raatz on this proposal?

CHAIR KING: Before you make the motion?

COUNCILMEMBER MOLINA: Yea.

CHAIR KING: Okay. Sure.

COUNCILMEMBER MOLINA: Thank you.

CHAIR KING: Mr. Raatz.

COUNCILMEMBER MOLINA: Yea, Madam Chair, my first question is, because it doesn't appear that the Council is currently a party to this case. Is that confirmed? So, I guess looking at the complaint, I didn't see County Council on there. I just wanted to get that confirmed.

CHAIR KING: Mr., Mr. Raatz. I believe it was added in the amendment, but.

SUPERVISING LEGISLATIVE ATTORNEY DAVID RAATZ: Thank you, Chair. The Maui County Council is now a defendant in the case based on the first amended complaint.

COUNCILMEMBER MOLINA: The first amended complaint?

SUPERVISING LEGISLATIVE ATTORNEY: Yes.

COUNCILMEMBER MOLINA: And then in the proposed resolution, a special counsel is to report and consult with the Chair on the case status. I guess maybe I'm looking at it as more of a potential cost savings. Could we have a legislative attorney from OCS provide us any status reports, even though we're named as, I guess, defendants in this.

CHAIR KING: Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. Yes, that's something that the Office can do. We can provide advice and we can provide legal information. We can't provide legal representation for the Council unless we are authorized to do so based on a special council resolution. And this proposal is to hire an outside attorney to represent the Council, so we would go through a procurement process if it's adopted.

COUNCILMEMBER MOLINA: And that would be up to 30,000, I guess, if--

SUPERVISING LEGISLATIVE ATTORNEY: That's correct.

COUNCILMEMBER MOLINA: --if we decide to go on. Okay. And then, finally, if the Council becomes a party to this case, which it is, we're not overstepping our authority since the

suit is involving the Administration, right? Well, I guess the Administration was being targeted in a lawsuit. But we were then named. Is that the case?

CHAIR KING: Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. Yes, so the case was originally filed against the Mayor and the Corporation Counsel. And subsequently the Maui County Council was added, so there's three defendants in the case now. Currently, the Department of the Corporation Counsel is representing all of the defendants.

COUNCILMEMBER MOLINA: Okay. Thank you. Well, Madam Chair, thank you for allowing to further clarifications.

CHAIR KING: Sure.

COUNCILMEMBER MOLINA: So, you know, with that being said, I'll just go ahead and put it out there with the initial, I guess, steps in this process.

SO, YOU KNOW, WITH THAT BEING SAID, I'LL JUST GO AHEAD AND PUT IT OUT THERE WITH THE INITIAL, I GUESS, STEPS IN THIS PROCESS, WHICH IS TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT PURSUANT TO RULE 7(G) OF THE RULES OF THE COUNCIL.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER MOLINA: Okay. And, oh I'm sorry, Madam Chair.

CHAIR KING: Well, I just wanted to say that, you know, I, I, I think, I think I apologize because we probably should have done that first before all the questioning.

COUNCILMEMBER MOLINA: Yea, I just thought of that. My apologies, Madam Chair.

CHAIR KING: But anyway, go ahead.

COUNCILMEMBER MOLINA: Anyway, the approval of this motion to waive by a two-thirds vote of the entire membership of the Council will enable, will enable the Council to consider the proposed resolution today.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: Thank you.

CHAIR KING: Okay. Any other comments on the waiver?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Curious what is the need for the rush?

CHAIR KING: Because the, the, well, I don't know. Do you want to answer that Mr. Molina, or do you want me to answer?

COUNCILMEMBER SUGIMURA: Well maybe Corp. Counsel?

COUNCILMEMBER MOLINA: Yea, right now we're only doing the waiver. I guess maybe if we, should we get to the motion aspect of this, we're considering adopting the resolution, then at that point we can get into a deeper discussion. But right now, at this point, we're just waiving the referral to Committee, so.

VICE-CHAIR RAWLINS-FERNANDEZ: I can speak to that, Chair.

CHAIR KING: Okay. I, well, Ms. Sugimura, you still have the floor.

COUNCILMEMBER SUGIMURA: So, I think that it's appropriate because if, if--

CHAIR KING: Because you want to know why we need to--

COUNCILMEMBER SUGIMURA: Why we need to--

VICE-CHAIR RAWLINS-FERNANDEZ: The time-sensitive.

COUNCILMEMBER SUGIMURA: --take it up today versus sending it to Committee for, you know, further discussion, so.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: I still stand. I still have--

CHAIR KING: Okay. No, and that's a, that's a valid concern.

COUNCILMEMBER SUGIMURA: And I wonder if Corp. Counsel might answer?

CHAIR KING: I want, let me, let me go to the second, the person who seconded the motion, Vice-Chair Rawlins-Fernandez next.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair, for the opportunity to provide comments and to respond to Member Sugimura's questions. So, the time sensitivity on this is that the Council is not being represented right now by Corporation Counsel. Our interest is not being represented as a defendant, and our interest is different from the Mayor's interest.

The time sensitivity on this is that there's a court date set on November, sorry, December 18 and that's why we need to take action on this today, because the Council is not being represented and the court date is coming up very quickly and we don't have time to go through the process of sending this to Committee to discuss. We need to take action today so that the Council's interest is being represented in this.

We have, we weren't even consulted before a motion to dismiss was filed with the court, which is a violation of the Hawaii Rules of Professional Conduct. We are a client and we weren't even consulted beforehand. I hope that bothers you, because that truly bothers me. Mahalo, Chair.

CHAIR KING: Thank you, Vice-Chair.

Member Lee.

COUNCILMEMBER LEE: Okay. So, now everybody has an opportunity to speak about their own opinions and perceptions of, of this whole matter.

CHAIR KING: Okay. Of, of, of the need for the waiver. So, if we can keep it to the need for the waiver.

COUNCILMEMBER LEE: Well, okay, for the need for the waiver.

CHAIR KING: Right.

COUNCILMEMBER LEE: Yea, it might be time sensitive, but I disagree that we're not being represented. So, if, so, therefore, there is no need to rush to hire a special counsel. And we had met, we have met with the Corporation Counsel. We, the Council, appointed them as our representative and they, they do represent us. So, I will be voting "no" on the motion. Thank you.

CHAIR KING: Ms. Kama, do you have a comment?

COUNCILMEMBER KAMA: I'm going to be voting "no" on the waiver. Thank you.

CHAIR KING: Okay. Any other comments or, Ms. Paltin.

COUNCILMEMBER PALTIN: I'm going to be voting "yes".

CHAIR KING: Okay. My thoughts are that I agree with Vice-Chair Rawlins-Fernandez that this is an important matter. We have not been consulted as clients. The Corporation Counsel has taken the lead on deciding how to approach this case without consulting the Council. I had sent a letter asking if they had consulted with the Mayor and got a response from Ms. Lutey saying "no". So, actions are being taken without consulting clients and that really should bother us. We, we do not have representation unless this Council's will, which is our vote, is followed and is, is represented in court.

The original Council, and I've spoken to Members from that Council who passed the amendment allowing the Council to use our own OCS attorneys as advisory. I've heard from a Councilmember of that Council who said that was a big mistake not to say that we could use them for representation as well. Because now we're in a position where our Corp. Counsel has decided the actions we're going to take in the absence of this Council taking a voting on those actions and that leaves us without representation.

Even if individual Councilmembers are meeting with Corp. Counsel and may agree with those actions, those actions are not the will of the body until the body votes on it. And, you know, I, I think that if we don't start standing up for ourselves and getting representation, why are we on this Council if we're going to abdicate all of our authority to Corp. Counsel and or the Mayor?

Yea, I am. And it's, it's why we need to push this waiver, I think, and, and get this, get this deliberated on the floor.

Mr. Molina.



COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. If I could add further background information on this. When the, the lawsuit I believe was filed early November, late October, we were notified, our office was notified for a request for a Committee meeting by Corporation Counsel and it wasn't until November 26. And by that time, we had already had our agenda items posted for our December 3 Committee meeting, cause I would have certainly would have liked to have had this in a, in a Committee session. But because of, one, we're notified quite late of the request. And obviously, if we schedule this for December 17, it would, you know, wouldn't matter because of the December 18 deadline.

CHAIR KING: Right.

COUNCILMEMBER MOLINA: So, that is, I believe, part of the rationale for considering taking action on this today here on the Council floor. So, I just wanted to throw that into the discussion as well. Thank you.

CHAIR KING: Okay. Thank you.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Yea, I voted in the affirmative on Resolution 19-158, so I believe the recent actions to dismiss by Corporation Counsel doesn't support my, my vote. And so, I'll be, I would ask for special counsel. Thank you.

CHAIR KING: Okay. If there's no other, oh, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to remind, since this was brought up, remind the Councilmembers of the "Powers, Duties, and Functions" of Corporation Counsel as stated in the Charter, Section 8-2.3(2); "Be the chief legal advisor and legal representative of the County of Maui". Representative, I looked up the definition for everyone; "to be entitled or appointed or act or speak for someone, especially in an official capacity". So, the Corporation Counsel shouldn't be just acting independently without consulting us before taking action. They are supposed to speak or act on behalf of someone else and they're not doing that right now; not for this Council anyway. I don't feel like I'm being represented. I don't feel that the Council is being represented. And like I said, I think that's a violation of the Rules of Professional Conduct.

So, once the lawsuit was filed against the Corporation Counsel's head, Moana Lutey, and the Mayor, and the Council named as a defendant, Corporation Counsel had 20 days to respond. Two days ago, that was Wednesday, we received an email

midday requesting a meeting with all the Councilmembers to respond by end of day, which I think is really unprofessional of us. And if, if they're able to do that, that quickly, then I believe that they would have been able to get together a meeting like what they did yesterday before they filed that motion to dismiss, which they didn't do. So, the claim that they're, they were too rushed to meet with us, you know, is, is unfounded. So, I will be voting in favor of the motion and I hope my colleagues will join me. Mahalo, Chair.

CHAIR KING: Mahalo. Okay.

COUNCILMEMBER SUGIMURA: Call for the vote.

CHAIR KING: I, my, I guess my last comment is that, you know, it's just a, my hope is that we could look at this process and the process of, of justice should be blind, because the . . . blind; not whether or not we agree with a certain outcome, but whether we can actually put it on the table to deliberate because we are left without representation. So, with that, I'm going to call for the question.

Ms. Lee--

COUNCILMEMBER LEE: May I have one last comment?

CHAIR KING: Yes, you may.

COUNCILMEMBER LEE: Okay. You know, we have voted on this issue of a special counsel maybe five or six times. It's like beating a dead horse, yea. And voting once more or many times more in the future will not revive that horse. It's dead, yea. And it's not a question of justice being blind. I think justice is being deaf because we're doing it over and over and over again. And if that's the will of the majority, well, we'll just go through the process. And we are following a process.

And then, but the thing is there are people on this Council who don't agree that we need a special counsel. There are people on this Council that feel that we have like four or five attorneys in our Office, and now we want to spend more taxpayer money on a special counsel? You know, those are the issues that we're dealing with that maybe you don't agree with, but those are the considerations that we have. Thank you.

CHAIR KING: Thank you. Just to clarify too, that this, this particular special counsel item has not come up before. This is specifically addressing the McKelvey versus Victorino case that the Council has been named in. We have not deliberated on special counsel

for this case before. So, it's a new deliberation. It's a new, it's, it's to this specific case.

And we are not allowed to use our Office of Council Services for representation per the Charter. So that's what, that's the importance of appointing special representation, which we've done in other cases. We did it in the beginning of the year for the clarification on the, what was happening with disapproved directors being appointed as interims. So, we got that special counsel going on, because our Office of Council Services was not allowed to represent us in court and because Corp. Counsel was conflicted in that case as well.

So, with that, I will call for the question. All those in favor say "aye".

COUNCILMEMBER MOLINA: Aye.

CHAIR KING: Aye.

Any opposed?

COUNCILMEMBER KAMA: No.

CHAIR KING: Okay. Voice, voice, we'll go with roll call vote, Mr. Clerk.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

CHAIR KING: EXCUSED.

COUNTY CLERK: Councilmember Alice Lee.

COUNCILMEMBER LEE: NO.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Presiding Officer Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: NO.

COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: Chair Kelly T. King.

CHAIR KING: AYE.

AYES: COUNCILMEMBERS MOLINA, PALTIN, SINENCI,  
VICE-CHAIR RAWLINS-FERNANDEZ, AND  
CHAIR KING.

NOES: COUNCILMEMBERS KAMA, LEE, AND  
SUGIMURA.

EXCUSED: COUNCILMEMBER HOKAMA.

COUNTY CLERK: Madam Chair, that's five "ayes", three "noes", one "excused"; motion fails.

CHAIR KING: So, the vote is five to three.

COUNCILMEMBER MOLINA: Madam Chair.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: So, as the end result of this, so now this item will be referred to the GET Committee?

CHAIR KING: Right.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR KING: Okay.

Okay, Mr. Clerk.

NO. 19-490 - MICHAEL J. MOLINA, CHAIR, GOVERNANCE, ETHICS, AND  
TRANSPARENCY COMMITTEE, (dated November 27, 2019)

Transmitting a proposed resolution entitled "APPROVING THE APPOINTMENT OF ANGELA LUCERO AS A MEMBER OF THE WEST MAUI COMMUNITY PLAN ADVISORY COMMITTEE".

CHAIR KING: Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO DISCHARGE THE GET COMMITTEE FROM  
FURTHER CONSIDERATION OF THE PROPOSED  
RESOLUTION ATTACHED TO COUNTY COMMUNICATION  
19-490.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. A discharge is needed to enable the Council to consider action today on a proposed resolution being that it is a time-sensitive matter and because the West Maui Community Plan Advisory Committee, in accordance with Section 2.80B.080, Maui County, Code, has a limited 180-day timeframe or until January 20, 2020 to review the plan. Thank you.

CHAIR KING: Okay. Any questions or concerns? If not, all those in favor of the discharge say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE  
REFERRAL AND REPORT PURSUANT TO RULE 7(G) OF THE  
RULES OF THE COUNCIL.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Approval of this motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolution today. Thank you.

CHAIR KING: Okay. Any other comments or questions? If not, all those in favor of the waiver say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-490, AND TO  
FILE COUNTY COMMUNICATION 19-490.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. A copy of the applicant's application has been distributed by staff. Ms. Lucero is a graduate of USC with a Master's degree in Urban Planning and is very involved in her West Maui community having sat in on all West Maui CPAC meetings thus far. So, and she is also currently an executive assistant with Councilmember Paltin's staff. And she has consulted with the Board of Ethics for an advisory opinion to ensure her service on the CPAC won't conflict with her County employment. I would ask for the Members support of Ms. Lucero. Thank you.

CHAIR KING: Okay. Thank you, Mr. Molina. Any comments or questions?

I believe, oh, Member Sugimura.

COUNCILMEMBER SUGIMURA: So, to finish Mr. Molina's presentation, what did the Board of the Ethics decide?

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Madam Chair, yea, thank you. I forgot to also add the Board will not be meeting on her matter until December 11. So, roughly five days from now.

COUNCILMEMBER SUGIMURA: So, do you think we should wait until then, so we don't have her, I mean, she's awesome, but we don't want to have her conflicted and, and then go through a--

CHAIR KING: Well, we could--

COUNCILMEMBER MOLINA: Madam Chair.

CHAIR KING: No, I understand that. But we could--

COUNCILMEMBER SUGIMURA: But Mr. Molina--

CHAIR KING: We could approve her per, you know, conditionally. We did the same for one of my staff members who's on the Cost of Government. We approved her pursuant to the decision of the Board of Ethics. The Board of Ethics came out saying she had no conflict. So, I'm happy to support that, the motion. And then if something comes up where there is a conflict, we can reconsider.

COUNCILMEMBER MOLINA: Madam Chair, I just wanted to kind of dovetail off what you saying.

CHAIR KING: Okay. Mr. Molina.

COUNCILMEMBER MOLINA: And we had prior precedent with, with your employee as well.

CHAIR KING: Right.

COUNCILMEMBER MOLINA: --on another board or commission. So, like you said, depending on what the outcome of the Board's opinion, then we can act accordingly.

CHAIR KING: And it may be, it may be that part of the opinion has to do with also Councilmember Paltin's position on the Council making decisions on the outcome of the CPAC. So, we want to make sure that this doesn't conflict Member Paltin out from her vote on the, the CPAC final review of the community plan. So, I think that should be a major question too, because we, you know, we, we value Ms. Paltin's vote and we don't want the fact that she has a staff on the CPAC to be a conflict.

Vice-Chair Rawlins-Fernandez, you had a--



VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yea, I, I, I, I heard that last point that you made. I, I really don't see how that would be a conflict. It's supposed to be a financial conflict and I don't, I don't see financial conflicts in any of it. But I, you know, would be happy to, I guess, support the conditional approval.

Ms. Lucero, as Member Molina said, attended all but one of the CPAC meetings, which means she attended more meetings than some of the CPAC members. And so, she is up to speed on what the discussions are, the, the dynamics of the group. And I think her joining the CPAC would, would really be seamless.

As she stated in her application, that she would like to, the community plan to respect and draw from the wisdom of our culture here. And she recognizes that the community plan process is really special and important. And so, I, I think these are great points to highlight in her application; and why I'll be supporting her.

So, a conditional approval, we would set the date for that or it would just be she wouldn't join the CPAC until the Board of Ethics renders a verbal decision? Cause normally a decision comes out later.

CHAIR KING: I think we can go to the Committee Chair Molina to clarify that. So, what we did in the past for Cost of Government was approve it and then we, I think the idea was we would deal with it if a, if an adverse ruling came back from the Board of Ethics. So, is that your intention, Mr. Molina?

COUNCILMEMBER MOLINA: Yea. I think that's the most appropriate course of action in this case. So, if the Board, you know, finds there, there is a conflict, then, you know, we could, you know, make a recommendation to Ms. Lucero that she step down or if she could, you know, just voluntary act on her own as well.

CHAIR KING: Right. Yea, I think she would do that. I mean, she was the one--

COUNCILMEMBER MOLINA: Yea, she has a lot of integrity.

CHAIR KING: She was the one that, that asked for the opinion without being prompted.

COUNCILMEMBER MOLINA: Good point.

CHAIR KING: So, you know, I think we can have faith in Ms. Lucero.

Ms. Rawlins-Fernandez, you have any other?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, I just wanted to finish my point, and then I'll yield the mic. So, we, we do have Ms. Lucero here. And one of the things I believe, you know, we were advised is to declare that as a decision-maker, we would be able to make decisions fairly, Member Paltin said. I haven't said that statement before, but what was the statement that they advised you to say, Member Paltin?

CHAIR KING: Ms. Paltin.

VICE-CHAIR RAWLINS-FERNANDEZ: That there, you wouldn't be influenced, and you would be able to make a--

COUNCILMEMBER PALTIN: Yea, if, if, you got to just swear that you would not be biased in the way you vote.

COUNCILMEMBER SUGIMURA: What, what?

CHAIR KING: I think I, you know--

COUNCILMEMBER SUGIMURA: Where did that happen?

CHAIR KING: --I think, you know, I think just talking about the comments from--

COUNCILMEMBER PALTIN: I went before the Board of Ethics--

CHAIR KING: Board of Ethics is, is--

COUNCILMEMBER PALTIN: --before for the--

CHAIR KING: --is probably neither here nor there--

COUNCILMEMBER PALTIN: --you know in the nonprofits.

CHAIR KING: --because the Board of Ethics changes and I haven't seen real consistency in that Board myself. So, I'm not sure if that is the real question. It's just the question, is well, if there's a statement that there's a conflict then we would deal with it when that, if and when that happens.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

CHAIR KING: Okay. Thank you.

Member Paltin, did you have any more comment?

COUNCILMEMBER PALTIN: Yea, you know, just with the process, the whole thing of everything. I don't know if, we go to the CPAC meetings a lot and with the amount of times they meet, and for the length of time after work, I think I do see a little bit buyer's remorse among the 13 folks there, 14.

And so, part of the things that I would like to point out needs to get improved by the time South Maui, in regards to this, is when the previous applicant stepped down, there was no letter for a couple months, so we've been down one person for, for quite a while and she's still been going to the meetings.

There was no precedence set as to how you replace a, a member that was picked by the Council versus a member that was picked by the Mayor. And so, we've lost a lot of time and that was, I mean, and I didn't go into it as the need for the waiver, but we've been down one person, at least, for a couple months now.

There's a table of folks that go every time. Angela's been there the most out of everybody, even a lot of the CPAC members from the start to the finish of the meeting. And I did ask some of the, you know, intergenerational members of our community that sit with us if they would consider serving, and they were like, "no way", you know. And then they kind of did form a relationship with Angela. You know, somebody brings dinner one night or snacks and like that, and they said choose Angela. She, her specialty in school was in planning.

And at this point, we, we really just need to finish the plan. It's in the homestretch. And somebody coming on that is familiar with where they came from and where they need to get to in the shortest amount of time possible is going to be a benefit to the community as whole and the process of the County that we've invested so much time and money in.

To me, realistically appointing anybody else is giving us less than the best chance at this. And you know, giving that we're kind of breaking through for this island, Maui, we really need to learn from the situations that were presented to us in our community plan and take it forward.

And you know, I feel real lucky that my aide lives in West Maui, so she knows a lot of the issues. And then she sees the County side, what we're realistically able to do to fix the problems. And a lot of times when we watch the CPAC members, and it's all good well-intentioned people, but they're not clear on the distinction about what the County can do, what the State can do, what the Federal can do, what we cannot do. And so, just having her expertise and insight as a master's planner, volunteering for

the community that she lives in is priceless. I mean, you pay consultants big bucks from what we could get out of her.

And I, I promise not to like fire her if she votes against the way that I would like. She can vote however she wants, cause I trust her, you know. And I'm not going to tell her how to vote or not pay her or pay her more or whatever. It's just, that's how it is. And so, I think that's our best chance and so I hope you support.

CHAIR KING: Okay. Thank you, Member Paltin. And then just to reiterate, this is a volunteer position, so it would be hours outside of what she's getting paid for. She would be making her own decisions outside of what, how she serves her, her boss here in the Council and independent voting. So, thank you for pointing that out, Ms. Paltin.

The, do we have another, did you want to comment, Pro Tem Kama? Okay. You have your light on.

And then, and Ms. Sugimura, you have another comment?

COUNCILMEMBER SUGIMURA: I was just interested to hear what Member Paltin had to say. And I'm curious if anybody from Planning, how much more time is there for the CPAC before? I know they're extended.

CHAIR KING: They have an extension. Yea, they have an extension--

COUNCILMEMBER SUGIMURA: Yea, they got extension, right?

CHAIR KING: --being proposed.

COUNCILMEMBER SUGIMURA: So, I'm just curious as to if the decision is right around the corner from the Ethics, I would like the decision to made, so that we're not having to compromise, bring it up again in case it is.

CHAIR KING: Okay. Well, do you have anything else to say?

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: Member Lee.

COUNCILMEMBER LEE: I think most of us are ready for the vote. And related, I mean, regarding Ms. Sugimura's concern, we could, the person could always resign, and we can handle it that way. We don't need conditions.

CHAIR KING: Right. Okay, I agree with you. I think we have that level of integrity and then some in Ms. Lucero.

So, Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I think it's exciting, if you have a staffer that could actually sit on the community plan. I mean, how much more relevant could that be, right? We depend on our community to tell us and to be our eyes and our ears, because we can't be everywhere. But to have someone on staff in the community, I think it's just a plus for her boss as well as for all of us as staff. Cause we have access to her too. We can always talk in the halls, during lunch and, you know. But I think it's wonderful, so I'm ready to vote. Thank you.

CHAIR KING: Okay. Thank you. The only other thing I want to point out regarding Ms. Paltin's comments is that, maybe you would like to review, we, we actually did amend the CPAC rules last term. And there is a process in there for removing someone who doesn't show up to meetings. So, maybe that process needs to be reviewed by the Planning Department and actually administered or implemented.

But that being said, I'm going to call for the question. All those in favor of the motion on the floor, did that include filing, Mr. Molina? Okay. Motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Okay. Motion carries eight to zero, one "excused"; Mr. Hokama.

Thank you for your service, Ms. Lucero. And we look forward to a positive response from the Board of Ethics. Thank you.

Okay, Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-192.

NO. 19-491 - KELLY T. KING, COUNCIL CHAIR,  
(dated November 26, 2019)

Transmitting a proposed resolution entitled "APPROVING PROPOSALS FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE".

CHAIR KING: Okay. Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH 7(G) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Um, I'm not sure we're looking for a waiver. Let me, let me just double-check with--

Mr. Raatz, are we, are we, do we need a waiver on this one? It's not in my notes.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. We've recently conferred and looked at this, and we don't think a waiver is necessary. This isn't a resolution that has the force and effect of law. So, the, the rule on that wouldn't apply.

CHAIR KING: Okay. So, this is because HSAC items can come directly to the floor.

COUNCILMEMBER PALTIN: Okay, I'll withdraw that motion--

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: --and make a different motion.

CHAIR KING: Okay. Thank you.

COUNCILMEMBER PALTIN: Okay then.

COUNCILMEMBER SINENCI: Withdraw.

COUNCILMEMBER PALTIN:

I'LL MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-491, AND TO  
FILE COUNTY COMMUNICATION 19-491.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Member Paltin, seconded by Member Sinenci.

Ms. Paltin.

COUNCILMEMBER PALTIN: The HSAC Executive Committee met on November 25, 2019, to approve eight proposals for inclusion in the 2020 HSAC Legislative Package. The proposed package contains two proposals from Hawaii County relating to housing development and TAT, one proposal from City and County of Honolulu on tobacco products, three proposals from Kauai relating to registration of vehicles and additional fees for U-drive vehicles, and two proposals from Maui County on lowering the blood alcohol concentration to .05 and extending tax credits for cesspools.

Each of the four counties is required to review and approve the final package of proposals as approved by the HSAC Executive Committee before being sent to the Legislature. This resolution would endorse the eight proposals sent out to the four Councils by the HSAC Executive Committee while also reiterating this Council's support for our own previously submitted proposals. I respectfully ask for the Council's support.

CHAIR KING: Okay. Thank you, Ms. Paltin.

Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. Question for either you or Member Paltin. I guess, related to the Housing Development bill which was, I guess, proposed by Hawaii County and, I guess, the amendment or what they want in there is "Notwithstanding Section 205-3.1(c), shall approve a district boundary amendment for a housing project involving a land area of fifteen acres or less". My question is basically the, the need for this amendment, because we've previously approved district boundary amendments with 201H projects, so is it really necessary for us to codify this if we're already performing this, so?

CHAIR KING: Yea. Good question. And Ms. Paltin can respond.

COUNCILMEMBER PALTIN: Um, so yea, I also asked that question to the County of Hawaii, Councilmember Kierkiewicz. And I guess on the County of Hawaii there was a situation where they didn't, weren't allowed to do that. And it did go the Land Use Commission. And so, they said if it's something that's being used statewide and they have a incidence where they were not able to use it, then they hoped that everyone could back them up to get what the rest of us have been doing by practice and they've been stopped from doing by codifying it.

COUNCILMEMBER MOLINA: Okay. Thank you for the clarification.

CHAIR KING: Okay. Thank you. And if the Council sees this as specific to one island, we could also send it back to, you know, not be, if you don't see it as a statewide issue, because the, HSAC did commit to the bills being statewide issues. And they rejected some of our earlier bills because they saw them as Maui specific.

I also wanted to point out that we had actually, that when the HSAC met, we actually had many more proposals from Maui that were not accepted by the Board of HSAC. So, and I think Ms. Paltin did her best to try to get as many of ours in there, but in my absence, they, even though the previous meeting they had agreed to put all of the proposals in, they actually limit it to eight. So, we are left with only two.

So, some of these will make their way, hopefully get approved on the 12th as part of the Maui Package. But just to give you that background that we did have other proposals in there that were not accepted.

So, my, my opinion, and I did consult with Mr. Hokama because he has a long history with the HSAC is, you know, we have two options. We could hold this up and send it back to HSAC, which would, which would interfere with the plans to do a legislative briefing, or we could just simply go ahead and pass it through as it is and then focus on our Maui Package.

And, you know, we can do, we can do selective testimony on some of the other bills in HSAC, because I think we're obligated to not speak against any of these bills, but we're not necessarily obligated to make them our number one advocacy if, you know, we don't have an issue in Maui County with being able to make those district boundary amendments on fifteen acres or less. So, I'm not sure why Hawaii does or why they can't utilize the existing law.



I wasn't, I'm not sure what the conversation was, but I know from talking to Ms. Paltin that it was a very difficult phone meeting. It was hard to understand and, you know, I think that if it, if it doesn't make sense to us, we don't have to put a lot of energy into advocate. We'll, advocate for what Maui County Council feels are our priorities.

Any other comments on the proposal? Okay, if not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Okay, motion passes eight to zero, one "excused"; Mr. Hokama.

And thank you, Ms. Paltin, for stepping in in my absence and advocating for Maui County.

Okay. Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-193.

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

NO. 19-492 - KELLY T. KING, COUNCIL CHAIR,  
(dated November 29, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL TO ADVISE AND REPRESENT THE MAUI COUNTY COUNCIL IN THE CASE OF MCKELVEY V. VICTORINO."

The recommended action is that County Communication No. 19-492 be referred to the Governance, Ethics, and Transparency.

NO. 19-493 - SANDY BAZ, MANAGING DIRECTOR,  
(dated November 15, 2019)

Transmitting the Fiscal Year 2020 1st Quarter CIP Reports.

The recommended action is that County Communication No. 19-493 be referred to the Economic Development and Budget Committee.

NO. 19-494 - KAY S. FUKUMOTO, ECONOMIC DEVELOPMENT DIRECTOR,  
(dated November 26, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE MAYOR TO GRANT OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND SCENIC VIEWS PRESERVATIONS FUNDS TO KE AO HALI'I TO PURCHASE PROPERTY IN MOKAE, HANA, HAWAII".

The recommended action is that County Communication 19-494 be referred to the Environmental, Agricultural, and Cultural Preservation Committee.

THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 19-494 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 19-194. COUNTY COMMUNICATION NO. 19-494 WAS THEN FILED. See pages 43 through 46 for discussion and action.

NO. 19-495 - MICHELE CHOUTEAU MCLEAN, PLANNING DIRECTOR,  
(dated November 21, 2019)

Transmitting a letter from the West Maui Community Plan Advisory Committee requesting a time extension to review the Draft West Maui Community Plan.

The recommended action is that County Communication 19-495 be referred to the Planning and Sustainable Land Use Committee.

CHAIR KING: Okay. Members are we good with that?

Mr. Sinenci.

**DISCUSSION RELATING TO  
COUNTY COMMUNICATION NO. 19-494**

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR, I MOVE TO WAIVE RULE 7(G) OF THE RULES OF THE  
COUNCIL CONSIDERING 19-494.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay, moved by Member Sinenci, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Approval of my motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolution today. Ke Ao Hali'i has a deadline at the end of the year to purchase the property.

CHAIR KING: Okay. Any, any questions or comments on the waiver or the need for the waiver? If not, all those in favor of waiving Council Rules, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Mahalo, Members.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-494,  
INCORPORATING ANY NON-SUBSTANTIVE REVISIONS,  
AND TO FILE COUNTY COMMUNICATION 19-494

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Sinenci and seconded by Vice-Chair Rawlins-Fernandez.

I'm sorry. I'm trying to find the resolution on Granicus.

COUNCILMEMBER KAMA: My Granicus is not working.

CHAIR KING: Okay. I'm sorry. Okay. Mr. Sinenci, would you like to speak to the resolution?

COUNCILMEMBER SINENCI: Yes, Chair. At our November 22 meeting the Council adopted a resolution approving Ke Ao Hali`i's Land Management Plan and the property steward for parcel in Mokae. The resolution before you today will fulfill necessary requirements listed in Chapters 3.44 and 3.88 of the Maui County Code for Ke Ao Hali`i to receive their grant to purchase this Mokae parcel.

I would like to point out that the two agency comment letters from both DLNR and Maui Nui Resource Recovery Project, which both support and praise the County's actions to preserve this cultural and environmental precious land. Thank you.

CHAIR KING: Thank you, Mr. Sinenci. And then this is, just to verify for the Council and, and the public, this is monies that have already been approved by the Council, correct, to purchase this land?

COUNCILMEMBER SINENCI: Correct.

CHAIR KING: Okay.

COUNCILMEMBER SINENCI: And so, Ms. Kay Fukumoto is here, but I believe it's for the Office of Economic Development to fulfill the requirements from their office to release the funds towards the grant.

CHAIR KING: Okay. So, is it, it's basically relevant to the release of funds? We're not, we're not advocating for any new funds that haven't already been discussed in Council?

COUNCILMEMBER SINENCI: Correct.

CHAIR KING: Okay. Any other comments or any desire to ask questions of Ms. Fukumoto? We can call her down. No? Everybody's okay with it? Thank you for being here, for waiting the, the whole morning meeting.

If there's no, oh, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Just real quick. Yea, so I speak in support of the motion. I'm really happy that the Hana community will be, you know, getting the funds to complete this transaction. As you and Member Sinenci clarified, that this is funds that we just released. And this was also the item where Ke Ao Hali'i presented their Land Management Plan in your EDB Committee, so if anyone had questions on that, they could go back to the EDB meeting to see the presentation. But the, I believe, attached to this resolution is also the Land Management Plan. Mahalo, Chair.

CHAIR KING: Okay. Okay. Any other comments or questions?

Pro Tem Kama.

COUNCILMEMBER KAMA: I just wanted to give a great shout out to the Hana community for the work and the effort that they put into keeping their community, community. And I think that the steps of the County, the Council has taken today is really a huge milestone for that community and bear in mind that we're going to have some Habitat homes out there too, that they're going to be doing for themselves. When I think about self-sustaining communities, I think about Hana. So, thank you, Hana community. And thank you, Scott, for all your work out there.

COUNCILMEMBER SINENCI: We'll send more rain.

COUNCILMEMBER KAMA: Thank you.

CHAIR KING: Thank you, Member Kama. And also, thank you to Member Sinenci for being a strong advocate for East Maui and working directly with their community.

Okay, if there's no other questions or comments, or nobody needs to hear again from Mr. Crawford--

Member Paltin, do you have a comment? Oh okay.

COUNCILMEMBER PALTIN: Great job, guys.

CHAIR KING: Okay. Then we'll call for the question. All those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one Member "excused"; Mr. Hokama.

And I think, did we include the filing of that communication? Okay. Just wanted to double-check.

Alright, Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-194.

And if we can just get confirmation from the Members if there's any other objections to the referrals as read.

CHAIR KING: Okay, you skipped ahead of me, but that's great. Okay, so the referrals as read also includes, let's see, 19-482 that Vice-Chair Rawlins-Fernandez had asked to be referred rather than filed.

Okay. Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with Committee Reports.

## COMMITTEE REPORTS

### COMMITTEE REPORT

NO. 19-142 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending the following:

1. That Bill 67 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PARKS AND RECREATION (HANNIBAL TAVARES COMMUNITY CENTER IMPROVEMENTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-421, from the Budget Director, be FILED.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 19-142.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. This bill will allow improvements for the lower-level of office space of Mayor Hannibal Tavares Community Center, which was used, which is used by the Department of Finance for Division of Motor Vehicles and Licensing satellite office. No additional funds are being requested for the office space improvements. I respectfully ask the Members support of this motion. Mahalo, Chair.

CHAIR KING: Okay. Thank you.

Any questions or comments? If not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 67 (2019)

COMMITTEE REPORT

NO. 19-143 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending that Bill 68 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 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 POLICE (HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA))," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 19-143.



COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The proposed, the purpose of the HIDTA Program is to reduce drug-trafficking and production in the U.S. With this bill, the new total for our Department of Police's HIDTA Grant will be \$218,000. I respectfully ask the Members support of this motion. Mahalo, Chair.

CHAIR KING: Okay. Thank you.

Any questions or concerns? If not, all those in favor of the motion, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 68 (2019).

COMMITTEE REPORT

NO. 19-144 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending the following:

1. That Bill 69 (2019), entitled, "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF

MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2020, AFFORDABLE HOUSING FUND (KAIAULU O KUPUOHI APARTMENTS PROJECT)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That the Miscellaneous Communication, from the County Clerk, be FILED.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 19-144.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Your Committee met on September 5, to discuss this amendment to provide funding from the Affordable Housing Fund for the Kaiaulu O Kupuohi Apartments Project. The bill will allow \$6,382,000 to be used for land acquisition, planning and design, on-site improvements, new construction, and other related development costs to produce 88 rental units to be rented at or below 60 percent of the area medium, median income, and one unit for an on-site property manager.

Since the meeting, your Committee Chair has been coordinating with the developer of the project on details of the project and the associated housing agreement to address concerns that were raised by your Committee. Our discussions were fruitful, and I am confident the developer will take the necessary steps to address our concerns. And we also have Ms. Munsell here as resource if, or--

CHAIR KING: Okay. I think we have the developer.

VICE-CHAIR RAWLINS-FERNANDEZ: --here from the Department if we have any questions.

CHAIR KING: Thank you. And we have the developer here too, if not. Is this the one that we're, oh, is this the one that we're, we were previously calling the Star Noodle Project?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

CHAIR KING: Okay. Just for the record, for the public, it has nothing to do with Star Noodle, it's just the proximity to that business. So, in, in deference to Michael Moore who's keeps getting approached; it's not his project.

Okay. Any questions or any desire to have our Housing Department or the developer answer any questions?

Seeing none, um, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, just one quick question, Ms. Munsell.

CHAIR KING: Okay, Ms. Munsell, can you come down? Thank you for being here by the way.

Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha, Ms. Munsell. Mahalo for being here this morning. I just wanted to check on the status of the housing agreement.

CHAIR KING: Ms. Munsell.

DEPUTY DIRECTOR OF HOUSING AND HUMAN CONCERNS LINDA MUNSELL: The housing agreement, as I understand it, has been forwarded to Corporation Counsel. We've, we've gotten a draft and it's been sent for review.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo. That's all.

CHAIR KING: Mahalo.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Munsell.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Anything else. I guess I have one question since we have you up here. When we were discussing the Affordable Housing Fund yesterday in, in EDB, as relative to the project in Hana, we, and we were told that committed were, there's a certain number of committed which that was leaving us with nine million. Was that, was this already included in that commitment?

DEPUTY DIRECTOR OF HOUSING AND HUMAN CONCERNS: Yes.

CHAIR KING: Oh, you weren't here, so do you want me to reiterate what was said? Okay. Because I asked how much we had left in the Affordable Housing Fund and Ms. Tshako said around 30 million. But then Mr. Almeida clarified that with the commitments, including the commitment we were passing yesterday, we would be down to nine million. So, I just wanted to make sure this six million was included in his statement of where our commitments are at.

DEPUTY DIRECTOR OF HOUSING AND HUMAN CONCERNS: Chair, I would have to check with him. Usually when we forward a affordable housing projects to you, we've accounted for the funding that, to make sure that it's available.

CHAIR KING: Okay.

DEPUTY DIRECTOR OF HOUSING AND HUMAN CONCERNS: But I would have to check to see what the status is right now.

CHAIR KING: Okay.

DEPUTY DIRECTOR OF HOUSING AND HUMAN CONCERNS: But yes, this funding should be available.

CHAIR KING: Okay. That might be good to just do that report and, and get it to the Councilmembers so we know where we're at as we go through the next project. Okay. But there's no problem with this money being in the affordable housing, so, in the Affordable Housing Fund.

Okay. Any further discussion? If not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measure passes eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 69 (2019).

You have before you from your Environmental, Agri--

CHAIR KING: Let me, just to, just let me just thank the developer and Ms. Munsell for being here; appreciate that.

Okay. Moving right along. Mr. Clerk. Sorry about that.

(Councilmember Kama was excused from the meeting at 10:23 a.m.)

COMMITTEE REPORT

NO. 19-145 - ENVIRONMENTAL, AGRICULTURAL, AND CULTURAL PRESERVATION COMMITTEE:

Recommending the following:

1. That Resolution 19-195, entitled "URGING THE STATE LEGISLATURE TO ESTABLISH IMPACT FEES FOR TOURISTS," be ADOPTED; and
2. That Resolution 19-196, entitled "URGING THE STATE LEGISLATURE TO REQUIRE TOUR, AIRLINE, AND CRUISE OPERATORS TO SHOW VISITORS AN INFORMATIONAL VIDEO ABOUT SAFE AND SUSTAINABLE TOURISM PRIOR TO ENTERING THE STATE," be ADOPTED.

CHAIR KING: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 19-145.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Who, who seconded?

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR KING: Okay. Moved by Member Sinenci, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Your EACP Committee has made it a priority to discuss visitor impacts as we have acknowledged the fact that Maui is at a tipping point in terms of visitors. The attached resolutions are first steps towards addressing this issue. After the discussion at our November 21, 2019 EACP meeting, the Committee voted unanimously to pass both resolutions as amended. I respectfully ask the Members support of this motion. Thank you.

CHAIR KING: Thank you, Mr. Sinenci. And so, Committee, these are resolutions urging the actions on the part of State Legislature, so it's not the force and effect of law but as Mr. Sinenci said, they're the first step in moving toward a direction where we hopefully can work with the State on some of the impacts that we're feeling here in the County.

Any comments or discussion? If not, all those in favor of the motion on the, oh, I'm sorry, Mr., Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, after your November 21 meeting, I checked and the Legislature had a very similar action for the airlines, the, for a special impact fee to be charged because of this, and there was a lawsuit and the State lost. So, they tried it before and it didn't, it didn't pass. So, just to let you know the, if the resolution goes forward, is, is the whole HSAC, or is it only Maui County or is it HSAC as a, as a unit that's trying to--

CHAIR KING: There's no legislation. It's just urging the Legislature to, towards an action.

COUNCILMEMBER SUGIMURA: Okay. So, based upon my research, I'm going to be voting "no", just because it was tried before and it didn't pass.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: Although, I, I understand the reason for the effort. So, thank you, Mr. Sinenci, for bringing it forward.

CHAIR KING: Okay. And then just to clarify for people too that the action is urging to establish impact fees for tourists, not necessarily targeted at the airlines.

So, Mr. Sinenci, do you have a another?

COUNCILMEMBER SUGIMURA: Oh, I'm sorry, the second one is the, right? The second one, adopt resolution urging the State Legislature.

CHAIR KING: The second one is about showing videos, so.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And I just wanted to remind Members that similar resolutions were created by other county councils too. So, we're in support with our neighboring islands as well. Thank you.

CHAIR KING: Okay. Thank you. Okay. Any other questions?

Yea, so the second resolution is urging the State Legislature to require the tour, airline, and cruise operations to show visitors information videos, which I think a lot of them are already doing, but.

COUNCILMEMBER SUGIMURA: Are we only voting on the first one then, right now?

CHAIR KING: No. We're voting on both of them.

COUNCILMEMBER SUGIMURA: Oh, okay.

CHAIR KING: They were proposed together, so.

COUNCILMEMBER SUGIMURA: Alright. Thought so.

CHAIR KING: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I will be voting in support of the motion. I don't think that we should allow, you know, past practice of failing to, you know, dictate future action. Sometimes, you know, laws may not be written perfectly and therefore they are unable to withstand legal challenges. But it doesn't mean we

shouldn't try again and write it better and do it better. And, and so, therefore I think, you know, the Legislature should just write something that's more defensible and more appropriate and that can withstand a legal challenge. So, I support this motion. Mahalo, Chair.

(Councilmember Kama returned to the meeting at 10:27 a.m.)

CHAIR KING: Okay. Mahalo. Any other comments? Okay, if not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, VICE-CHAIR RAWLINS-  
FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: COUNCILMEMBER SUGIMURA.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Okay, measure passes seven "ayes", one "no", one "excused"; Mr. Hokama.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTIONS 16-195 *[sic]* and 16-196 *[sic]*, respectively.

CHAIR KING: Um, Mr., Mr. Clerk. You said "16". Is it "19"?

COUNTY CLERK: I apologize. Yes, Madam Chair; 19-195 and 19-196.

CHAIR KING: Okay. Great. I don't want to go back three years. Thank you.

COMMITTEE REPORT

NO. 19-146 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-197, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30192322650-0001 OF JOHN LUKAS," be ADOPTED.

CHAIR KING: Okay. Councilmember Molina.



COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. If there are no objections, can we have the Clerk call up Committee Report Nos. 19-147, 148, and 149?

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

COMMITTEE REPORT

NO. 19-147 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-198, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30181069017-0001 OF FARMERS INSURANCE HAWAII, INC., ON BEHALF OF MARIE CHESTER," be ADOPTED.

COMMITTEE REPORT

NO. 19-148 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-199, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. B811500035-0003-01 OF MAX WOLFE," be ADOPTED.

COMMITTEE REPORT

NO. 19-149 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-200, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30181417769-0001 OF KRIST BAYBAYAN," be ADOPTED.

CHAIR KING: Okay. Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair and Members, for this consideration to act on as one motion for these four settlement proposals. The first one, 19-146--

CHAIR KING: Do you want to make the motion first?

COUNCILMEMBER MOLINA: Oh, yes. Yes. Thank you.

MOVE TO ADOPT THE, MOVE TO ADOPT COMMITTEE  
REPORTS NOS. 19-146, 19-147, AND 19-148, AND 19-149.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. I'm getting a little ahead of myself.

CHAIR KING: It's okay.

COUNCILMEMBER MOLINA: I'm the one that has to leave a little early today. But anyway, 19-146 has to do with Mr. Lukas's fence, gate, and carport getting damaged resulting from trees located within the County right-of-way falling onto his property on February 11, 2019 *[sic]*.

The claim for Committee Report 19-147 deals with damages to Marie Chester's vehicle resulting from a collision involving a Maui County fleet vehicle on August 8, 2018.

And the claim for Committee Report No. 19-148, damage claim alleges personal injuries sustained by Mr. Wolfe involving a Maui County fleet vehicle with a trailer on January 11, 2018.

And for Committee Report No. 19-149, the claim alleges damages to Ms. Baybayan, who sustained injuries after stepping into a hole near a picnic table at Napili Park, located at 50 Maiha Street in Lahaina, Maui, Hawaii on July 5, 2018.

And all of these matters were dealt with your GET Committee on, at the GET Committee meeting of, I'm trying to recall a date here, but anyway, it was November 19, 2019. And on all these matters, they were 7-0 votes. Thank you very much, Madam Chair.

CHAIR KING: Okay. Great. Thank you.

COUNCILMEMBER MOLINA: Thank you for bearing with me.

CHAIR KING: Okay. Thank you. And that, and I wasn't there because that was the last day of my vacation, so I was actually going to offer up that date to you, because I remembered, I remembered what I was missing.

So, Members, any comments or questions in, that we can discuss in public? If not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Measures pass, the measures, Committee Reports 19-146 through 19-149 pass eight to zero, one "excused"; Mr. Hokama.

Mr. Clerk.

COUNTY CLERK: Relative to Committee Report 19-146, for the record, RESOLUTION 19-197. Relative to Committee Report 19-147, for the record, RESOLUTION 19-198. Relative to Committee Report 19-148, for the record, RESOLUTION 19-199. And relative to Committee Report 19-149, for the record, RESOLUTION 19-200.

Madam Chair, proceeding with ordinances, second and final reading.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 63 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO THE OFFICE OF THE MAYOR,  
ECONOMIC DEVELOPMENT PROGRAM (EAST MAUI ECONOMIC DEVELOPMENT  
AND CULTURAL PROGRAMS)

CHAIR KING: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I request the Clerk also call up Bill 64, 65, and 66.

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 64 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 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 – UPCOUNTRY MAUI AGRICULTURAL PARK,  
MAUI WATER SYSTEM IMPROVEMENTS)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 65 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,  
OFFICE OF THE MAYOR (STATE OF HAWAII – UPCOUNTRY MAUI AGRICULTURAL PARK, MAUI  
WATER SYSTEM IMPROVEMENTS)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 66 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO ESTIMATED REVENUES;  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, SEWER FUND; DEPARTMENT OF

ENVIRONMENTAL MANAGEMENT, SOLID WASTE MANAGEMENT FUND;  
DEPARTMENT OF FINANCE, COUNTYWIDE COSTS; DEPARTMENT OF LIQUOR CONTROL;  
DEPARTMENT OF PUBLIC WORKS, HIGHWAY FUND;  
TOTAL OPERATING APPROPRIATIONS; AND  
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

CHAIR KING: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS BILL 63, BILL 64, BILL 65, AND BILL 66 ON  
SECOND AND FINAL READING.

CHAIR KING: Okay.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay, moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. These four bills will make various amendments to the Fiscal Year 2020 Budget. I will note that Bill 66 makes adjustments to several County departments, but the only department whose operations will see some impact by the changes is Department of Environmental Management. No further discussion, Chair.

CHAIR KING: Okay. Any questions or discussion? If not, all those in favor of the motion on the floor, say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,  
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR  
RAWLINS-FERNANDEZ, AND CHAIR KING.

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA.

CHAIR KING: Okay. Measures pass eight to zero, one "excused"; Member Hokama.

And that appears to be our final business. I do have a, I just wanted to make an announcement that we did reach quorum for December 12 afternoon, special Council meeting. And we'll be addressing the, the passage of, we don't have a bill number yet, but the, the ordinance that passed out of Multimodal Transportation Committee. And we will also be addressing the Maui County Legislative Package. And so, we have to finalize that before the end of the year as we move into the legislative year.

And I would also ask that any Members who intend to join me in the opening day of the Legislature and do the walk around, please let me know and we can coordinate that travel. Of course, any and all Members are welcome and, for establishing relations and networking with State Legislators on that day, so.

COUNCILMEMBER SUGIMURA: What is a walk around?

CHAIR KING: The, well, it's called the walk around because you walk around and you, you know, you greet the various Legislators and remind, you know, we'll be dropping off our Legislative Package for Maui County. And we usually have a little gift for the Legislators. So, we walk around. But we'll, we'll be coordinating, and that's also opening day, so we'll be coordinating with the events that are going on and, and breaking up into who's going to go cover the House and who's going to cover the Senate, because they both happen simultaneously; the opening ceremonies.

Okay. And with that, if there's no other business before this Council, I will adjourn at 10:35. And thank you for your work today, Members. I look forward to seeing everybody on the 12th and then at our holiday party on the 14th. Thank you. Aloha.

## ADJOURNMENT

The regular meeting of December 6, 2019 was adjourned by the Chair at 10:35 a.m.



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KATHY L. KAOHU, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII



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Date: December 5, 2019

To: Councilmember Kelly King, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Members of the Maui County Council

Re: Strong Support for inclusion of "A Bill for an Act Relating to Tobacco Products" in Resolution 19-491

Hrg: December 6, 2019, 9:00 AM at County Council Chamber

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute, is in **Strong Support** of the proposed bill for inclusion in the 2020 Hawaii State Association of Counties legislative package relating to tobacco products, covered by Resolution 19-491. The proposed bill urges the State Legislature to repeal the preemption of local ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices to allow the counties to enact ordinances more stringent than state law.

### **Preemption is a step backwards for tobacco control, and a tobacco industry tactic.**

HRS §328J-11.5, Statewide Concern was added by the state legislature in 2018, when Act 206 (through HB1895) was signed into law. This new chapter restricts county decision to protect the health of their residents through existing or future laws and regulations by restricting the sales of tobacco, other tobacco products, or electronic smoking devices (ESDs) often referred to as e-cigarettes. Examples of impact on counties:

- Preempts county ability to offer and tailor policy solutions designed to create healthier environments for the protection of children, youth, and adults.
- Preempts public health evidence-based strategies by restricting local policies and regulations on tobacco pricing and access, which are proven to reduce tobacco consumption and initiation (including but not limited to prohibiting the sale of tobacco in pharmacies, creating retail buffer zones around schools and youth-frequented environments, and creating flavor restrictions – now law in 122 local jurisdictions).
- Limiting authority to the State to address the youth tobacco epidemic will allow the tobacco industry to actively push weaker proposals that exempt or protect their products from regulation.

**Restoring the county's authority will protect local residents and address disparities.**

Counties have a long history of being proactive in adopting innovative tobacco control policies based on community concerns and needs. Strong local laws serve as an example of good public health policy in changing social norms. Removing the ability of local government to take stronger action is of particular concern, as high school students on the neighbor islands are experimenting and using ESDs at higher rates compared to the State average.

ESD Use 2017 Youth Risk Behavior Survey	Hawai'i County	Honolulu County	Kaua'i County	Maui County	State
<u>Ever Use</u>	49.6%	39.0%	45.3%	<b>50.7%</b>	43.7%
<u>Current Use</u>	34.1%	22.0%	31.3%	<b>32.3%</b>	25.3%

The Coalition strongly supports allowing our counties to have the authority to pass meaningful legislation in tobacco control that is tailored to unique local needs. Thank you for the opportunity to testify and we respectfully ask the committee to pass this resolution.

Mahalo,



Katie Folio  
Community Coordinator  
Maui, Molokai, Lana'i Coalition for a Tobacco-Free Hawai'i