

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

October 18, 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, OCTOBER 18, 2019, BEGINNING AT 9:00 A.M., WITH CHAIR KELLY T. KING PRESIDING.

COUNCIL CHAIR KELLY T. KING: Good morning. This is the Maui, regular Maui County Council meeting of October 18, 2019. It's 9 o'clock in the morning. I'd like to call the meeting to order. And, my name is Kelly King, I'm the Chair of the Maui County Council.

And, Mr. Clerk, could you help us with roll call please, this morning?

ROLL CALL

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

EXCUSED: COUNCILMEMBERS G. RIKI HOKAMA AND YUKI LEI K. SUGIMURA.

(Councilmembers Hokama and Sugimura were not present when roll was called; however, Councilmember Sugimura arrived at 9:04 a.m. and Councilmember Hokama arrived at 9:05 a.m. respectively.)

COUNTY CLERK JOSIAH K. NISHITA: Madam Chair, we have seven Members present and two Members excused. A quorum is present to conduct the business of the Council.

CHAIR KING: Okay. Mahalo, Mr. Clerk.

Well, we have opening remarks by Member Hokama who, I'm sorry.

Mr. Clerk.

COUNTY CLERK: Madam Chair, we can just continue on with the agenda until Councilmember Hokama arrives.

CHAIR KING: Okay. Well, one of the things I'd like to do, if it's okay with the Council, is we've had some recent tragedies in our Council family, and I'd like to take a minute of silence. Councilmember Yuki Lei Sugimura's brother passed away, you know, last week; George Katsumi Kashiwa. And we had a, we have a, one of our members of our family in Mr. Sinenci's office, Dawn Lono, whose grandson, Jredyn Kaina passed away, and her nephew Clifford Wailani Lono passed away. So, you know, along with the, you know, our dear friend Danny Mateo and with who we're going to honor on Tuesday, I'd just like to take a minute of silence to, to think about the losses and appreciate life right now that we all have and, and just in honor of those who lost dear ones.

MEMBERS OF THE COUNCIL, AND OTHERS IN ATTENDANCE,
OBSERVED A MOMENT OF SILENCE.

(Councilmember Sugimura arrived at the meeting at 9:04 a.m.)

CHAIR KING: Thank you, Members of the Council and members of the public, and welcome Councilmember Sugimura. We, we all ache for your loss, truly.

Okay, we'll skip over the opening remarks. And those who would like to join me, please stand in reciting the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

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

(Councilmember Hokama arrived at the meeting at 9:05 a.m.)

CHAIR KING: Alright. Thank you.

Okay and we welcome Mr. Hokama to the Council floor. And would you like to give your opening remarks now, Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chair. That was part of my delay; couldn't find my comments.

OPENING REMARKS

The opening remarks were offered by Councilmember Riki Hokama.

CHAIR KING: Thank you, Mr. Hokama. I appreciate that. Yes, there are a lot of unsung heroes in the, in the community.

Before we proceed on today's agenda, may I please request that everyone silence their cellphones and other noisemaking devices.

Mr. Clerk.

COUNTY CLERK: Madam Chair, we have received no requests for testimony on ceremonial resolutions. Shall we close testimony on ceremonial resolutions?

CHAIR KING: I'll check one more time. Is there anybody who would like to testify on the ceremonial resolution? I think we have one person coming down. Oh, I'm sorry, I thought you were going to testify. Okay, no one in the chambers for the ceremonial resolution. Any objections to closing testimony just for the ceremonial resolution?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Testimony is closed.

Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with ceremonial resolutions.

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 19-173

RECOGNIZING THE MONTH OF OCTOBER AS DOMESTIC
VIOLENCE AWARENESS MONTH IN MAUI COUNTY

CHAIR KING: Okay. And that we go to Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RESOLUTION AS READ BY THE
CLERK.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay, moved by Vice-Chair Rawlins-Fernandez, second by
Councilmember Alice Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. October is recognized across the
country as Domestic Violence Awareness Month. Much like substance abuse and
suicide, domestic violence, unfortunately, is something that most of us have familiarity
with in our own personal circles. We are also painfully aware of the tragic violent
incidents that led to loss of life within our own communities. Talking about abuse and
recognizing that none of us are immune from it is a starting place which helps victims
of abuse to feel safe and reach out knowing that they're not alone.

Anyone can be abusive. Anyone can be the victim of abuse. It happens regardless of
gender, age, sexual orientation, race or economic background. Abuse can cause
feelings of confusion, fear, anger and/or isolation, self-doubt and guilt. There are a full
range of emotions that derive from abuse, all of which are normal responses to
violence.

Abuse is a learned behavior. Sometimes people see it within their own families. They
may learn it from friends or popular culture. However, it is absorbed, however it is
absorbed, domestic violence and abuse stem from a desire to gain and maintain power
and control over an intimate partner. And no matter what, the victim is never
responsible for the partners abusive actions.

Education, with a focus on prevention, intervention, and treatment to strengthening
families and teach alternatives to violent behavior is necessary in order to heal the
damaged foundation where the `eha originated.

My hope for humanity is that there will soon come a day when we can repeal the need
for entire months dedicated to broken parts of civilization. But for now, we have
important work to do to reach that place of rehabilitation. I would like to sincerely thank
those who have dedicated their lives working tirelessly to end domestic violence in
Maui County.

CHAIR KING: Thank you, Vice-Chair. Would you like the Clerk to read the resolution in its entirety?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Thank you.

CHAIR KING: Okay. Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR KING: Thank you, Mr. Clerk.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, the Members on Molokai, community members on Molokai who helped to organize events regarding the recognition of October as Domestic Violence Awareness Month reached out to me and asked if I could pass this resolution by the Council. And after that time, we lost our former Councilmember and they are at his services today. And so, we reached out to the Commission on the Status of Women Chair, Kate, if she would accept the resolution on, on their behalf of those on Molokai and entire County. So, mahalo, Ms. Griffiths for accepting that resolution. Mahalo, Chair.

CHAIR KING: Okay. Mahalo. Any other comments, deliberation, support before we vote? If not, I'll call for the question. All those in favor of the resolution on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes unanimously; nine to zero.

Ms. Rawlins-Fernandez, would you like to call the recipient up?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, please.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: And while we're waiting for Ms. Griffiths, I just wanted to let our staff know that Ms. Zhanell Lindo is helping with Mr. Mateo's services and that the Molokai Office will be accepting testimony. My husband volunteered.

CHAIR KING: Oh, nice.

VICE-CHAIR RAWLINS-FERNANDEZ: So, we'll be calling on Mr. Makena Fernandez to accept testimony there.

CHAIR KING: Okay. Great. Thank you.

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

MS. KATE GRIFFITHS: Aloha, aloha, Chair, Councilmembers.

CHAIR KING: Aloha.

MS. GRIFFITHS: You guys know me working in Chair's Office. Viewers on Akaku might know me behind the Mauimama. It's a strong advocate for women and children. But I stand here today, my capacity as Chair on the Commission of the Status Women for Maui County.

So, as we know, October is recognized across Hawaii and the United States as Domestic Violence Awareness Month. We are here today to raise awareness about domestic violence. As the resolution noted, vigils and events are being held across our country during the month to shine a light on the effects of domestic violence and how we as a community can come together to support and prevent.

Domestic violence is unfortunately as old as family. Its tentacles have wrapped their way throughout the time and communities in every demographic, economic, and social stature. It does not discriminate. Its roots are deep and often cyclical, a product of many things like childhood trauma, parent modeling, patriarchy, stress, PTSD, mental illness, lack of empathy, impatience, disrespect, shame, control of others or sheer lack of control of yourself.

Domestic violence comes in many forms. It is not just physical violence. It's yelling, humiliation, belittling, manipulation, coercion, threats, and isolation. It's financial

control of a paycheck, time off, keeping tabs online or non-stop texting, constant use of the silent treatment, gaslighting, or calling someone stupid or belittling them that they think they're so worthless so often the person believes it.

Domestic violence affects millions of women, children, and men. It destroys relationships, families, self-worth, childhoods, and can often have a negative ripple effect that repeats again and again through generations upon generations.

Public awareness is key. We need to focus on prevention, intervention, support, and treatment. We need to give the tools to help survivors walk away, heal and thrive, and give perpetrators the tools to recognize their destructive behavior, heal the root cause, and choose a different path. We need to take away the shame and talk about it in the light. We need to heal as a community.

In the United States, as the resolution reports, over 10 million people, regardless of gender, ethnicity, religion, or social status are victims of domestic abuse. Many are survivors, but sadly, many have died. As the resolution quotes, every day in the United States, an average of three women are murdered by their husbands or boyfriends. On Maui, we have witnessed the passing of two women, allegedly at the hands of their partners in recent years; Charli Scott, who was also pregnant, and Mo Monsalve.

Tomorrow, the Committee on the Status of Women is presenting the 2019 Domestic Violence Awareness Fair at the Queen Kaahumanu, 10 a.m. to 2 p.m. Here, we will be surrounded by members of our community who dedicate their time and resources to tirelessly support survivors of domestic violence and work on ways to reduce domestic violence in our ohanas. We will spend this time to hear from our organizations and our survivors. Together, we can stand strong. Together, we can thrive. And together, we will take one more step to reduce domestic violence for our women, our children, our men, and our community. Thank you. And that's the event; tomorrow, if anyone wants to join us.

CHAIR KING: Thank you, Ms. Griffiths. Would you like to take a moment to join her with a certificate? And, and we can all give our, our appreciation.

Okay, Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I just wanted to mention to, to the chambers and to Kate that I was very moved and very touched, because when you think about domestic violence, you think about others. And we never somehow think about ourselves and what we do and what we say and how we behave and how those things that we do say, how it impacts other people and how it makes them feel. And like you said, you say it often enough, people tend to believe it about themselves and that's

something we don't ever want to do. But we hear it often a lot in these chambers by people who come to testify. And maybe it's just their emotions and maybe that's what it is, but certainly it's a form of violence that we can say no to. So, thank you very much, Kate for bringing that up to us today. Thank you, Chair.

CHAIR KING: Thank you, Ms. Kama. Any other comments before we move on?

Okay, thank you, Vice-Chair Rawlins-Fernandez for bringing that to the Council. And I think it probably can't be said enough, so.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Okay. Mr. Clerk, proceeding with testimony. Have we checked into all of our District Offices? Should we go there first? Would you like to go ahead and do your spiel on testimony?

COUNTY CLERK: Thank you, Madam Chair. For the record, RESOLUTION 19-173.

We do have a testifier currently on Lanai waiting to testify. And my understanding is they have to run really soon. So, if we could just go to them really quick. Lanai, please introduce yourself and identify your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and we have one testifier, Gabe Johnson, testifying on 19-419.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. GABE JOHNSON (testifying on County Communication No. 19-419):

Aloha, Councilmembers. I'm Gabe Johnson and I'm testifying on 19-419. I'm a farmer on Lanai and I represent myself today.

I want to say that I fully support Councilmembers ideas to hire an independent counsel, clear up this Charter crisis that we are facing today. Following this case, and I feel is the right thing to do because we are facing once again a power structure within the County that has no accountability in dealing with transparency. The Charter is clear that the Council has a right to settle the injection well case.

If we have a Corporate Counsel stonewalling the efforts of the Council, then that just doesn't fit well with me. Too often the County lawyers have not acted in good faith. They have a track record of being obstructionists to the Council that has led us to,

unfortunately, here. I want to see my County lawyers interpret the law on a moral claim and not find tricky ways to subvert what our Council is trying to achieve. Independent lawyer with zero political ties is what we need. . . . all the lawyers who only support big money interest and ignore the environmental issues that will have a ripple effect of putting power in the hands of corporations instead of the people. Mahalo for your time. Thank you.

CHAIR KING: Okay. Mahalo, Mr. Johnson. Any questions, Councilmembers? Thank you for allowing him to testify early since he has to leave.

And Mr. Clerk, could you go through the, the, the testimony rules? And I'll get my notes.

COUNTY CLERK: Madam Chair, 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 shall 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.

And 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.

Currently, we have no further testimony at our District Offices—

CHAIR KING: Okay, thank, thank you.

COUNTY CLERK: --and we have nine individuals signed up in the chamber.

CHAIR KING: Okay. Thank you, Mr. Clerk.

Before we proceed with testimony, I just wanted to remind everybody of a few items for, for a conversation that came up in the Chair's meeting recently. First of all, I want to say that, because this doesn't usually get said at the full Council meetings, but every testifier will be given three minutes on each item to testify. And the Limitimer is, will be green when you start for each item. And, and then at two minutes, thirty seconds, it turns yellow, meaning you still have 30 seconds to conclude. And then the testimony should be concluded at the time that the red light comes on.

I also, I'd like to ask everyone for decorum in the chambers at all times. The standards of decorum are posted in the chamber, but to summarize, everyone in this chamber should feel safe and respected. As such, I ask that the public and Councilmembers alike focus on the issues at hand and refrain from making any personal or disparaging remarks to or about individuals. And I thank everybody for their cooperation all throughout the chambers.

So, Mr. Clerk, can you please proceed with our first testifier?

COUNTY CLERK: First person to testify in the chamber is Sam Small, testifying on County Communications 19-419 and 420. To be followed by George Chyz.

MR. SAM SMALL (testifying on County Communication Nos. 19-419 and 19-420):

Good morning. It's always, it's an honor to be participating in the democratic process. Thank you for having me here.

The Mayor is empowered to execute documents. You, the Council, get to write those documents through legislation and your vote. In this case, the Mayor is simply your messenger. If the authority that Corp. Counsel claims the Mayor had was true here, it would be true for all of your votes. And other Mayors certainly would have asserted it before.

You nine invested enormously to hear all sides fairly and hold a legitimate vote. Now, regardless of how you voted, you must protect the integrity of that vote from Corp. Counsel's desperate, last-minute attempt to assert your authority. If this really was just an honest difference of legal opinions between lawyers, the right action would be to ask a judge for a declaratory ruling. But that's not what Corp. Counsel did. Instead, Moana Lutey sent a letter to the Supreme Court that completely misrepresents what's going on here. She boldly asserted only her unfounded opinion that your own legal advisors from Council Services disagrees with. That's probably a professional violation bad enough to get her disbarred or impeached.

Corp. Counsel is exaggerating the Mayor's authority by citing Honolulu's Charter, not Maui's Charter; they are different. Lutey's desperation and Mr. Kushi's intensity the other day, he actually condemned Council Services lawyers as being too stupid to understand our Charter. "Wrong, wrong", he finger pointed. How over the top was that? That should be a warning sign that Corp. Counsel is asserting an agenda here that has nothing to do with local values or our local issues.

Hunton Andrews Kurth, the law firm that's supposed to be representing this Council but isn't, they're huge. And they are defending, they are famous for defending oil and gas polluters. In 2017, several of their principle partners jumped ship for key positions in Trump's EPA. This April, they got bounced out and are being investigated for ethics violations for promoting the agenda of a Hunton client to roll back clean air values, rules.

We are paying lawyers who have an agenda that has nothing to do with the well-being of Maui County. They're not likely to come back looking for more fees from you because you probably wouldn't approve it at this point. And they don't have to because their bigger industrial clients are paying royally for them to deliver Maui County's appeal to the Supreme Court by any means necessary at any cost.

Ms. Sugimura, your press release that you sent in August to multiple Councilmembers was all unfounded opinion of non-existent potential private septic system costs. That was a total fabrication made up by Ann Wilman, a major league oil and gas industrial lobbyist who recently went to work for Trump's EPA. Whoever advised you to send that email, stabbed you in the back, they used you.

CHAIR KING: Mr. Small, just to let you know, we're on your second item now.

MR. SMALL: Okay. It also has to do with securing independent counsel. And the reason to do that, the reason to clarify; thank you Ms. Rawlins-Fernandez for wanting to clarify the rules around how it is that you are able to secure independent counsel. I, you know, the 2016 Charter amendment created that opportunity. And Mr. Guzman has acknowledged to me that they, they didn't do a good job in writing that original Charter revision and it needed to be enhanced.

We need, you know, I spoke the other day about who's going to get to decide who the attorney is that you do hire when you hire an attorney. Who's going to get to decide who the attorney for the Mayor will be? Because hopefully you will procure an independent counsel for yourselves and also for the Mayor. I had long conversations with the Mayor-elect about just this, that how much the County Council needs, and the Mayor needs to have a legal opinion that is not Corp. Counsel.

You have an opportunity here to, to improve our whole process. And you have an opportunity here to secure for yourselves the legal opinion that is independent and unconflicted. We desperately need that here. Thank you.

CHAIR KING: Okay. Thank you, Mr. Small. Any questions, Councilmembers? Seeing none, thank you for your testimony.

Mr. Clerk.

COUNTY CLERK: Next testifier is George Chyz, testifying on County Communications 19-419 and 19-420. To be followed by Barbara Lund.

MR. GEORGE CHYZ (testifying on County Communication Nos. 19-419 and 19-420):

Hello. My name is George Chyz and I'm here on behalf of myself. I feel very strongly about this injection well issue. And the, I'm hoping that the Council will, will vote to hire a special counsel as our special, yea, counsel to help you enforce your decision to protect the earth and her life-giving waters. Any, if you don't do that, you're going to be helping corporate polluters destroy water for everyone.

This is a really important decision. This is going to affect people for many generations. And you know, I beg you to do the right thing and hire that special counsel and enforce the proper decision to protect the water of life on earth. Thank you very much.

CHAIR KING: Thank you, Mr. Chyz. Do you, do you want to speak to your second item, 19-419 or are you, does that complete your testimony?

MR. CHYZ: Well, you know, it's, it's a related item. It's the same thing, that you need this special counsel to enforce your decision and to protect the waters of the earth. And I, you know, implore you to follow through with that. And vote properly on these two items to enforce the decision to repeal or to, to end the Supreme Court case and follow through with repairing the problem that is polluting the water and, you know, do all the right things.

If you do the right things, your life is blessed. I've lived a blessed life. It's unbelievable. The wonderful things that have happened throughout my life just because I followed by heart. So many people suffer cause they choose not to. But when you follow your heart, you have blessings every day. Please do what's right. Thank you.

CHAIR KING: Thank you, Mr. Chyz. Any questions?

Next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is Barbara Lund, testifying on County Communication 19-420. To be followed by Jenny Roberts.

MS. BARBARA LUND (testifying on County Communication No. 19-420):

Hello, Council. I'm Barbara Lund and I haven't done this before, so you'll have to excuse me if I don't do everything correctly.

I just wanted to say on the heels of what he said, you've chosen to carry us forward with the latest, smartest technology to save our, our reef. And I want to impress you with the idea that fear, don't let fear keep you from going through the open door. Now that this other door is closed, there are other doors open. And nobody ever got anything accomplished by making decisions out of a place of fear. So, fearlessly, go through the open door to carry forth what you've voted to do. Your constituency wants you to do this and we will all be delighted for you to be successful in, in carrying this out. That's all.

CHAIR KING: Thank you, Ms., Ms. Lund. You did a great job for your first time. Any questions, Councilmembers? No. Okay.

Mr. Clerk.

COUNTY CLERK: Next testifier is Jenny Roberts, testifying on County Communication 19-420. To be followed by William Cote.

MS. JENNY ROBERTS, SURFRIDER FOUNDATION (testifying on County Communication No. 19-420):

Good morning, Council. My name is Jenny Roberts and I'm speaking on behalf of the Surfrider Foundation today.

We're here today not to talk about the settlement of this case anymore; that is done, but to bring to light the violation of Corporation Counsel's responsibilities to this Council, who are their client. Corporation Counsel is not acting in the best interest of this Council by not withdrawing the appeal or by refusing to execute *[sic]* the settlement. And the Mayor's stonewalling has not gone unnoticed by the public.

The public as a whole has spoken their peace, and our representatives have made their choice. But now we're being silenced. If we truly want a fair and proper solution

to this issue, I urge the County Council to approve this resolution put forth and to seek its own independent attorney. Thank you.

CHAIR KING: Okay. Thank you, Ms. Roberts. Any questions?

Seeing none, next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is William Cote, testifying on County Communication 19-420. To be followed by Sylvia Litchfield.

MR. WILLIAM COTE (testifying on County Communication No. 19-420):

William Cote. Thank you, Chair and thank you, Councilmembers for listening to me. I don't have a lot to say. I really, I'm really speaking on behalf of my daughter, who is in school today. She's nine and a half, and I am one of her teachers at a Waldorf inspired community school. And I cannot explain to her one good reason why we are doing what we are doing and have been doing it for the last 30 years.

Why? Why can't we do something about it? It's a local issue. Why make it a Federal case. Let's do something, let's do something good for our community, otherwise, you know what's going to happen. People are going to stop coming to the hotels because the water is polluted. Stop dumping sewage into our oceans. Is it, is it more complicated than that?

I don't know how else to explain that to my daughter, that, you know, it's become a really complicated issue. But it started 30 years ago when we were using these wells for dumping stuff into the, into the ocean. And it seemed like a good idea at the time, but it's not a good idea. Let's change it. You guys have the power. Keep the power and use it in the right way. Thank you.

CHAIR KING: Thank you, Mr. Cote. I just want to remind folks, too, that the item that we're discussing, 19-420, is about authorizing employment of special counsel to advise and represent the Maui County Council. So, we're not necessarily debating the, the, the merits of the actual injection well case. We've already done that. So, I just, if you can make your comments on the actual item, I'd appreciate it. Thank you.

Next testifier.

COUNTY CLERK: Next testifier is Sylvia Litchfield, testifying on County Communication 19-420. To be followed by Anthony Ranken.

MS. SYLVIA LITCHFIELD (testifying on County Communication No. 19-420):

Aloha. My name is Sylvia Litchfield. I live in Makawao and I am the spokesperson for the Green Party of Hawaii. And we support the Maui County Council in securing an independent attorney to represent the Council.

The Council was elected by the people. The people have spoken. And we need the, the, the attorney to represent our voices. Thank you.

CHAIR KING: Okay. Thank you, Ms. Litchfield. And just to clarify, you said you represent the Green Party? Okay, so that's the political party? That's the political division?

MS. LITCHFIELD: Yes. The, the Green Party of Hawaii.

CHAIR KING: Okay. We have a lot of green organizations, so I just wanted to clarify that. Thank you very much for being here.

MS. LITCHFIELD: Yes. Thank you.

CHAIR KING: Thank you for your testimony.

Mr. Clerk.

COUNTY CLERK: Next testifier is Anthony Ranken, testifying on County Communication 19-420. To be followed by Marjorie Bonar.

MR. ANTHONY RANKEN (testifying on County Communication No. 19-420):

Good morning again, Members of the Council and Ms. Chair.

CHAIR KING: Good morning.

MR. RANKEN: My name is Anthony Ranken and I am testifying as an individual and as an attorney who's been getting involved in this issue of the question of the Council's authority versus the Mayor to settle the lawsuit. I have done a pretty extensive legal analysis by now of the precedence and the opinions that have been offered by Corporation Counsel and by Council Services.

David Raatz has done some very in-depth, pretty brilliant work in analyzing this. And I find that, I feel there's a very strong case for this Council to have the authority to settle

this lawsuit. I think it would win in court. There are arguments on both sides, and I am prepared, if you like, to kind of break that down for you. It would take several minutes and it's not what I intend to focus on now.

I did speak with one Councilmember yesterday who raised kind of a new concern. Councilmember Kama, I know you cited, you and your executive assistant cited this provision of the County Code, 3.16.020. I wasn't fully prepared to, to respond to that because I didn't have all the factual background. But I would, I've looked at it carefully now and talked to folks about it and gotten that background. And I believe that that's not a concern.

There was a, about five hours of executive session, as we discussed that issue of whether the Council should go into executive session. In the Committee level, a counter-offer was made. I believe the requirements were covered if you look closely at how this is worded. And I'd urge you if you have doubts about that, to ask your attorney David Raatz, who is prepared to delve into more detail about the reasons why that shouldn't be a concern. That's all I want to say about, in my limited time about legal aspects, unless there are questions.

I, I like Councilmember Hokama's idea of a Charter amendment to clarify, you know, the scope of County Council versus Mayor. It's a good idea, but on the other hand, a Charter amendment is a big deal. It may or may not actually happen or pass. And we kind of need an answer now with this hot button issue that needs to get decided. It's likely that that answer will clear up the issue and there would be no need for a Charter amendment at that point. And if the Council's unhappy with the court's resolution of the matter, then a Charter amendment could be looked into. And I'd have to say if these issues can be resolved by the court, that's a lot easier than a Charter amendment.

So, may I have another minute please, Council Chair?

CHAIR KING: Sure.

MR. RANKEN: Thank you. So, I, I want to suggest that the Council amend the resolution so that the amount authorized is, instead of 100,000; 30,000, which I think would be way more than enough, actually, to resolve this. As I mentioned before in Committee, the work has mostly been done. It's not, it's a very discreet issue. It's susceptible to a quick summary judgement hearing.

I, I urge you to follow Mr. Kushi's advice at the hearing a couple days ago and appoint special counsel. And here's why, I have been contacted by Maui Tomorrow to bring legal action and I have been retained by several private parties now as well, including

State Representative Angus McKelvey to commence litigation. And I can assure you that a lawsuit will be filed early next week against the Mayor.

COUNTY CLERK: Four minutes.

CHAIR KING: Mr., Mr. Ranken, can you conclude?

MR. RANKEN: Yes, sorry. And, and the Supreme Court will be asked to defer its scheduled hearing of the injection well case until this issue can be decided by a Hawaii court. So, all I'm saying is there will be a need--

COUNCILMEMBER SUGIMURA: Chair.

MR. RANKEN: --for a--

COUNCILMEMBER SUGIMURA: Point of, point of--

MR. RANKEN: --for a response presumably from the Mayor.

COUNCILMEMBER SUGIMURA: Point of order.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: Question. He's saying he's been retained to sue us, and he's being allowed to speak before us--

CHAIR KING: I don't, I don't think it was to sue us.

MR. RANKEN: No.

CHAIR KING: I think it was to ask the court for a declaratory ruling.

MR. RANKEN: To support you.

COUNCILMEMBER SUGIMURA: Okay. But he's gone over his time limit, Chair.

MR. RANKEN: Okay.

CHAIR KING: Yea.

COUNCILMEMBER SUGIMURA: What you, what you designated--

CHAIR KING: We'll just conclude and ask if there's anybody who has questions, anyone on the Council? Seeing none.

MR. RANKEN: Okay. Thank you.

CHAIR KING: Thank you for your testimony. Appreciate it.

Next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is Marjorie Bonar, testifying on County Communication 19-420. To be followed by Linda Lyerly.

MS. MARJORIE BONAR (testifying on County Communication No. 19-420):

Aloha, Council.

CHAIR KING: Aloha.

MS. BONAR: Marjorie Bonar. Although I'm involved with a large number of environmental organizations, I'm not representing any of them; simply myself. And as much as I don't understand how we got to this point, we do need a resolution. And the idea that once again one part of government decides that they have got an edge on that check and balance is so odious, that all I can do is encourage you to please get this reso, not resolution, this legislation done quickly. Find appropriate counsel with unbiased non-political entity in this.

It seems that most of this has simply been to cover people's butts from past Administrations. It's time for you to move on, on your own two feet. You've heard it all. I'm just here to support getting this resolved and stopping this idiocy. Thank you.

CHAIR KING: Okay. Thank you, Ms. Bonar. Any questions, Council? We have a question for you, Ms. Bonar.

Member Paltin.

COUNCILMEMBER PALTIN: So, just clarifying, you want a special counsel, you want to hire?

MS. BONAR: Definite, well, I don't think it should have gotten this far. But yes, being that's where you are now, you definitely need this special counsel.

COUNCILMEMBER PALTIN: Thank you.

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

Mr. Clerk, next testifier.

COUNTY CLERK: Next testifier is Linda Lyerly, testifying on County Communication 19-420.
To be followed by Joe Amico.

MS. LINDA LYERLY (testifying on County Communication No. 19-420):

Good morning, Council and Ms. King. I just want to clarify that I kind of shot from the hip with my written testimony before I read a bunch of what was going on. And really, the Council needs, as a whole, to move forward on this motion or this re, action for a special counsel. Because you need to define what is, you know, what you, your power, come on.

And this doesn't have anything to do, I mean, it does, but I mean, this action right now today doesn't have anything to do with the Supreme Court so much as your body; what it is your power is. And we need to clarify this, you know, for further action, for heaven's sakes. You want people to vote. I mean, we want, we want democratic, you know, democracy happening. So, I implore you to let's get this settled. And it sounds like you've got good counsel.

And I just also want to say that if you need fundraising or anything, please call me or whatever is right. Thank you so much. Aloha.

CHAIR KING: Thank you, Ms. Lyerly. I'm going to assume you meant fundraising for the, the case and not for individual Councilmembers.

MS. LYERLY: No. Right.

CHAIR KING: Okay, just to clarify that.

MS. LYERLY: Whatever is the . . .

CHAIR KING: Okay. Mr. Clerk.

COUNTY CLERK: Next testifier is Joe Amico, testifying on County Communication 19-420.
To be followed by Sean Lester.

MR. JOE AMICO (testifying on County Communication No. 19-420):

Madam Chairman, Councilmembers.

CHAIR KING: Aloha.

MR. AMICO: I'm kind of sad to be here. It just seems like the goal post constantly gets moved. You know, you rule, you get votes, the decision is made, then it changes. Then you, another court rules, then you change. You know, they appeal it, then, now it's going to the Supreme Court. You have a Council person who makes a decision, pulls this stuff out of the air, and forbids you guys who have the power, who represent the people of Maui more so than the Mayor, and he comes up with this stuff and then says, "you don't have the authority". It amazes me.

So, it only seems fair, even though it's crazy, that you have your own counsel to support yourselves against these outrageous, crazy conditions that the Council is came, come up with. And it's, it, it's, to the regular people of Maui, it's un, we don't understand. We know what our position is. We know we want these injection wells to not pollute our waters. We got that clear. We think we got it and then we don't. It keeps moving.

So, I think at some point if this is hopefully the last step in this process, but we do know we don't want this to be a national problem. We know that clean water is the essence of life, so we support you and we support your, or I support you in having your own counsel so you can fight these crazy whatever they are, conditions that the counsel, Corporate Counsel has come up with. And that's how I feel. Thank you for listening.

CHAIR KING: Thank you, Mr. Amico. Any questions, Councilmembers?

Seeing none, Mr. Clerk, next testifier.

COUNTY CLERK: Next testifier is Sean Lester, testifying on County Communication 19-419 and 19-420. To be followed by Jeffrey Paisner.

MR. SEAN LESTER (testifying on County Communication No. 19-420):

Aloha kakou, Council, Chair. Basically, the Maui County Charter is something we've all taken a look at. And some have spent a fair amount of time through amendments and other things trying to move it more towards the people's purpose. The challenge we've had for a long period of time is the usurpation of this Council's power to the

Administration. What you're in is a struggle to try to take back, actually to take the power that is yours in the first place.

Amendment 2.2 was very specific in what it stated. In my opinion, what happens in the national level is being reflected on the local level. I see, and the, and the Federal power of the President, the same thing that's happening with the local power of the Mayor. The thing that's happening with the State, the Attorney General of the United States is happening with the Corporation Counsel here. And your body is the one that's actually standing up for the people. It is time for you to have your power shown. And it's time for that to step forward.

There is a gray muddy area that people, that swim through and make funds and power in the gray muddy area of transitional parts of government. Your job, in my opinion, the thing that I support you with, is to, to clarify that; to use your power for the people. We brought you here with this specific Council, with the balance that's on it, for a purpose. And I highly recommend that you get whatever counsel is necessary. We have an \$800 plus million budget. You can definitely afford this to really set your power.

The other thing is I'm really at a point where I can see where we need to transition to a professional manager system. And I'd highly recommend that we start taking a look at that so that this type of thing doesn't happen in the future. We have a professional manager that takes care of it, the mayoral power is where it's supposed to be. Thank you very much for your time.

And I 100 percent back this body in getting whatever you need from legislative, or I mean the, a legal analysis side. Okay.

CHAIR KING: Thank you, Mr. Lester. Do you, did you, you have two items on your, you have two items on your sheet, did you want to talk to--

MR. LESTER: Well, two items, well, I think that they're, they're connected. I just wanted to make sure, there's also a bill for an ordinance relating to retention and termination of special counsel. And that's again another area where your, your promulgation of that is really important. So, the interpretation of the Charter, it's clear. There are folks here that want to muddy the water. And it, it's just that simple, is the clarification of this. So, thank you for your time. I really appreciate it. And thank you for being here to do your job.

CHAIR KING: Okay. Thank you for your testimony. Questions, Councilmembers? Seeing none, appreciate you being here, Mr. Lester.

Next testifier.

COUNTY CLERK: Next testifier is Jeffrey Paisner, testifying on County Communication 19-420. To be followed by Tina Wildberger.

MR. JEFFREY PAISNER (testifying on County Communication No. 19-420):

Good morning, Councilmembers, Ms. King. I'm here as a private citizen. There's a much larger issue in hand on how the Council would vote on employing an independent counsel here. I think the Councilmembers who voted against the settlement need to think of what this larger issue means to the Council, instead of trying to defend your political position regarding this issue.

We see this playing out on a national level right now. It's in the news every day, where the power of Congress is being thwarted by the executive branch. And it would be a terrible thing if we continue to do that on local level here on Maui. So, again, regardless of where you stand on the well injection issue and whether settling or not settling, this is entirely a different issue right now. This is about protecting the integrity of you who have been elected by the citizens of Maui County, not just for this issue, but for any issue that comes up in the future.

Do you want to cede your power to the Mayor of Maui based on any decision you make? Otherwise, what was the reason to hold public hearings? Why didn't the Mayor state where he stood on this? That was a political decision by the Mayor. He thought, was hoping maybe that you would all vote not to settle so he wouldn't have to exercise this power. But he was forced to do it by you, because you are representing the citizens of Maui who duly elected, who duly elected you.

So, again, it's very important that you preserve a separation of powers in government. That's what democracy is about. This decision by the Mayor, whether you believe it to be right or wrong, is a dictatorial decision that ignores the power that the people have entrusted in each and every one of you here in the Council. So, you need to think long and hard and forget who's funding your elections, who's not funding your elections.

You have to think about what your purpose is to be a Councilmember of Maui and whether you not truly want to have the power to make decisions about your constituents. And if you give that away, then you are leading this island into a very non-democratic type of a government here. So, I implore you to preserve and protect democratic principles in the State of Hawaii and the County of Maui. And make it known that that's where you stand. Thank you.

CHAIR KING: Thank you, Mr. Paisner. Any questions?

Seeing none, Mr. Clerk, next testifier.

COUNTY CLERK: Next testifier is Tina Wildberger, testifying on County Communication 19-420. To be followed by Barbara Barry.

MS. TINA WILDBERGER (testifying on County Communication No. 19-420):

Good morning, Council Chair.

CHAIR KING: Good morning.

MS. WILDBERGER: Good morning, Vice, Vice-Council Chair and Councilmembers. Thank you for the opportunity this morning. I wanted to be here this morning to support our Council Chair in 19-420, authorizing the employment of special counsel to advise and represent Maui County Council in affairs here going forward.

I'm sorry that this is happening on this issue, but I'm glad it's happening. This is an example that we are finally getting responsive and accountable governance. And I want to say thank you to Council Chair and Vice-Chair for bringing this new climate of accountability to our County governance. I'm glad that Corp. Counsel Lutey has decided to join us in this particularly important issue. I would hope they would be engaged and interested in the testimony as well. Thank you very much for the opportunity.

CHAIR KING: Okay. Thank you, Representative Wildberger. Any questions, Councilmembers?

Seeing none, next testifier. Appreciate your time.

COUNTY CLERK: Next testifier is Barbara Barry, testifying on County Communication 19-420. To be followed by C. Rose Reilly.

MS. BARBARA BARRY (testifying on County Communication No. 19-420):

Good morning, Chair, County Council. It's great to see everyone here today. I usually try and avoid testifying in front of the Council at any cost, but today is different. I am here because I want to speak on agenda item 19-420. And my name is Barbara Barry, I'm here as a citizen and taxpayer.

I can't stop thinking about the GMO moratorium and how the will of the people was thwarted. Because at that point, our Mayor and Corp. Counsel, headed by Pat Wong, and the majority of our County Council all voted to thwart the will of the people. This is a case where the will of the people and the will of the Council is being thwarted by Corp. Counsel, which is a leftover, I call it a corruption train of Pat Wong and Arakawa, which of course our current Mayor did sit on the County Council for that vote regarding the GMO moratorium.

So, I just want to reiterate that we are not living in a Banana Republic. We have laws that are clearly here to support the resolution of this matter, with the injection wells, which has been decided by a majority of the Council people. And for the Corp. Counsel and Ms. Lutey and her group to thwart this and stonewall the progression of this bill to the Mayor's desk is appalling. I can't even think of a better word than that.

The fact that the, the Hunton Andrews and Kurth, the California law firm that is known for fighting and winning cases against big polluters is still being employed by Corp. Counsel is shocking. They should have been fired the day that the Council made their decision and been booted out the door. They have been paid \$3 million plus, you know, two weeks ago. Who knows what the bill is now. This is taxpayer's money that you guys have a fiduciary responsibility for.

So, I support the Council getting their own private attorney to make sure that the power of the counsel gets held in the Council and this bill gets shut down, the injection well, the injection bill, the injection well bill gets signed and this gets taken off the Supreme Court docket immediately. Mahalo.

CHAIR KING: Thank you, Ms. Barry. Any questions, Councilmembers?

MS. BARRY: Questions?

CHAIR KING: Okay. Seeing none, next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is C. Rose Reilly, testifying on County Communication 19-420. Ms. Reilly is the last individual who signed up to testify in the Council chamber.

MS. C. ROSE REILLY (testifying on County Communication Nos. 19-403, 19-418, 19-419, and 19-420):

Aloha and good morning. My name is Cecilia Rose Reilly. I'm testifying as a private citizen. The injection well issue, the dirtying of the Maui water over in Lahaina, the

west side, the south side, I've been watching it happen for 10 years. I've been so upset. I've been so excited about the progression of getting a case to get it settled so that we can get it cleaned up. And it's Hawaiian law that we take care of the water. And it's the State law, it's the County law that we take care of the water. It's nowhere that we're like, oh no, we take care of big business before we take care of the water.

So, with the . . . action, I'd say that it's especially pressing for the Maui County Council to get their own legal counsel so that they are in compliance with the laws that should be upheld during this time. I definitely think that if they need a private counsel to do that, the private session, that that's greatly appropriate.

I recognize that Victorino is repeatedly a bad steward of resources, you know. So, that we're in this situation is so disrespectful to our entire community that he would put us in this position and try and avoid responsibility after saying that he was going to take care of the people. We need clean water in order to be taken care of. And that, you know, getting this whole Trump attitude towards his position is so ridiculous. So, I definitely support the 19-419 and 19-420.

I also wanted to testify on a couple others. I didn't write it down. For the 19-418, the comments for the environmental impact statement for the East Maui water lease, definitely I was at meetings talking about the environmental impact statement. The testimony from the people of East Maui is heartbreaking. It's really important that we find a sustainable outcome first before we start taking more. Like, there's things that need to be restored and we need to get things back in a level where people are feeling good and everything is in alignment before we're talking about new leases with taking their water. It's very sad.

So, 19-403, the Chief of Police wanting to have a drone in apprehension of fugitives. I think that's scary. I think that's a little bit weird. I definitely would want to know at what points they would be using them and where would it be flying? Like, so, yea, I just, I don't support that.

CHAIR KING: Okay.

MS. REILLY: So, thank you.

CHAIR KING: Thank you, Ms. Reilly. So, I just want to clarify on 19.418 *[sic]*, that you support the resolution for us to provide comments?

MS. REILLY: So, yea, definitely providing comments. And I mean, it's been so many meetings. There's so many things that I've heard. There's so much that I know. And like, my comments to the guys doing environment impact statement was the Hawaiians

are your environmental impact statement. That I definitely see that this system is not based on any kind of sustainable practices. That they will run everything into the ground and all of us to our deaths without thinking twice.

CHAIR KING: Okay. Thank you.

MS. REILLY: Thank you.

CHAIR KING: No ques, I see no questions.

Mr. Clerk, do we have any other, anymore testifiers in the chambers? Oh, we have.

COUNTY CLERK: Madam Chair, next testifier is Jasee Lau.

MR. JASEE LAU (testifying on County Communication 19-420):

Thank you, Josiah. My name is Jasee Lau from Kula. If any of you Council, aloha kakahiaka. The Councilmembers, if you're kind of sitting on the fence on this one, I hate to see you guys split on this vote. Please, yea, I'll recommend settling.

I lived in, close to Washington D.C. for 25 years and I can, I can pretty much say 99 probability percent of the, how they're going to vote, and I think everybody else knows how they're going to vote too along party lines. Just, and it all started back when they had the election. I think it was Bush versus Gore in the Florida elections, the hanging chads and all that stuff. So, and not only that, United States, I don't believe they have jurisdiction on this case, so I think we could solve it within our own ohana here in, in Maui County.

CHAIR KING: Mr. Lau, what item are you testifying on?

MR. LAU: Whatever everybody else was.

CHAIR KING: Okay. Okay, I'm going to put you down for 420, which is the, do you support it?

MR. LAU: Thank you for running your, the Council so efficiently.

CHAIR KING: Okay. If you can sign up afterwards, that'd be great. Thank you.

MR. LAU: No applause? You're not supposed to applaud.

CHAIR KING: Okay. Do we have any other testifier, anybody else in the chambers who wishes to testify? Please come down now. Otherwise, if there's no objections, we'll close testimony. Any objections, Council?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Testimony is closed. Do we have any objections to receiving written testimony into the record?

MEMBERS VOICED NO OBJECTION.

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

1. Linda Lyerly;
2. Barbara Barry;
3. Jasee Lau;
4. Diane Appler;
5. Reverend Bodhi Be;
6. Jonathan Boyne;
7. William Evans;
8. Gordon Firestein;
9. Steve Forman;
10. Barbara and Michael Reed Gach;
11. Lisa Galloway;
12. Brett Gobar;
13. Debra Greene;
14. Kevin Hagan;
15. Cory Harden;
16. Joan Heartfield;
17. Sulara James;
18. Doris Lang;
19. Martha Martin;
20. Rita Massey;
21. Janet Mercer;
22. Renee Miller;
23. Mike Moran, Kihei Community Association;
24. Michele Paularena;
25. Tom Pierce;
26. Joan Salvato;
27. Annette Julia Pearson Schmidt;

28. Mark Sheehan;
29. John and Rita Shockley;
30. Jette Slater;
31. Steve Slater;
32. Anne Harue Summers;
33. Marta and Brian Sweeney;
34. Madolin Wells;
35. Pete Wilson; and
36. Nathan Yuen.

CHAIR KING: Okay. Written testimony is received into the record. Testimony is closed.

Alright. Mr. Clerk, proceeding with the agenda.

(Councilmember Sinenci was excused from the meeting at 10:09 a.m.)

COUNTY CLERK: Madam Chair, proceeding with minutes.

MINUTES

The minutes of the Council of the County of Maui's regular meeting and public hearing of July 19, 2019, and regular meeting of August 9, 2019 were presented at this time.

CHAIR KING: Vice Chair Rawlins-Fernandez.

VICE CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO APPROVE THE MINUTES AS READ BY THE
CLERK.

COUNCILMEMBER LEE:

SECOND.

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

Any further discussion, Ms. Rawlins-Fernandez? Okay. Anybody else have any questions or discussion? If not, call for the question. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER SINENCI.

CHAIR KING: Okay. Measure passes eight "ayes", one "excused"; Mr. Sinenci.

Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 19-403 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated September 26, 2019)

Informing of the Police Department's intent to expend \$3,637 in State Forfeiture Funds to purchase a drone to use in the apprehension of fugitives.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 19-403.

COUNCILMEMBER LEE:

SECOND.

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

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. These communications, this communication is purely informational.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: No additional comments.

CHAIR KING: Any questions or comments? Seeing none, all those in favor of the motion say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER SINENCI.

CHAIR KING: Motion passes eight "ayes", zero "noes", and one "excused"; Mr. Sinenci.

Mr. Clerk.

NO. 19-404 - SCOTT K. TERUYA, FINANCE DIRECTOR,
(dated October 4, 2019)

Transmitting 52 contracts/grants for September 2019.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 19-404,
EXCEPT FOR CONTRACT C6855.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Councilmember Lee. Any other Councilmembers have any comments or concerns about contracts? Nope. Seeing none, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, at the request of my colleague from Lanai, I would like the matter of the Contract 6855 referred to HFC Committee.

CHAIR KING: Okay. Any objections?

VICE-CHAIR RAWLINS-FERNANDEZ: And if you would like to?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Okay. That's the only contract that we're pulling out of this before filing, so far. Okay.

All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER SINENCI.

CHAIR KING: Okay. Measure carries eight "ayes", zero "noes", one "excused"; Mr. Sinenci.

Mr. Clerk.

NO. 19-405 - MICHAEL P. VICTORINO, MAYOR,
(dated October 9, 2019)

Informing of a vacancy on the Council on Aging due to the resignation of Helene Lei Sato on June 16, 2017.

CHAIR KING: Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO FILE COUNTY COMMUNICATION NO. 19-405.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

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

Mr. Molina.

COUNCILMEMBER MOLINA: Mahalo, Madam Chair. Helene Lei Sato's resignation from the Council on Aging was effective June 16, 2017, although her resignation letter was just received on October 9, 2019.

Brief background about this matter. The Mayor's Office reviewed the minutes of a recent Council on Aging meeting and the number of members in attendance did not reflect the number of members on the committee. Ms. Sato claims she resigned on June 16, 2017. But in researching the matter, her resignation letter was never received. And the Mayor's Office requested Ms. Sato submit a resignation letter with an effective date back to June 16, 2017.

So, there you have it Madam Chair. I'd like to thank Ms. Sato for her service to our community. Thank you.

CHAIR KING: Okay. Is that clear to everybody what happened? Okay. Thank you for the explanation, Mr. Molina. Any comments or questions? If not, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER SINENCI.

CHAIR KING: Measure passes eight "ayes", zero "noes", and one "excused"; Mr. Sinenci.

Mr. Clerk.

NO. 19-406 - MICHAEL P. VICTORINO, MAYOR,
(dated October 9, 2019)

Informing of the appointment of Mahie McPherson to the Committee on the Status of Women.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

I MOVE TO FILE COUNTY COMMUNICATION NO. 19-406.

VICE CHAIR RAWLINS-FERNANDEZ:

SECOND.

(Councilmember Kama was excused from the meeting at 10:14 a.m.)

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

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. The Mayor has appointed Mahie McPherson to replace Deneane Hamby on the Committee on the Status of Women for a term expiring on March 31, 2021.

And, Members, with regards to the Status of Women, they are appointed by the Mayor with notice to, but without approval by the Council. So, the only requirement is for the Mayor to inform the Council of the appointment. So, we have no say whether approving or disapproving the members of this Committee. So, I want to thank Ms. McPherson for stepping up to serve our community. Thank you.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'd like to also thank Ms. Mahie McPherson for stepping up to represent our community. She's from Molokai and I know she'll do an excellent job and be a huge asset to the Commission.

And I'd also like to mahalo Ms. Gladys Baisa for reaching out to me to ensure that Molokai does have representation on the Commission. I appreciate that, you know,

working together to figure out how to not only ensure representation, but to ensure that it's someone qualified and would do a really good job at ensuring that the community's voice is heard. Mahalo, Chair.

(Councilmember Sinenci returned to the meeting at 10:15 a.m.)

CHAIR KING: Thank you, Vice-Chair. And I think, especially in light of the resolution or the ceremonial resolution that we had today, it's very appropriate to have her on from Molokai.

Any other comments or questions? If not, I'll call for the question. Just, and this is just to file the, the notice of appointment of Mahie McPherson to the Committee on Status of Women. As pointed out, we, we don't have approval on this particular committee. All those in favor of the motion say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR KING: Measure passes eight "ayes", zero "noes", and one "excused"; Member Kama.

Mr. Clerk.

NO. 19-407 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 1, 2019)

Informing of the acceptance of Fire Hydrant Easement "W", Waikapu East (Large Lot)
Subdivision No. 3, TMK: (2) 3-5-002:018 POR.

CHAIR KING: Councilmember Lee.

COUNCILMEMBER LEE: Madam Chair, may I request that County Communication Nos. 19-408 through 19-416 also be brought up at this time?

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

NO. 19-408 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 1, 2019)

Informing of the acceptance of Waterline Easement "W-1", Waikapu East (Large Lot)
Subdivision No. 3, TMK: (2) 3-5-002:018 POR.

NO. 19-409 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 1, 2019)

Informing of the acceptance of Waterline Easement "W-4", Waikapu East (Large Lot)
Subdivision No. 3, TMK: (2) 3-5-002:018 POR.

NO. 19-410 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 1, 2019)

Informing of the acceptance of Waterline Easement "W-5", Waikapu East (Large Lot)
Subdivision No. 3, TMK: (2) 3-5-031:122 POR.

NO. 19-411 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 1, 2019)

Informing of the acceptance of Waterline Easement "W-1", Maui Lani Elementary
School Subdivision, TMK: (2) 3-8-007:157 POR.

NO. 19-412 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 7, 2019)

Informing of the acceptance of a Warranty Deed for Road Widening Lot 1-B, Halliimaile
Road, Hokuula Agricultural Subdivision, TMK: (2) 2-5-003:027 POR.

NO. 19-413 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 7, 2019)

Informing of the acceptance of a Warranty Deed for Road Widening Lot 5-B, Haliimaile Road, Haliimaile Residential Large Lot Subdivision, TMK: (2) 2-5-003:032 POR.

NO. 19-414 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 8, 2019)

Informing of the revision to Waterline Easement "D", Pulehunui Plains Subdivision, TMK: (2) 3-8-004:036 POR.

NO. 19-415 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated October 8, 2019)

Transmitting the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending September 2019.

NO. 19-416 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated October 8, 2019)

Transmitting the State of Hawaii Commission on Water Resource Management water use reports for August 2019 for all registered well reporters in the County of Maui.

CHAIR KING: Ms. Lee.

(Councilmember Kama returned to the meeting at 10:18 a.m.)

COUNCILMEMBER LEE:

MADAM CHAIR, I MOVE TO FILE COUNTY COMMUNICATION
NOS. 19-408, 409, 410, 411, 412, 413, 414, 415, AND 416.

COUNCILMEMBER MOLINA:

SECOND.

CHAIR KING: Okay, moved by Councilmember Lee, seconded by Councilmember Molina.

Ms. Lee.

COUNCILMEMBER LEE: Members, these communications are routinely submitted to the Council for informational purposes only. No legislative action is required. Thank you, Chair.

CHAIR KING: Okay. Thank you. Any questions or comments? If not, call for the question. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Mr. Clerk.

NO. 19-417 - KELLY T. KING, COUNCIL CHAIR,
(dated October 10, 2019)

Transmitting the following proposed resolutions entitled:

1. "APPROVING THE APPOINTMENT OF CHESTER CARSON AS LEGISLATIVE ANALYST IN THE OFFICE OF COUNCIL SERVICES";
2. "APPROVING THE APPOINTMENT OF LESLEY MILNER AS LEGISLATIVE ANALYST IN THE OFFICE OF COUNCIL SERVICES"; and
3. "APPROVING THE APPOINTMENT OF ANA LILLIS AS LEGISLATIVE ANALYST IN THE OFFICE OF COUNCIL SERVICES".

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RESOLUTIONS FOR CHESTER
CARSON AND LESLEY MILNER, AND FILE COUNTY
COMMUNICATION 19-417.

COUNCILMEMBER LEE:

SECOND.

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

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Carson received his Bachelors of Arts Degree at Pacific University. He is currently employed as senior professional staff by the U.S. Senate where he works with the U.S. Senate Committee on Energy and Natural Resources. He previously worked as a legislative aid for the Alaska State Senate. Mr. Carson's legislative experience will be a great asset to OCS.

Ms. Milner received her Law Degree from the Columbus School of Law at Catholic University. She is currently employed by Portland State University as a department research administrator manager. She previously worked at the, as project manager for the International Associations of Chiefs of Police and as legal intern for the House Foreign Affairs Committee, Subcommittee on International Organizations, Human Rights and Oversight. Although Ms. Milner is not licensed to practice law in the State of Hawaii, her research, administration and legislative experience makes her an ideal fit for a Legislative Analyst in OCS.

And Members, after initially requesting that her application be withdrawn, Ms. Lillis has requested that her application be reconsidered. To give Councilmembers an opportunity to meet with Ms. Lillis, and give OCS time, and give OCS time for further discussions, I'm asking that her resolution be filed with communication at this time. A new resolution may be posted on a future Council agenda.

I ask for the Members full support in adopting the resolutions for Mr. Carson and Ms. Milner, and filing the communication, along with the resolution for Ms. Lillis. Mahalo, Chair.

CHAIR KING: Okay. Mahalo for that. So, just, Councilmembers, at one point, Ms. Lillis had recalled her application and had a salary issue that she was trying to negotiate. And

so, the, I had a meeting with her. I don't know if any other Councilmembers had a meeting, an interview scheduled with her, but they got cancelled. So, we haven't, I don't think anybody. Is there anybody here had a chance to interview with her? So, anyway that's the, the intent is to file and then reconsider, and go through the process so we have an opportunity. I think everyone's had an opportunity to interview the first two that Ms. Rawlins-Fernandez spoke about. So, any comments or questions?

Ms. Paltin.

COUNCILMEMBER PALTIN: Oh, I, I never knew that these people were up. Are they here today, or?

CHAIR KING: No, they're not in chambers. They, there was an email that went out from Office of Council Services inviting all Councilmembers to interview.

COUNCILMEMBER PALTIN: Oh.

CHAIR KING: So, some of us have interviewed them.

COUNCILMEMBER PALTIN: Okay. Thanks.

CHAIR KING: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: I have a question. So, thank you for the information on all of the applicants. The second applicant has a law degree but not in our State, is that the situation?

CHAIR KING: Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, she has a law degree from Catholic University, but she doesn't have a law license to practice law in Hawaii. But she has a law degree.

COUNCILMEMBER SUGIMURA: And is she--

VICE-CHAIR RAWLINS-FERNANDEZ: It can be recognized anywhere; a law degree can.

COUNCILMEMBER SUGIMURA: Yea, right. I understand that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER SUGIMURA: So, is she planning on, we had a situation where we had an analyst and we had a--

CHAIR KING: Well, I think that was an attorney, someone applying for the attorney position.

COUNCILMEMBER SUGIMURA: Right. But we have positions become available, so I'm wondering if her aspirations are to become a lawyer. And we have plenty, you know, different legal positions in, in our County that she may, you know, change her mind. So, is she planning on getting her Hawaii State Bar?

CHAIR KING: You know, I, I, did you meet with her Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I did not.

CHAIR KING: Okay. So, I did meet with her and I did ask her that question. She says eventually she would like to take the Bar here. But she's applying for a legislative analyst position, so she's not seeking an attorney position.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I also met with Ms. Milner, and it seems her, she feels her calling is more for legislative action. So, policymaking and not like, you know, doing legal work in the court room or doing that type of work. So, kind of like where my calling was, as far as getting my law degree and then doing policy work. If you look at some of her experience that's, so I think she, she got her law degree about tenish years ago, it was a while ago. And this is the work she chose to do. So, I think when I spoke with her, she was really excited to do the kind of work that OCS is doing. She felt it was a really good fit for the work she is currently doing and has done in the past.

CHAIR KING: Any, is that, any more questions?

VICE-CHAIR RAWLINS-FERNANDEZ: Cause I hear, I hear your concern. I have the same concern and I asked that question. I'd like, you know, those that join us to stay on as long as possible. And so, that was something that I spoke with Ms. Milner and Mr. Carson about. And I, I feel confident that they'll be willing to stay with us as long as we'll have them.

CHAIR KING: And as everybody knows, we can only, the Council can only commit till the end of this term. So, you know, we ask everyone to commit to the end of the term and then, of course, we can't commit to anybody per our Charter.

So, any other questions or comments about the motion? Okay, seeing none, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure passes nine to zero; unanimous.

And we will, we will reconsider Ms. Lillis at a future date once she go through the process.

Okay. Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTIONS 19-174 and 19-175.

NO. 19-418 - SHANE M. SINENCI, CHAIR, ENVIRONMENTAL, AGRICULTURAL,
AND CULTURAL PRESERVATION COMMITTEE,
(dated October 11, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR TO PROVIDE COMMENTS ON A DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE EAST MAUI WATER LEASE".

CHAIR KING: Okay. We go to Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair.

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

CHAIR KING: Do we have a second?

VICE CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay, moved by Councilmember 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 and submit our comments by the November 7 deadline.

CHAIR KING: Okay. Any questions or comments on the waiver proposal? Oh, I guess we're having some information passed out on this?

COUNCILMEMBER SINENCI: Yes.

CHAIR KING: So, we're going to take a short recess. Should we, can we vote, Mr. Clerk? Do we, we want to take a recess before we vote on the waiver?

COUNTY CLERK: Yes, Madam Chair, if that's possible.

CHAIR KING: Okay. Okay. Brief recess at the call of the Chair. So, please don't go anywhere.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:27 A.M., AND WAS RECONVENED AT 10:30 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Okay. Reconvening at 10:30 a.m. And we're going to go back to Mr. Sinenci for, I guess, we're going to recall the waiver for us?

COUNCILMEMBER SINENCI: Yes. Thank you, Chair.

WITHOUT ANY OBJECTIONS, I WANTED TO WITHDRAW MY,
MY MOTION TO WAIVE THE COMMITTEE REFERRAL AND
REPORT.

VICE-CHAIR RAWLINS-FERNANDEZ:

I WITHDRAW MY SECOND.

CHAIR KING: Okay. And then maybe we can have Mr. Raatz explain the, the fact that there's not a need on this one to waive the Council Rules, but we will need to discharge. Is that correct?

SUPERVISING LEGISLATIVE ATTORNEY DAVID RAATZ: Thank you, Chair. Yes, the Rules of the Council require the waiver of the normal requirement of committee referral and recommendation for resolutions that have the force and effect of law if you're going to take action at the Council meeting. And this resolution, we don't believe in consultation with Corporation Counsel has legal effect. So, a waiver of the requirement for committee referral would not be needed.

CHAIR KING: Okay. So, we don't need a waiver, but we do need a discharge. So, Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair.

SO, I MOVE TO DISCHARGE ITEM 19-418--

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

COUNCILMEMBER SINENCI:

--FROM THE EACP COMMITTEE FOR FURTHER DISCUSSION.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

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

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I move to adopt the proposed resolution attached--

CHAIR KING: Oh, we have to, do you want to speak to the discharge?

COUNCILMEMBER SINENCI: Oh. Oh okay.

CHAIR KING: If you don't have anything to say, that's alright.

COUNCILMEMBER SINENCI: Oh, so it's already--

CHAIR KING: We have to vote on that first.

COUNCILMEMBER SINENCI: Okay. So, yea, in our, both our, excuse me, October 7 and October 15 Environmental, Agricultural, and Cultural Preservation meeting, those of us who were present at the meeting, this resolution authorizes the Council Chair to provide comments on the draft Environmental Impact Statement for the East Maui Water Lease prior to the November 7 deadline, at which point the 45 day comment period ends.

During our EACP Committee meetings, we gathered comments on the draft EIS through public testimony, resources, and discussion. Our comments were focused on the content of the draft EIS and were not intended to take a stance on whether the applicant should receive the lease or not. Summaries and minutes of this information will be provided to the Council Chair of this body, authorizes her to provide comments on our behalf today.

So, I wanted to ask the Council for their support, this resolution to help ensure that all impacts that could result from the proposed water lease are, are addressed at the forefront so we may aide policymakers at the Board of Natural Land and, Board of Land and Natural Resources to make a more well-informed decision. Thank you, Chair.

CHAIR KING: Okay. Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. As the Vice-Chair of the EACP Committee, I support this motion. But I also wanted to see is, is to amend the resolution. Because what I wanted to see is if we could include any additional comments that this Council may have after.

CHAIR KING: Right. That's, that's actually coming up. We have to do the discharge first.

COUNCILMEMBER KAMA: Okay.

CHAIR KING: But it's on my list of actions.

COUNCILMEMBER KAMA: Okay. Thank you, Chair.

CHAIR KING: Okay. Member Hokama.

COUNCILMEMBER HOKAMA: Chair, thank you. So, I'm getting little bit confusion. Hearing Mr. Raatz saying this is not a, what do you call?

CHAIR KING: Force and effect of law.

COUNCILMEMBER HOKAMA: Force and effect. Yet, we asking his, he's asking us to authorize you under the Council Chair title to go and speak on behalf of your Committee, right? So, you want an official designation, though, right? You trying to use the Council's and the Council's Chair Office to provide the credence and weight to the testimony, right?

COUNCILMEMBER SINENCI: Correct.

COUNCILMEMBER HOKAMA: So--

COUNCILMEMBER SINENCI: And we would supply her with all of the testimony.

COUNCILMEMBER HOKAMA: So, we inferring that we get law behind us, right? But we asking her to speak in her official capacity?

CHAIR KING: Maybe, do, would you like a response from Corp. Counsel on that?

COUNCILMEMBER HOKAMA: Well, I think Mr. Raatz, cause he made that comment.

CHAIR KING: Right, and that was in conference with Corp. Counsel, so.

COUNCILMEMBER HOKAMA: So, I'm just trying to under, understand it, Chair, yea. Because other than that, I don't why, you know, I would have no problem with Mr. Sinenci as the Committee Chair speaking and saying these is the testimony provided to my Committee at my hearings on this subject and present it to the Board of Land and Natural Resources. I got no issues with you, anyone of this Council providing those comments. I just saying that we're not at the point where the Council is saying that is our comment, because it hasn't come from . . .

CHAIR KING: I guess that would be, that would be the, if we vote on this today then that would be what we're voting on. So, we haven't taken that vote. We're just talking about discharging it, so.

COUNCILMEMBER HOKAMA: Yea, but my thing is how can we get to it when we don't even have the meat of what we're trying to get across cause only some of us sit on his Committee?

COUNCILMEMBER SINENCI: Right. And we have the notes that was passed out. And so, it was just general comments from, from our panelists. And so, we were going to forward this with the letter from, from Chair King. And so, it would just be the discussion items that both EACP meetings had, had had on those two dates.

COUNCILMEMBER HOKAMA: So, it's basically a transmittal of what the Committee received then, Mr. Sinenci? . . . what the Committee received and, you know, that's already public information yea. So, I would have no issues with having that communicated because what is our position? It's public testimony. Thank you, Chair.

COUNCILMEMBER SINENCI: Thank you.

CHAIR KING: Okay. Thank you. Ms. Lutey, do you want to speak to the, the need or a, a necessity of the waiver?

CORPORATION COUNSEL MOANA LUTEY: I think, so, I had met with OCS staff, I think it was last week or the week before. And we were discussing whether or not all of their documents, resolutions, and so forth, if there's, if they don't have force and effect of law, do we need to sign it? So, we have sort of a working list of it. One of them, for example, is ceremonial resolutions.

I hadn't thought about the context in which your, were initially discussing that, so that's something that I think we need to go back and talk about. Because if it's not just providing public testimony in the manner that we are now looking at today, this may be something we need to just sort through as we're sending these things down.

COUNCILMEMBER HOKAMA: I appreciate you and the Chair working it out. I'm just saying, to me, we are asking to use the weight of the Council and the Council Chair's Office.

CORPORATION COUNSEL: Right. I, I—

COUNCILMEMBER HOKAMA: To sway determination on this application.

CORPORATION COUNSEL: Yea. Your point was well taken. Once you said it, I thought maybe we need to re-discuss that. But as it currently stands with him just providing the testimony, you're okay, yea.

I'll talk to Mr. Raatz.

CHAIR KING: Councilmember Lee.

COUNCILMEMBER LEE: Yea, I too have some reservations about this. So, we may as well do it at the whether we should discharge or not discharge level. Is there any particular reason why these people can't send their comments directly to, to Wilson Okamoto?

CHAIR KING: No. Any, any Councilmember could.

COUNCILMEMBER LEE: Yea. So, I don't understand, nor do I necessarily agree with, with enabling you to represent our Council when we haven't really vetted this at all as a, as a group maybe, maybe in one short meeting. And then I see the people who are resources are generally the people that sue us. I, I have a reservation with that.

CHAIR KING: Okay. I understand your reservations. This was vetted at two different meetings. The resolution came from Mr. Sinenci, so it did not come from myself. I'm willing to do it, you know, as a, as the Council Chair if the body so votes. We haven't voted on it yet. The first thing is the discharge. But any individual Councilmember, on their own behalf, could also send in these comments without even going through this motion. So, I'll let Mr. Sinenci explain why he chose to go this route.

COUNCILMEMBER SINENCI: Thank you, Chair. You know, the 30-year lease is a, is a big ask, especially from our East Maui communities. We did discuss about an old 100-year old system that has been designed to pretty much deplete streams in, in East Maui. So, and even though the ask is, is not as much as plantation days, upwards of 300 million gallons a day, it does have some significant impacts on, on those streams that feed taro farmers and also the connectivity between mauka and makai for those marine species that, that travel up and down, and to keep those species alive in those, those streams, so.

CHAIR KING: Mr. Sinenci, can I, can I just stop you a second because we're getting into the weeds.

COUNCILMEMBER SINENCI: Oh, sorry.

CHAIR KING: I just want to make sure with Corp. Counsel that we're okay with this line of questioning because we have been challenged by a Councilmember in the past for getting too broad into a discussion when we're only on procedures. So, can you speak to that, Ms. Lutey.

CORPORATION COUNSEL: Right. Yea, I think we're getting close here.

CHAIR KING: Okay.

CORPORATION COUNSEL: So, . . . narrow it a little bit.

COUNCILMEMBER SINENCI: Okay.

CHAIR KING: Okay. So, you let us know if we're, if we're overstepping okay?

COUNCILMEMBER SINENCI: Okay. So, basically, we just looked at the summary, the executive summary that was within the draft EIS. And so, a couple things that were unsure in, within the draft EIS was they, DLNR would not issue a lease unless there was a, an ask from the Department of Hawaiian Home Lands and also a, a watershed plan. So, these are some of the things, some of the, that was already listed within the draft summary of the EIS. So, we're just looking at those points.

CHAIR KING: Does that answer your question, Ms. Lee?

COUNCILMEMBER LEE: Not really. I'm not looking for a justification to take a stand on either way of either side of the EMI issue. My concern is the public has the opportunity now to send in their comments. I prefer, I prefer not to, to enable you to represent us, because we haven't really, we haven't really discussed this in depth. And, and if you want to send your own, you know--

CHAIR KING: This was a--

COUNCILMEMBER LEE: --or anybody wants to send their own comments, that's fine, you know?

CHAIR KING: Okay. So, I think the question to Mr. Sinenci is why you felt it, strongly about having, being represented by the Council Chair for this, these comments? I think that, is that correct, Ms. Lee.

COUNCILMEMBER LEE: Yea, when he could pretty much do it himself.

COUNCILMEMBER SINENCI: Yea, and we'll probably do that on our own too. You know, inside the, the lease, there's different people in the County that is also will be recipients of this East Maui water, including Kula Ag Park, including upcountry, including Mahi Pono, and including County domestic use. So, it does affect us at, at that level, that, that we're part of this; in the water lease it lists the County Department of Water Supply.

So, I think for us and its, again we're not making a stance if we, if we want them to have the lease or not, we're just asking for, for, to look at those, you know, we're looking more details, I guess. What TMK's are the diversions coming from? Where, what TMK's the, the diverted water might be going to? How much, how much water? Stream gauges to, to for more monitorization? So, that was our intent, Chair.

CHAIR KING: Okay. And--

COUNCILMEMBER LEE: Primarily you're looking at process. I'm not, I'm not disputing anything you're saying at all. I just, I just don't think that this is the correct process, that you have every opportunity, not only as the East Maui representative, but as a Member of this Council. I think there's a lot of weight in what you have to say on your own without including the rest of us. That's all I'm saying.

COUNCILMEMBER SINENCI: Thank you.

CHAIR KING: Okay. Thank you, Mr. Sinenci and Councilmember Lee.

Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to speak in support of Councilmember Sinenci. I did attend the various meetings in his Committee where we discussed this. And I was, you know, impressed with the, the width and the depth of knowledge that came not only from our constituents and community members, but also, also from, especially I would say the members of the Board of Water Supply. And, and their ability to, you know, present some of the work and the process that they went through in their own TIG.

And I think, you know, this is a, a really crossroad time for us in terms of water and leases, and you know the, the end, the ending of the plantation uses and things is, is kind of ongoing right now. And, and like Mr. Sinenci said, that it doesn't only affect East Maui farmers, it doesn't only affect, you know, Mahi Pono, it also affects the County of Maui.

And as it affects us, we need to let these entities know that we also are participating and watching in this process. And, and I think Member Sinenci made it clear that the point is not to take a side, but just to ensure that the, they have all this information from people that live there, people that came out from Hana to give us testimony on their own streams and, and the reality of the situation as it affects them.

(Councilmember Lee was excused from the meeting at 10:45 a.m.)

COUNCILMEMBER PALTIN: So, I, I will be sending my own comments. I hope everybody sends their own comments. But I think it's more, you know, just to impress upon the decision-makers who live on a different island that it heavily affects not only Mahi Pono, not only the East Maui stream-users, but also the County of Maui as a whole. Their decision affects everybody in this County and they don't live here. So, I think it's

important for them to know that we take this very seriously and, and we would like them to look into these concerns of these people that took time out of their day that drove down here to provide these comments.

And I don't know, I mean, I don't know if you want to also note that Mahi Pono was invited, you know. We wanted to hear from them. We wanted to have that full discussion. But they couldn't find the time to show up. They couldn't find, people make meetings with us all day long. Nobody called for a meeting, you know. And, and I think that also needs to be reflected.

Like, you want to come into our community and make this 30-year lease without, you know, I think Mr. Bacon and Mr. Gardner's testimony is very relevant. Like, yea, we want to work, but set up some milestone. Show us that, you know, you're doing what you said you would do with the water before we just, 30 years is a real long time. That's like a lifetime for some people. And, and you know, come, have some discussions with us. We're open. But if, if you don't come, you don't call, you don't, that, I guess that is a message in and of itself, you know.

So, I, I fully support Member Sinenci and I think that it's important for these decision-makers to know that we're engaged, and we want to work with everyone. And we're watching what's going on because it deeply affects our entire County. And you know, water, so much people said it. There's only, there's only, all the water in the world is, is in existence right now in whatever form; solid, liquid, gas. And so, there's not more water being created.

And so, we need to just make sure that the decisions being made are, are taken very seriously and there's, there's, you know, all, all aspects are considered. Because if we steward the resources carefully, there should be enough for everybody. But I don't think that will be done if folks don't take it seriously and, and know that, you know, us guys that who's being affected by it, we're paying attention and, and you know, we want to work together for the best outcome for everybody involved.

(Councilmember Lee returned to the meeting at 10:49 a.m.)

COUNCILMEMBER PALTIN: And I think it's responsible thing to our community to, you know, represent them as a full body. And if, if you want to also represent your personal feelings, that's also very important. So, I mean, there's no lack of amount of attention that we can garner for them to look at this and take it seriously, not about taking one side or another, but, you know, looking at it from all the different angles and making the best decision for us County of Maui, including the people, including the kuleana farmers and everyone. So, I think I support Member Sinenci and I'm happy that he did this through his authority to bring it to this point.

CHAIR KING: Okay. Thank you, Member Paltin.

So, we have, Councilmember Sugimura, followed by Pro Tem Kama, followed by Vice-Chair Rawlins-Fernandez.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Good discussion. I, I wanted to ask, at the, at Member Sinenci's meeting, a copy of the TIG report from the Board of Water Supply was submitted. Yes, my, my staff staff's the Board of Water Supply and yesterday the actual TIG report, like, just as with the courtesy that we saw Keani Rawlins do with your TIG report, you presented it one day, it became public information, and then you took it up, right? So, there's a process that needs to follow be followed. And yesterday at the Board meeting--

CHAIR KING: Oh, Ms. Sugimura, that was, that was the TIG of the County Council.

COUNCILMEMBER SUGIMURA: I agree. But I'm--

CHAIR KING: But the TIG for the Board of Water Supply--

COUNCILMEMBER SUGIMURA: --equating it to Board of Water Supply. That, I looked at the minutes, it's in our Granicus. The TIG report from the Board of Water Supply meeting was submitted to Member Sinenci. It wasn't public information based upon the Board of Water Supply meeting that was held yesterday. It was premature. It violated Sunshine. So, you have this kind of stuff going on at our level, that I think was inappropriate. I, I don't, I, I would not know this unless if my staff attended the Board of Water Supply meeting yesterday where they presented the TIG.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, I'm not sure, sorry. I just, I don't know how it's relevant to this.

COUNCILMEMBER SUGIMURA: It's part of Mr. Sinenci's request.

CHAIR KING: Maybe, Ms. Sugimura, we could get a opinion from Corp. Counsel, because that was the TIG of the Board of Water Supply.

COUNCILMEMBER SUGIMURA: Okay. And they submitted it to us.

CHAIR KING: Our, our rules are our own--

COUNCILMEMBER SUGIMURA: Chair, let me finish then. They submitted it to us, and Member Sinenci can tell me if I'm wrong, but they submitted it to us for inclusion in this discussion, right, about, about water and it was not official yet? Out of courtesy to the Board of Water Supply commissioners and the work that the TIG did, it was given to us premature. So, you have this violation of Sunshine Law going on, given to us. I don't know if we were supposed to know that when we received it, but it's, it's in our Granicus. I looked. I thought, well, maybe it wasn't included because it was premature.

My staff went to their meeting yesterday and it was presented the way that Keani Rawlins had the courtesy of sending it to us, would sit in, sit in the Committee and then not be taken up until we and the community had a chance to look at it. But it was submitted to us prematurely, I think, by the Chair in Mr. Sinenci's Committee. So, to me, that's a violation of Sunshine. And I'm not the--

CHAIR KING: Do you want to, do you want to get an, do you want a comment by Corp. Counsel?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, I can kind of speak to it.

COUNCILMEMBER SUGIMURA: Yes, I would like, if you don't mind, could get Corp. Counsel. I, I see what you did and I think--

VICE-CHAIR RAWLINS-FERNANDEZ: Well, you, you saw what I did because that was what I was allowed to show you. And then there were things that the TIG did behind the scenes that you weren't allowed to see because you're a member of a voting body that I'm a member of.

COUNCILMEMBER SUGIMURA: Yea, yea.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, members who are not part of the body, because we had resources and so the resources were privy to that information prior to it being released.

CHAIR KING: Okay. Let's let the Corp. Counsel respond because I think we're talking about two different TIG processes, but we'll let them respond.

Ms. Thompson.

DEPUTY CORPORATION COUNSEL RICHELLE THOMPSON: Thank you, Chair. So, if I'm, if I'm understanding this correctly, there was some testimony that was received by EACP Committee that may have violated Sunshine Law in a different board. And so, the question is whether that testimony, if, if Council decides to move forward with

authorizing the Chair, whether that testimony is properly included in the, in the package? That's what it sounds like.

It's potentially a problem for that, the other Board. Whether or not you choose to include that testimony, I think would, you know, would be your decision. But it, I would consider it to be problematic because by including it in your package, you're saying that you're relying on this or that you support the conclusions made within those statements. So, you might consider, you know, taking that out from your package if you do move forward.

If I could make just a general comment on, on this matter in terms of what you're voting on or considering today. As I, I informed the EACP Committee also, it would be important for all of you to know what's being submitted, but because it is being submitted as a body, and the comments on the draft EIS would be made by the Maui County Council. So, you know, it's important for you all to know what's being submitted and what's, what the comments are.

CHAIR KING: Okay. And that was, I think earlier, that was handed out. That was, you know, for myself, I'm just, I'm relying on what the Committee discussed, because that's the direction that I would take; is what was discussed at the Committee . . . and the notes are here today.

I guess the bigger issue, Ms. Lutey, is whether it's, you know, let's go back to the process; whether we would need a waiver process or a discharge, or, or we can go right to discharge. Because earlier, I think we decided we didn't need it and now you're saying maybe we do.

CORPORATION COUNSEL: Are you talking waiver of a Committee report?

CHAIR KING: Waiver of the Council Rules so that we can consider the discharge and then consider, because we're getting into the weeds on the actual resolution and we haven't really, you know, you, not to be a pun, but you seem like you're wavering on whether we need a waiver or not. So, that original agreement was we don't need one and now you're saying maybe we do. So, I just want to get clarity from you.

CORPORATION COUNSEL: Thank you. As I addressed earlier, your, your OCS staff and I have met, and we have an ongoing list. I didn't see it in the light that Mr. Hokama raised earlier, and so this is something I think we should take a short break on so I can speak--

CHAIR KING: Okay.

CORPORATION COUNSEL: --with Mr. Raatz.

CHAIR KING: Okay. Well, you know, we have a morning break anyway. So, let's take a break, give Corp. Counsel a chance to, to confer and also have a break themselves. So, we'll come back at 11:15, if that's alright with everybody? Okay. Break, 10:56.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:56 A.M., AND WAS RECONVENED AT 11:15 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Okay. It's 11:15. The, we'll reconvene the Maui County Council meeting for October 18, 2019. And right now, we are continuing on item 19-418. We have a motion on the floor to, we had a motion on the floor to waive Committee, Council Rules for Committee referral which was withdrawn per a discussion earlier between our Office of Council Services and Corp. Counsel. And we had a motion to discharge it from the Committee, with a second. But then we had a challenge that maybe we do need a Committee waiver, so we've had some discussion. And I'm going to ask Corp. Counsel to just tell us where we're at with that, with the process.

DEPUTY CORPORATION COUNSEL: Thank you, Chair. So, we had the chance to confer with OCS attorneys and we're all on the same page with this, that it is proper to have a waiver from the Committee referral in this case, because commenting on a draft EIS allows the commenter at a later period if they so choose to challenge the final EIS. And so, in that context, you could, you're preserving a legal right. So, the safer bet is to treat this as having the force and effect of law as was brought up earlier. So, that would require the waiver process.

CHAIR KING: Okay. Thank you, Ms. Thompson. So, okay, so we need, so at this point, if you would withdraw your motion to discharge, Mr. Sinenci.

Oh, Mr. Clerk.

COUNTY CLERK: Thank you, Madam Chair. Regardless of whether the waiver was required or not, the, the first step in the process would be to discharge the Committee. Because right now, the item is in the possession of the Committee.

CHAIR KING: Oh.

COUNTY CLERK: And for the Council to take any further action on it, we would need to discharge the Committee from further consideration of it.

CHAIR KING: Okay. So, that will be our first step. So, right now, we have a motion and a second to discharge it from Committee. Any other discussion without getting into the weeds of the actual merits of the resolution? Okay. All those in favor say "aye".

COUNCILMEMBER SINENCI: Aye.

CHAIR KING: Aye.

Any opposed?

COUNCILMEMBER LEE: No.

CHAIR KING: Okay, let's do 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.

COUNCILMEMBER HOKAMA: NO.

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: YES.

COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: Chair Kelly T. King.

CHAIR KING: AYE.

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

NOES: COUNCILMEMBERS HOKAMA, LEE, AND
SUGIMURA.

COUNTY CLERK: Madam Chair, that's six "ayes", three "noes", motion passes.

CHAIR KING: Okay. So, we have a discharge from Committee. And then on the next step,
Mr. Sinenci.

COUNCILMEMBER SINENCI:

I 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 Councilmember Sinenci, seconded by Vice-Chair Rawlins-
Fernandez.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Like, I said--

CHAIR KING: Do you feel you need to speak to it, since we got such a full discussion?

COUNCILMEMBER SINENCI: Yea, I need a two-thirds vote so that we could submit
comments by the deadline.

CHAIR KING: Okay. Any further discussion? If not, we'll go roll call vote on this one too.

Mr. Clerk.

COUNTY CLERK: So, Members, this is on the waiver.

Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

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: YES.

COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: Chair Kelly T. King.

CHAIR KING: AYE.

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

NOES: COUNCILMEMBERS HOKAMA, LEE, AND
SUGIMURA.

COUNTY CLERK: Madam Chair, that's six "ayes", three "noes", motion passes.

CHAIR KING: Okay. So, thank you. We have a discharge, a waiver, and then we, we'll go to the motion to adopt.

COUNCILMEMBER SINENCI: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 19-418,
INCORPORATING ALL NON-SUBSTANTIVE REVISIONS, AND
TO FILE COUNTY COMMUNICATION 19-418.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

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

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair.

I MOVE TO AMEND THE PROPOSED RESOLUTION AS
NOTED IN THE AMENDMENT SUMMARY FORM, JUST
DISTRIBUTED BY STAFF.

And basically, Chair, it's just—

CHAIR KING: Okay. Wait. The, we need a second and then you can speak to it.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Do we have, oh, okay. Second?

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. So, the amend, amendment was moved by Councilmember Sinenci and seconded by Vice-Chair Rawlins-Fernandez.

Mr. Sinenci, you want to speak to, and the Amendment Form was just distributed to us today. It says, "HOLD FOR MEETING" "County Communication 19-418", at the top.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And Members can read in the motion. It's just correcting the date of a referenced Committee meeting from October 8 to October 7, 2019.

And then just clarifying that the Chair's letter on the draft EIS would be provided to both, to all recipients; Alexander & Baldwin Inc.; East Maui Irrigation Company, Limited; Wilson Okamoto; the Board of Land and Natural Resources; and the Office of Environmental Quality Control.

CHAIR KING: Okay. So, only amending the last "BE IT RESOLVED" clause?

COUNCILMEMBER SINENCI: Correct.

CHAIR KING: Okay. I guess we can, we can take, Pro Tem Kama, you have another amendment to propose?

COUNCILMEMBER KAMA: Yes, I do.

CHAIR KING: Okay. We can take two amendments to the original, and then we vote on these and then we can go to.

COUNCILMEMBER KAMA: Okay.

SO, WHAT I WANTED TO DO WAS TO ADD, TO INCLUDE ANY
ADDITIONAL COMMENTS PROVIDED BY MEMBERS OF THE
COUNCIL TODAY.

Or, and, but I also wanted to ask if you had a drop-dead date. I mean, what is the date that you will continue to accept comments from us regarding this?

CHAIR KING: Okay, well I'm, I'm taking, I'm taking direction from the Council.

COUNCILMEMBER KAMA: Okay.

CHAIR KING: So, this was Mr. Sinenci's resolution. Do you have a drop-dead date when you, I mean, we have a date when we know that comments are due by?

COUNCILMEMBER KAMA: Date certain.

COUNCILMEMBER SINENCI: November 7, Chair.

CHAIR KING: So, is it your intention to wait till November 6, and take comments up to that? Or, you know, what was the intent? That was, that's the question.

Oh, Ms. Thompson, you have a?

DEPUTY CORPORATION COUNSEL: Thank you, Chair. So, I would encourage that all comments be included at the time the body votes to adopt them rather than submitting them separately, both for Sunshine Law purposes and also so that you're clear on what your comments are that you're providing as a body.

CHAIR KING: Okay. So, today? Okay. So, today would be the date to submit additional comments.

COUNCILMEMBER KAMA: Like now or at the end of the day?

CHAIR KING: Ms. Thompson.

COUNCILMEMBER KAMA: Or both?

DEPUTY CORPORATION COUNSEL: Prior to final action.

CHAIR KING: Okay.

DEPUTY CORPORATION COUNSEL: So, whether that's today or at a future Council meeting prior to November 7.

CHAIR KING: So, it would be, so it would be part, today before we vote. Any other comments that you wish to make, I think you can make as an individual Councilmembers and those in addition?

Okay, Mr. Sinenci.

COUNCILMEMBER MOLINA: Chair.

CHAIR KING: To be followed by, oh, Mr. Molina, you have a--

COUNCILMEMBER MOLINA: Sorry, just to follow up on that issue about the submitting it today. Now, based on the clock, I don't know if it's maybe your Chair's policy, do all comments have to be in by 4:30 end of the work day? Or, because the, you could technically have up until a minute before midnight. So, if say a Member emailed your office after 4:30 p.m., is that accepted?

CHAIR KING: Well, she was saying before final action, which is in this meeting today. So, before we take that final vote, we have to discuss all the comments that are going to go into this letter. Doesn't mean you can't write your own separate comments.

COUNCILMEMBER MOLINA: Just for your purpose . . .

CHAIR KING: For my, for my, to know what the Council has agreed on to say.

COUNCILMEMBER MOLINA: Oh, okay.

CHAIR KING: Because I'm really just the conduit. So, I'm relying on the Committee, on, you know, I didn't write the resolution. I didn't ask, but I'm willing to do it if the body so desires.

COUNCILMEMBER MOLINA: Oh, okay.

CHAIR KING: So, that's kind of where I'm at.

COUNCILMEMBER MOLINA: So--

CHAIR KING: It's like, what do you want me to say?

COUNCILMEMBER MOLINA: The time parameters for us individually then, we just have to get it into OEQC by November 7, if any . . .

CHAIR KING: If you want to, yes, individually make comments.

COUNCILMEMBER MOLINA: Okay. Thank you for that clarification.

CHAIR KING: Sure.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Just to clarify, Mr. Molina's comments were included in the notes that was distributed to, to all the Members. So, if you feel that these are okay, or, or you can, we don't have to include all of these, but, but the Chair, you know, can pick out, probably the best, the top five or ten that she wants to include in the letter.

And just for clarification about the TIG, I think it was just a couple of the TIG members that, that provided feedback that was, some of them read the actual 2700 pages of the draft EIS. So, that was what some of the TIG members testified that day.

CHAIR KING: And you're talking about the TIG from the Board of Water Supply.

COUNCILMEMBER SINENCI: Correct.

CHAIR KING: Okay. Okay. So, Member Paltin.

COUNCILMEMBER PALTIN: Okay, thanks for the clarification. So, it was just members of the TIG testified to portions that of their TIG that was relevant to this draft EIS. For me, if the TIG has been released, I would, I would like to see it included in the comments as, you know, this group did so much hours of work on this. And you know, this is also for your information what, water use development and that they're working on. But that's just a suggestion from what I would like to see--

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: --included because so much effort and time was put into it. And when they came and presented their things, I think everything that they had said was good points to point out being that they put so much time and effort into it and seems to really have a handle of what's going on and have expertise in that area. That, that would be what I would like.

CHAIR KING: Okay. So, can you just--

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR KING: Well, because right now we have two amendments on the floor. We have an amendment and an amendment to the amendment, so.

COUNCILMEMBER PALTIN: Oh, I thought we were saying what we wanted.

CHAIR KING: We're voting on the amendment. And, and Pro Tem Kama's amendment was to include comments made today in this meeting, in this Council meeting.

COUNCILMEMBER PALTIN: Oh. Oh, that was my comments.

CHAIR KING: So, if we pass that--

COUNCILMEMBER PALTIN: So, I jumped the gun, huh?

CHAIR KING: --then we can go to comments made, so.

COUNCILMEMBER PALTIN: Oh, okay. Sorry, I think I went ahead.

CHAIR KING: That's yea, so we can come back to that. But right now, we have two amendments. And the, and so we're basically, there's amendment, amendment to the amendment. So, the amendments include adding, changing the "BE IT RESOLVE" clause per the, the Amendment Summary Form from Mr. Sinenci. And then Ms., and then Pro Tem Kama's comments, or addition of the, I'm not sure where, where did you want to put that in the "BE IT RESOLVED" paragraph 1? Pro Tem Kama.

COUNCILMEMBER KAMA: It could. It could go there or could that be number 2.

CHAIR KING: So, comments discussed at the October 15, 2019--

COUNCILMEMBER KAMA: Oh, yea. There we go.

CHAIR KING: --meeting.

COUNCILMEMBER KAMA: And October 15 comma.

CHAIR KING: And then comma and then the full Council meeting on October 18.

COUNCILMEMBER KAMA: Yea.

CHAIR KING: Okay. So, did you get that? Is that, is that okay, Ms. Thompson? That, that wording, is that where it should go?

DEPUTY CORPORATION COUNSEL: Yes, that's fine.

CHAIR KING: Okay. Okay, so right now we have amendment. So, if you can speak to the amendment, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Yea, so I was just wondering if, as part of my comments to this discussion, so basically from what Corp. Counsel said is whether we include or not the Board of Water Supply, their document that they presented is really up to us, even if the Board of Water Supply hadn't received the formal TIG yet?

CHAIR KING: Okay. But let's vote on the amendment first and then we'll get to the actual content of the comments.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KING: Okay. Mr. Clerk.

COUNTY CLERK: Madam Chair, if we could just have a second to Councilmember--

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNTY CLERK: --Kama's request.

CHAIR KING: Oh, okay. On the, oh, we didn't get a second on the second amendment? Okay. So, that is, that was proposed by, moved by Pro Tem Tasha Kama, seconded by Vice-Chair Rawlins-Fernandez.

Okay, anymore discussion on the amendments? If not, all those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay, so the amendments pass nine to zero; unanimous. And we're back to the main motion as amended.

Mr. Clerk.

COUNTY CLERK: Yea, Madam Chair, what we voted on was Councilmember Kama's amendment, and we're back to Councilmember Shane Sinenci's amendment.

CHAIR KING: Okay. So, we voted on the second amendment. We're back to the first amendment. Okay.

All those in favor, oh, Mr. Hokama.

COUNCILMEMBER HOKAMA: So, I just want to ask my colleague on clarification. So, Chair Sinenci, from your Committee, this is what you, you say that you want Chair King to transmit on behalf of your Committee to the, the board, Land Board for consideration prior to their decision-making.

CHAIR KING: Which one are you holding up, Mr. Hokama, Mr. Hokama?

COUNCILMEMBER HOKAMA: I'm bringing out the one that was handed out to the Members this morning. It says EACP meeting of Monday, October 7, Chair.

CHAIR KING: Okay. Okay.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Upon further clarification, this is the information that was, that was sent to all of the Members and to Council Chair. And she would just pick whichever ones, I mean, on our behalf, that she would write to. For instance, Councilmember Molina included more stream monitorizations within the draft EIS.

COUNCILMEMBER HOKAMA: Right. Right.

COUNCILMEMBER SINENCI: So, she could pick out that they, they put in more stream gauges or something.

COUNCILMEMBER HOKAMA: Okay. No, I'm just wondering, is this what she submits on behalf of what the reso is authorizing her? This is what she would be submitting as part of her comments, right? Because this is what the Committee received, and we

are transmitting what the Committee received is my understanding. So, I just was asking, is this the document that we're going to transmit?

COUNCILMEMBER SINENCI: We're going to, no, she's going to write a letter on our behalf. And then this is the information that was collected from the meetings and that we're giving to her for, for information.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, clarification.

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: Well, I, I think it's key that the Chair is clear on what is expected of her.

CHAIR KING: I agree with you, Mr. Hokama, because I, I am trying to, I want to get through this amendment, then I want to get some clarity on what's expected.

COUNCILMEMBER HOKAMA: Yea, what, that's right.

CHAIR KING: Yes. No.

COUNCILMEMBER HOKAMA: So, that's what I'm digging at.

CHAIR KING: I totally, no, I agree with you. But, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I think, I think that discussion belongs in the next, in the main motion.

CHAIR KING: Right, right. Yea, so let's, let's . . .

VICE-CHAIR RAWLINS-FERNANDEZ: An amendment.

CHAIR KING: So, if we can approve the amendment which just right now that we're down to the first amendment which is just changing the "BE IT RESOLVED" clause. And then we can get to the actual meat of what is going to be transmitted, because I need that direction as your Chair.

Okay, so all those in favor of the, of the amendment that is on the Amendment Summary Form, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. So, the amendment passes. Both, we have two amendments that have passed and now we're back to the main motion as amended. So, now we have the meat of the discussion. And I want to go back to Mr. Hokama's question of what exactly is the Committee asking the Chair to include in the letter. Okay.

So, Mr. Hokama.

COUNCILMEMBER HOKAMA: So, Chair. Yea, and I appreciate Mr. Sinenci's comments already. I would say I'm basing my decision on this written document that was shared, as far as what was received by the Committee. And so, I would say I have no issue with you providing comments on whatever comes directly from this document that we voted on.

I would say if we're going to stray from this, then I would like to be at least informed prior to my decision that we are not following just this for comments. Cause I don't know what, again, I haven't decided on whether or not the Council should eventually then, are we taking a position?

CHAIR KING: Mr. Hokama, the, one of the reasons why we went back to force and effect of law too is because whatever we do gives a standing.

Ms. Thompson, can you explain that, so--

COUNCILMEMBER HOKAMA: No, I understand.

CHAIR KING: --whoever makes comments--

COUNCILMEMBER HOKAMA: Yea, no, I understand that, Chair. I'm just wondering, are we going to have standings? So, your Water Department is going to have standing, I'm sure. And we have contrary positions, but then, they're both going to have, apply and present two different cases for the County?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Thank you. So, just kind of to bring us back to what, what procedurally, where we are in terms of this draft EIS. So, an EIS is meant to be, as you know, an informational document for later agencies to consider when they're permitting or looking at in, in this case a lease. So, the comments should be primarily based on what's missing or inaccurate in a draft EIS.

Each of those comments, each individual comment has to be responded to in writing and included in a final EIS. So, it's the opportunity for, you know, either you collectively as a body or individuals to make comments that would be considered, you know, in, as they compile the final document.

Fast-forward to once that final EIS is published. There's a challenge period and you can challenge an EIS on many different grounds. Insufficiency, you know, is one of, one of the ones, failure to, you know, look at all our alternatives, things like that. So, the comment period is one of the, so if the person comments, you know, during this 45-day window, then later on that person would be able to bring a challenge if they chose to because they participated early on.

COUNCILMEMBER HOKAMA: Understood.

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN: Is this the part where we put our comments that Member Kama was referring to earlier?

CHAIR KING: Yes, I believe so. This is the part.

COUNCILMEMBER PALTIN: So, for me, I'm envisioning this document as being the attachment to the letter, and the letter not to really, like how we stated earlier, not to take a stand, but maybe, you know, something similar to, like, a cover letter, like, saying the process that we went through and if there is a way to, like, pull it altogether and say, you know, these are some of the concerns. And, and not, that's, that's kind of what I envisioned.

If I was to add my personal comments, like how Member Molina did at this time before we take the vote, it would be, you know, one option that I feel hasn't been thoroughly looked into is by looking at the big picture and taking climate change into effect. And you know maybe the, lessening of water in the aquifers and the streams and what not.

(Councilmember Lee was excused from the meeting at 11:35 a.m.)

COUNCILMEMBER PALTIN: That one other alternative that I feel hasn't been thoroughly explored is that our Kahului Sewage Treatment Plant is in a tidal wave zone, a sea-level rise area. And I believe that A&B has set land aside for, to increase capacity or whatever, not to move the Kahului Sewage Treatment Plant. But there is land set aside.

And I think that it should be investigated if, if we are to put a wastewater treatment plant close to Mahi Pono that we can then use the R-1 water for the irrigation of their lands. And, and to try our best to pursue a win-win situation with that. In, you know, we know that whether the climate changes or drought, people are still going to continue to flush their toilets. And as we've seen with the previous case, or the future case on our agenda, that R-1 water does need a place to go to.

So, I mean, I think that would be a, something that needs to be taken a look into of how we're going to deal with water supply and demand issues over the next 30 years, you know. I mean, we have to leave the door open for technology, climate change, and all of these things. And I hope that they would also truly take a look at those other options available.

CHAIR KING: Thank you for that.

Councilmember Sugimura, followed by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER SUGIMURA: Thank you. This goes back to my earlier statements regarding the Board of Water Supply TIG. And by looking at the documents submitted by the Chair of the EACP, Shay Chan Hodges, the, the statement for the October 15, 2019 EACP meeting is, refer to the letter and corresponding documents provided via written testimony. Included in the testimony are findings by the Board of Water Supply Temporary Investigative Group, who studied this draft EIS and the proposed water, proposed water lease.

So, in my understanding, unless there's somebody tells me differently, that the TIG report was not official till yesterday when my staff attended the Board of Water Supply meeting. So, I'm hesitant to, I would like to move not to include it because it was not official, out of respect for the Board of Water Supply, until it was presented to the Board of Water Supply, the, their TIG report. So, I, I would not like to include it.

CHAIR KING: So, where are you reading from then? Is that in the notes, where it says, refer.

COUNCILMEMBER SUGIMURA: This is what was given to us by the Committee Chair.

CHAIR KING: Right. But you said, you made a statement where it says somewhere on here refer to the--

(Councilmember Lee returned to the meeting at 11:38 a.m.)

COUNCILMEMBER SUGIMURA: So, if you can look at page, page, the last page. Oh, second to the last page I guess, towards the bottom. It's no, it's not numbered, but it says Shay Chan Hodges. And hers is the third to the last comment on that page; fifth page out of the six-page document.

CHAIR KING: Okay. So, your, your proposal is to strike that--

COUNCILMEMBER SUGIMURA: Yea. Not submit it--

CHAIR KING: --particular piece.

COUNCILMEMBER SUGIMURA: --until, and they can submit it. I mean, the Board of Water.

CHAIR KING: I, yea, I don't, I don't think that we're going to be submitting the findings from the Board of Water Supply. I think we're just submitting these comments that were made. So, this is a comment she made to the Committee but I, I don't, I don't see attached to this the actual TIG report.

COUNCILMEMBER SUGIMURA: Oh, so you're not going to submit the report, even if that's what she refers to?

CHAIR KING: I think I'm going to submit the statement that says refer to the letter and corresponding documents. If we spent, if we, if we, if we attach everything that's referred to in this, we'd be attaching the whole EIS. So, you know, I think that's what was said earlier is to write a, you know, write a cover letter. This was what was, this, these are the concerns and the testimony brought up by testifiers and Councilmembers at these meetings and we are submitting these as comments, so.

COUNCILMEMBER SUGIMURA: So, that means Shay Chan Hodges, her comments mean nothing because it's referring to a report that we're not going to submit.

CHAIR KING: Well, they, they can, I'm sure they have that report, so they can look, look at the report. The report is public now. So, what we're just saying is that this is, this is a testimony that came in from Shay Chan Hodges to, you know, asking us to "Refer to the letter and corresponding documents provided via written testimony. Included in the testimony are findings by the Board of Water Supply Temporary Investigative Group, who studied this draft EIS and the proposed water lease." But I don't think

we're going to, we're not going to attach every, I mean, that's not the direction I'm getting from the Committee, is, is to attach--

COUNCILMEMBER SUGIMURA: So, can I ask something? Is this a summary of the Committee?

CHAIR KING: Yes.

COUNCILMEMBER SUGIMURA: So, this is what the Committee interpreted from the two committee reports, I mean, two Committee meetings. So, this would take the place of a committee, a committee report? It's just basically--

CHAIR KING: No. It's not a committee report to the, to the Council. It's, it's comments that the Committee is asking the Chair to submit with a cover letter.

COUNCILMEMBER SUGIMURA: So, you're just going to say--

CHAIR KING: As EIS comments.

COUNCILMEMBER SUGIMURA: You're just going to submit this as an attachment?

CHAIR KING: Right, because we're not, you know, it's been said several times that we're not, we're not taking a position on whether the EIS is good or not. We're just saying these are comments that we have because they came up at our Committee, correct?

COUNCILMEMBER SUGIMURA: Okay. I'll vote accordingly.

CHAIR KING: Okay.

Vice-Chair Rawlins-Fernandez, followed by Pro Tem Kama.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so, I, I'm not on the EACP Committee, but I did watch the meeting on, the video of the meeting. And there was a discussion.

CHAIR KING: Do you know which one?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, the last one.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Last Monday.

CHAIR KING: The 15th.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea. Oh, this Monday. No, last Monday. Okay, anyway, not important. So, there was a discussion about requesting OEQC to extend the deadline. It looks like I perked Corp. Counsel's interest. So, and, and it wasn't, and I remember the discussion, so I don't know if I could just be reminded, like, are we allowed to add a "WHEREAS" clause that encourages the OEQC to extend the deadline because of the size and complexity of the DEIS being over 2700 pages, on behalf of the community? Or, I mean, because that's not taking a position. That's just asking for more time.

CHAIR KING: Right, and we tried to do that in Committee. I think I made the statement of it.

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

CHAIR KING: Was moved by Pro Tem Kama and seconded by Member Paltin, to put in a resolution asking for an extension. And we actually had some issue of whether we could approve that. And I think Corp. Counsel said it was within the scope of what we were doing. But then in the inter, and then correct me if I'm wrong, but in the interim, the Chair of the EACP Committee contacted the party that would be the party to extend it and was told there would be no extension.

And so, that was, so anyway, maybe Ms. Thompson can say what happened to that resolution.

DEPUTY CORPORATION COUNSEL: Thank you, Chair. I contacted OEQC to ask, to verify what the mechanism is, if any, to be able to extend the comment period from the statutory 45 days. And they said that there, there's not a way to voluntarily extend that comment period. The way that it can be done is that a, a second draft EIS can be filed and that would initiate a new 45-day comment period. Where if they file, they, the applicant files an addendum or supplement to the draft EIS, that has a new 45-day comment period. So, there's no way to voluntarily extend it.

VICE-CHAIR RAWLINS-FERNANDEZ: So, mahalo, Ms. Thompson. So, the OEQC doesn't have the authority to extend the 45-day deadline, but the applicant itself can voluntarily extend the deadline?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: No. No party has the, the opportunity to voluntarily extend.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, the, okay. Just for those watching, I guess, so, the applicant cannot extend the 45-day deadline, but it could give the community more time to review the DEIS by withdrawing or filing a new, not a new, but refiling the DEIS in order to allow the community another 45-day clock to review and provide comment?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Thank you. Yes, some, sometimes draft EIS, for whatever reason, are republished. You know, sometimes a project can significantly change where they have new information that needs to be included and then they would republish. And then, all of the statutory requirements apply, including that 45-day comment period.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, would it be inappropriate to have a clause that states that the, on behalf of the community, the Council hopes that the applicant will consider allowing the community more time in the way that, you know, whatever authority it's, it's given, or whatever, however outlined by the law.

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: I think, you know, that would be the Council's prerogative, if they want to include that kind of language. You know, the other thing is, that while the comments made during this 45-day comment period are required by law to be responded to, it doesn't mean that comments can't be submitted to the applicant after that period of time. It's just outside of the required response.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that clarification. I don't have language drafted up for a "WHEREAS" provision to express that. I don't know if we would want to just add that in that cover letter that we've been discussing. But that's something that I, I understand that a lot of Members of the Council or, I'm sorry, the EACP Committee expressed a desire to reflect somehow, yea.

CHAIR KING: I'm happy to put that into the cover letter if this body wants to, because we did pass that original resolution out of Committee before we found out that it wasn't, you know, under their purview. It wasn't, there was no avenue for them to do that until we heard what we just heard. But, okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Member Lee.

COUNCILMEMBER LEE: I'm sorry, Member Sugimura, but I just have a really quick question to Corp. Counsel. Now, I think I heard you say earlier that people who provide comments during the comment period have the opportunity to challenge the results of the EIS when it's completed, right?

So, my question is if we include testimony from various people, yea, in our communication to Wilson Okamoto, will we then, if any of these people, which we know they will because Sierra Club and Maui Tomorrow challenges the EIS, are we obligated in any way to support them?

CHAIR KING: Ms. Thompson.

COUNCILMEMBER LEE: Since we already endorsed them in our submittal to the, to the consultant Okamoto, Wilson Okamoto.

DEPUTY CORPORATION COUNSEL: Right. That's a very good question. I think that the, by submitting what would in essence be the same comment. So, if your, if the Council is, is, you know, I'm working in using this draft here. By the Council submitting this document, you're saying that you agree with, with the comments made by various people and you support them. I don't know whether that would draw the County Council into a lawsuit later on, challenging the EIS. But I would assume that anything that this body says that supports someone else's challenge, you know, that they would use it as evidence probably, you know, some form of evidence.

COUNCILMEMBER LEE: Thank you.

CHAIR KING: Thank you, Ms. Lee. So, would it be, Ms. Thompson, would be advisable then to maybe just to take the names out and just list it as testimony that came to the Committee?

DEPUTY CORPORATION COUNSEL: I'm not sure that matters one way or another really.

CHAIR KING: Well then how, how could we be supporting someone if their name is not listed in here?

DEPUTY CORPORATION COUNSEL: What I'm saying is that if, you know, there are various comments in here that take a certain position, you know, it were missing information, that kind of thing. And if the County Council is saying that they agree with those comments, you know, whether they're attributed to somebody else or not, that may be used later on as supporting, supporting a claim that missing information or things like that. Sorry, if that's not clear.

CHAIR KING: Okay. Vice-Chair Rawlins, oh, Councilmember Molina. Okay, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I, I just wanted to make a, a quick comment on that. To your proposal of, what's the word, removing the names. So, if multiple people made the same comments, then it, it wouldn't necessarily be attributed to one specific person or entity. That, that's all. That's all I wanted to say.

CHAIR KING: Okay. So, have we, I'm not sure where we're at now, if we're ready to move forward on this.

Pro Tem Kama.

COUNCILMEMBER KAMA: That's worrisome that the potential for this to come back and bite us later on could happen because if you submit these. My intent was to be able to, to just gather them all up and say, hey you guys, this is what the people in our community are saying. This is what it is.

But then, if one of those potential commenters decide that they don't agree with the, the DEIS and they decide that they want to sue again, do I want to go there? I don't. I want to do something good for my Chair, but I don't want to get us into more problems with litigation than we already are at. I'm going to rethink what I'm doing here.

CHAIR KING: So, Ms. Thompson, what liability do individual Councilmembers have if we submit our comments individually and we use some of these comments from the Committee? Are we in that same position? Are you telling us that we should not make comments that we're not ready to back up in court?

DEPUTY CORPORATION COUNSEL: No, not at all. So, commenting on a draft EIS, I don't think that it would, I mean, I'm speaking generally here. So, commenting on a draft EIS doesn't usually involve the commenters liability, you know, unless, I can't think of, I'm trying to think of a comment that would get you in hot water. But it preserves that person's right to challenge the final EIS at a later date when, when that is published.

I think, what the concern is that I'm hearing is that if you, as a body, adopt all of these comments as your own, which is what you're talking about doing, that later on if one of these people or somebody else says, you know, bring a challenge to the EIS, say it's, you know, inadequate for whatever reason and then say the County Council also says that it was inadequate for this reason, you know, attached is Exhibit "A" as the Council's comments on the draft EIS. You know, I, how likely that is, I don't know.

CHAIR KING: Okay. But it would be the same likelihood as us as individuals. I mean, we are, we're talking about each of us individually possibly making comments. So, if we make comments and we, we use some of this, these notations and say, here's some of our concerns, here's some of my concerns, we're in that same position later on for someone to say, well Councilmember King says, had the same concerns. So, our, or, you know, my, my name gets pulled in as a supporter.

COUNCILMEMBER KAMA: Chair.

CHAIR KING: Okay. Ms. Kama.

COUNCILMEMBER KAMA: But I think, I think it kind of feels different. It feels different because, I mean, people say that all the time; so, Chair so and so, or Councilmember so and so said this and that. But, you know, I mean, but I think when you do it as a body, I think that's what, to me, the impact is that we're doing it as a body, and we are subject to suit. And therefore, you always, for me anyway, I always have to think about how sometimes you want to do something good and somehow it ends up being something bad in the end.

CHAIR KING: I don't think she's saying we're subject to suit. I think, is that, Ms. Thompson, you're saying we're subject to being classified as supporting a suit possibly.

COUNCILMEMBER KAMA: Right.

CHAIR KING: Right.

COUNCILMEMBER KAMA: Right. But we wouldn't be there--

CHAIR KING: Is that correct?

COUNCILMEMBER KAMA: --if we didn't do certain things.

CHAIR KING: Is that a correct?

DEPUTY CORPORATION COUNSEL: That's a situation that could come up.

CHAIR KING: Okay. Ms. Paltin.

COUNCILMEMBER PALTIN: I don't understand why if that situation came up, we could then take a vote and say how we feel at that time. I mean, to conjecture about a hypothetical solution or situation and then say, like, that's the end of our comment today, that's kind

of ridiculous. You know, like if this hypothetical situation comes up, at that time we can say, you know what, we simply supported these comments being submitted to the draft EIS because they made sense. We didn't, at this time today, support anything beyond that. That's all we're saying right now.

And then if, if this future fantasy situation occurs, at that time, we can say, you know, what we're, we're tired of litigation and lawsuits, so we're not, we're not being a part of this lawsuit or anything. So, I mean, it's, it's people trying to make it into something more that it is and then say that we have to take a stand right now on some fantasy situation, which is kind of like preposterous to me. You know, it's like slow your roll.

CHAIR KING: Thank you, Ms. Paltin.

Councilmember Lee.

COUNCILMEMBER LEE: Well, those of us who have more experience know that as a rule, we have oftentimes, the same people suing us and, and involved in contested case hearings, taken us, even the lawsuit with the injection wells. I mean, it's usually the same people and they are listed as some of the, those who provided testimony. So, you know, specifically, Maui Tomorrow and the Sierra Club frequently are involved in contested case hearings, and challenges, and lawsuits, even against us.

So, I am very leery about supporting testimony that comes from entities that are familiar to suing us, you know, who have done it often, many, many times against the County. And I really don't consider this to be a fantasy because it happens a lot. So, I, I feel that, you know, what's wrong with just forwarding their information? Or why didn't they send it themselves, you know? And then, each Councilmember can send their own opinions, cause I hate to be drawn into a situation where ultimately we might be liable if the EIS is challenged. Thank you.

CHAIR KING: Thank you, Member Lee.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I appreciate some of the concerns from the Members. I don't feel that our meetings were about an, you know, making a stance on the draft EIS. We were just discussing some of the issues. And it just so happens that some people that, that are authority on some of the issues shared their information. I don't think it was given to be, to have another, I guess, you have some kind of agenda towards it, as far as attacking the County, I think.

And, and you can read some of the comments. I mean, I mean what stream gauges above and below the diversions, rare birds, and flora and fauna, to do more studies on native species. So, it's, I don't think it was meant to circumvent or with, with alternative agendas. It was just to, you know, address the watershed and, and that's why we brought it up in the environmental committee. Thank you, Chair.

CHAIR KING: Okay. Thank you, Mr. Sinenci. Also, I'm trying to, I didn't see Sierra Club listed in this document, so I'm not sure--

COUNCILMEMBER LEE: Lucienne de Naie.

CHAIR KING: It doesn't say that she's representing Sierra Club.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to state on the record that I think it's unfair to smear environmental organizations as sue happy. I don't think, you know, environmental organizations play a very important role in holding our government and corporations accountable to taking care of our environment. And that is their role. And when we don't do that, then that's when they try to talk to us.

Before the injection well case happened, they were trying to work with the County. So, it's not like they immediately went to a lawsuit. Lawsuits are expensive and time-consuming. Nobody wants to be held up in court for years and years and years. That's not something that people enjoy. I think it's important that we, we recognize their role as being a check on us and for, like, historically, we're, we're, if the government is not taking care of the environment, then that's when we will be held accountable. And if we are, then they won't sue us. I, I, I think it's, it's pretty simple, you know.

And if we empower our community to have a voice and we recognize the value, and their comments, and their perspective in ensuring that we are taking care of the environment, then, you know, there, there's really no need for concern about getting sued. And so, I think it's important we stand by our community members and lift up their voices when they tell us that there's questions that haven't been answered by this huge document, that's going to have long lasting impacts on our community members and our environment. So, I just, I just wanted to state that on the record that I, I don't think it's, it's fair to make those kinds of comments. And, yea, mahalo, Chair.

CHAIR KING: Okay. Mahalo, Vice-Chair.

Pro Tem Tasha Kama, followed by Councilmember Lee.

COUNCILMEMBER KAMA: Thank you, Chair. I think the, the important part of this whole thing is understanding what we're, what I think I'm trying to do. First of all, I just want to make sure that we can gather up all the testimonies and forward it. And I think what you say, the message in your cover letter should be able to explain that that's what we're doing. And that we're not taking a position.

And if people are maybe going to come back and later on decide they want to do something more than that, I think I would have to agree with Tamara that, you know what, let's just for now believe in ourselves, believe in our people, believe in this process, and just carry this forward. And support our Chair, who's, I think is trying to be the best Chair he can be in our Committee, and help each other along to, to be the best that we can be while we're sitting in these seats. And we don't always have to agree, and, but we are going to disagree, but disagree in a manner that still gives worth, and dignity, and respect to one another.

So, if, I think I'd like to be able to see how that letter is going to be written up, the cover letter, and submit that along with everything. But I also want to get back to the issue of the notes that Councilwoman Sugimura was alluding to under Shay Chan Hodges. It says, "Refer to the letter and corresponding documents". So, she submitted a testimony, 57 pages. And if we're going to, I mean, if these notes was supposed to tell us to go there and they didn't want to print all 57 pages, I understand that. But if that's what this was meant to be is, so you're sending me to these 57 pages. So, I got to go see this 57 pages cause I don't know what their, she's talking about here. If you didn't attend the meeting, you would have to go to see the 57 pages. So, I would like to advocate to put the 57 pages in if this is what we're going to do. I mean, I don't, I don't see how we can submit something to somebody and say refer them to another letter that we don't even attach. But that's my only thing.

CHAIR KING: Okay.

COUNCILMEMBER KAMA: So, okay my neighbor friend.

CHAIR KING: I'm going to go to Councilmember Lee and then Councilmember Sugimura.

COUNCILMEMBER LEE: Thank you, Madam Chair. Okay. I'm trying to be factual and focused on process and then people just get distracted. Now, the authorizing, according to the resolution, authorizing the Council Chair to provide comments. Now, and it was explained earlier, these comments would be choosing information that have been submitted, and at the EACP meeting on October 7. So, this handout, which--

CHAIR KING: And October 15.

COUNCILMEMBER LEE: Okay. And October 15, okay. So, that's an awful lot of discretion to me, because we may not agree with what you choose, yea. So, I'm assuming the way the meeting is going, this is going to be a really long meeting, because we're going to have to vote on the actual, the comments that you provide. Is that correct?

CHAIR KING: Well, I kind of like Mr. Hokama's idea of just using this document, so that we don't, I don't have to make a discretionary, unless you want me to distill it down to where it was repetitive. But I think it's easier just to use this document. I would prefer to take names out of it and show it as test, individual testimonies. But not necessarily who we attributed it to. These are the testimonies that came to us on these dates, adding in Member Paltin's comments from today, anybody else wants to add something. But from the minutes of today. And then in the, and then the other request was in the cover letter to add a request to extend the deadline, for comment.

COUNCILMEMBER LEE: Okay. So, anyway, Madam Chair. So, that wasn't our understanding because this, this whole thing is evolving and revolving in, in terms of what exactly does it mean when we say authorizing the Council Chair to provide comments. So, now it's changing to something that is more, more of a transmitting information as opposed to taking a position. So, I'm assuming that that's what you'll be saying in your communication, that the Council is not taking a position?

CHAIR KING: Correct.

COUNCILMEMBER LEE: It is merely submitting or transmitting information that was submitted to the Council, right?

CHAIR KING: Right.

COUNCILMEMBER LEE: So, then it's really clear that none of us are taking a position on the, the EIS.

CHAIR KING: Right.

COUNCILMEMBER LEE: Right?

CHAIR KING: We just, we have questions and comments.

COUNCILMEMBER LEE: Okay. And especially if you're taking the names out of the testifiers and maybe paraphrase some of it or whatever--

CHAIR KING: I can paraphrase, but then again then there's going to be discretion. So, it would almost be easier just to take the names out and use it as is, then I don't have to worry about someone being upset about how I'm paraphrasing. So, that's--

COUNCILMEMBER LEE: Yea, but I, but I think the main, the main point that would be established is that we're not taking a position. And that way we wouldn't be responsible for whatever somebody says--

CHAIR KING: Right.

COUNCILMEMBER LEE: --in the transmittal. So, that's--

CHAIR KING: No, I totally agree, yea.

COUNCILMEMBER LEE: --that's what I was getting to.

CHAIR KING: No, I totally agree with you.

COUNCILMEMBER LEE: Cause we don't want to label or identify people because, like I said, it, it could have ramifications down the road if that person or entity decides to challenge the EIS. We don't want to be dragged into it. Thank you.

CHAIR KING: We could--

DEPUTY CORPORATION COUNSEL: Chair, could I just--

CHAIR KING: Okay, Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Could I just have one, thanks. So, the, just to bring us back to what we're doing today. Transmitting comments on a draft EIS, the applicant must respond to each of those comments. And the way that it would look in the final EIS is the published letter from the, from the County with each of these comments, whether they have somebody's name on them or not, they're going to be treated as comments made by the County Council. And each one of those comments would need to be responded to by the applicant.

COUNCILMEMBER LEE: Sounds good.

CHAIR KING: Okay. Councilmember Hokama.

COUNCILMEMBER HOKAMA: Maybe, I would just, my suggestion, Chair, would be this, cause I've listened very well to every Member. Every Member has some solid points.

I would just say that the first "RESOLVED" clause should just state that we authorize you, the Council Chair, to transmit comments discussed at the three meeting dates and we send the whole attachment of what Mr. Sinenci received and we received today as part of the transmittal.

We make it very clear; we are transmitting information we received. We are not taking anything else. We're not presenting anything else, but a transmittal of information presented to us that we forwarding to the Board. I think if we do it that way, it's clear. We're not taking a position. The Chair is further clarified that she is to transmit the information Mr. Sinenci's Committee has obtained, and then we go from there. And then when the situation changes, either the Committee or the Council Chair will bring forward the appropriate body together for another decision, discussion and decision. So--

CHAIR KING: Okay, so--

COUNCILMEMBER HOKAMA:

I WOULD SAY IF WE CAN AGREE THAT WE'RE GOING TO MAKE A AMENDMENT, TO JUST SAY WE AUTHORIZE YOU TO TRANSMIT THE COMMENTS, CHAIR, I THINK WE CAN MOVE FORWARD.

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: --and finish this up.

CHAIR KING: So, we're going, the, the proposal, do we have a second?

COUNCILMEMBER KAMA:

SECOND.

CHAIR KING: Okay. So, the proposal proposed by Councilmember Hokama and seconded by Pro Tem Kama is to change the word in the first "BE IT RESOLVED" from "provide comments" to "transmit comments". Is that, that the extent of it? And then we've already added in today's date. So, it would be at the meetings on, is it, it says October 8 in the resolution, but on this paper, it says October 7. So, you want, you got to clarify that and October 15, October 15 and today. And today is October 18. Was it the 7th or the 8th?

VICE-CHAIR RAWLINS-FERNANDEZ: I meant, Chair, Chair, that change was made, it's reflected in the Amendment Summary Form that was distributed--

CHAIR KING: Oh. Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: --by staff.

CHAIR KING: Okay. So, we've already approved that to change it to the 7th?

COUNCILMEMBER PALTIN: Chair.

COUNCILMEMBER KAMA: So, Chair. So, would, oh, I'm sorry.

CHAIR KING: Member Paltin, followed by Member Kama.

COUNCILMEMBER PALTIN: Oh, I just was saying I don't know if it was clear that it's going to be Committee meetings on October 7, 2019 and October 15, 2019, and then Council meeting of today.

CHAIR KING: Right. We put that in. That was the amendment that Member Kama put in to add in today's comments that were made today.

COUNCILMEMBER PALTIN: Yea, I just heard today, but not that it was--

COUNCILMEMBER KAMA: The Council.

COUNCILMEMBER PALTIN: Because the previous one was from Committee meetings--

CHAIR KING: Oh, okay.

COUNCILMEMBER PALTIN: --and today is from Council meeting.

CHAIR KING: So, just to clarify that the full Council meeting on the 18. Okay.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: Thank you.

Pro Tem Kama.

COUNCILMEMBER KAMA: So, so would that mean that the resolution would probably need to be reworded too, to delete the word "provide" and put the word "transmit"?

CHAIR KING: For?

COUNCILMEMBER KAMA: Into the resolution itself and--

CHAIR KING: Well that, that is what we were talking about in the resolution.

COUNCILMEMBER KAMA: Okay. Okay.

CHAIR KING: Yea, that was the, the proposal was in the, under "BE IT RESOLVED" that that first sentence would say that "BE IT RESOLVED by the County, Council of the County of Maui that it hereby authorizes the Council Chair to transmit comments discussed" and then we went through the dates.

COUNCILMEMBER KAMA: Okay. That's fine as long as every word, that word "provide" is "transmitted". So, I'm good.

CHAIR KING: Okay. And then we would want to also in that change the title, because--

COUNCILMEMBER KAMA: That's what I just said in the reso.

CHAIR KING: Right, the title of the reso. Is that what you were going to say, Mr. Clerk? Okay. So, let's, any other comment?

Oh, Ms. Thompson. She has comment.

DEPUTY CORPORATION COUNSEL: I'm sorry. I realize this is getting complicated. The first "BE IT RESOLVED" right now, basically, also wants you to transmit not just the Summary Form that's being discussed at today's meeting, but the written public testimony and the minutes of the Committee meetings. So, if you are, if the intent of the body is, is to authorize transmittal of this summary page, you may want to simplify it and just say, "authorizes the Council Chair to transmit comments as adopted by the Council during its 10/18/2019 meeting", being a summary, the summary minutes rather than the entire, you know, minutes of all of those Committee meetings, unless that's the intent.

CHAIR KING: Okay. So, because that would, because we don't have the minutes for those meetings yet. Okay. So, I think that's important because we have a deadline that we have to meet and if the minutes aren't completed by then, then we're out of compliance with our resolution, correct? Okay. So, do we have a motion for that amendment? Okay, repeat that.

COUNCILMEMBER HOKAMA:

YEA, I'LL MAKE THAT MOTION, CHAIR.

COUNCILMEMBER KAMA:

SECOND.

CHAIR KING: Okay. Move, moved by Mr. Hokama and seconded by Member Kama.

So, the wording of the "BE IT RESOLVED", can you, can you state that again, Ms. Thompson?

DEPUTY CORPORATION COUNSEL: Sure. So, "BE IT RESOLVED by the Council of the County of Maui that it hereby authorizes the Council Chair to transmit comments discussed at the Council meeting of October 18, 2019, to Alexander Baldwin, etc.". One other housekeeping change, I would remove "transmittal to the Office of Environmental Quality Control", because you don't need to, you don't transmit comments on EIS's to, to that agency.

CHAIR KING: Okay. So, it should be to, instead of OEQC, it should be to A&B or Mahi Pono?

DEPUTY CORPORATION COUNSEL: To all of, all of those entities that have already been adopted by the past amendments.

CHAIR KING: Oh, okay.

COUNCILMEMBER SINENCI: Chair.

CHAIR KING: So, we don't need to change anything.

Member Sinenci.

COUNCILMEMBER SINENCI: They asked, they asked that we cc them.

CHAIR KING: Oh, OEQC did?

COUNCILMEMBER SINENCI: Yea.

CHAIR KING: Oh, okay. So, I guess we want to--

COUNCILMEMBER KAMA: Oh, cc?

CHAIR KING: Well, it's in your, it's in your, the change that you already, we already voted on. So, it, that that "BE IT RESOLVED", so we're not, we won't be changing any of the recipients of this. We would just be changing the, taking out all the language of the Committee meetings, because we're going to agree, whatever we agree on today is the substance of the transmittal.

COUNCILMEMBER SINENCI: Did, I know that Councilmember Paltin wanted to include the TIG report. And that TIG report might be on the--

CHAIR KING: Okay. We haven't, well, we haven't gotten there yet. That was, I think made by Pro Tem Kama. So, let's, let's--

COUNCILMEMBER SINENCI: Oh, okay.

CHAIR KING: --figure out if we're going to make this change first.

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR KING: Because, so the amendment on the floor, so we have a friendly amendment to Mr. Hokama's amendment. And so we have one amendment to change the, the title and the first "WHEREAS" to change the word "provide" to "transmit", and then to change the language about the different Committee meetings to today's meeting of the full Council, what was agreed on at today's meeting of the full Council.

Ms. Paltin.

COUNCILMEMBER PALTIN: You mean the first "BE IT RESOLVED", yea?

CHAIR KING: Right.

COUNCILMEMBER PALTIN: Not the first "WHEREAS".

CHAIR KING: Oh, I'm sorry. Did I say "WHEREAS"? I mean, the first "BE IT RESOLVED".

COUNCILMEMBER KAMA: You said "WHEREAS", but we know you meant "RESOLVED".

COUNCILMEMBER PALTIN: Just for the record.

CHAIR KING: Okay. Thank you for that correction. Okay, so is everybody clear on the amendment we're voting on now?

COUNCILMEMBER HOKAMA: Yea.

COUNCILMEMBER KAMA: Yea.

CHAIR KING: Okay, all those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay, measure passes nine to zero.

Okay. So, we're back to the main motion as amended. And I guess what we, we, we're working off this document. My notes or, you know, one of the things I'd like to clarify is everybody good with us just removing the names of the commenters or, or putting in, we could keep in for the, those who are representing an entity like the Water Department; Eva Blumenstein from the Water Department, we have Caleb Rowe from Corp. Counsel. Or we could just take out all the names and just say this is the testimony that was received.

Mr. Molina.

COUNCILMEMBER MOLINA: Madam Chair, I think for the sake of transparency, I think I would prefer to leave the names in. That's just, cause you know, you may have members of the public who see it and say well, who said this or where did this come from. So, that way it's a little easier for the sake of reference where these questions or suggestions came from.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: So, those are my thoughts. Thank you.

CHAIR KING: Okay. Ms. Lee.

COUNCILMEMBER LEE: As long as we include some kind of disclaimer.

CHAIR KING: Well, I think the disclaimer would be in the cover letter that says we're not taking a position, correct? We're just transmitting comments.

COUNCILMEMBER LEE: Oh. Yea. Is that enough, Corp. Counsel, as a disclaimer?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Thank you. So, if the County Council is submitting comments whether they're created here by all of you or whether they're adopted by you, when you submit them, they're going to be treated as the County Council's comments.

CHAIR KING: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I think when we had the Chair's meeting, which the public wasn't able to hear because it's not televised, is that we said--

CHAIR KING: I think it was televised, that one was.

COUNCILMEMBER SUGIMURA: The last Chair's meeting?

CHAIR KING: Yea, because we had it in chambers, so.

COUNCILMEMBER SUGIMURA: Somebody told me it wasn't. Well, that's good because we said we wouldn't do Committee work in Council. And we're doing Committee work in Council, one.

The second thing is I still have a concern about that Board of Water Supply TIG report. And you all can decide what you want to do with it. But I really believe that the Board of Water Supply did not have that Committee, that TIG report until yesterday. And here we are, you know, they submitted it to us early, so I think that it was not proper; Sunshine Law, out of courtesy to the Board of Water Supply. And I wonder to Corp. Counsel, if we accepted that, you know, report, what does it mean in terms of any kind of Sunshine Law violation for us or for them.

CHAIR KING: When you mean accepted it, do you mean vote on it?

COUNCILMEMBER SUGIMURA: We didn't, we're not--

CHAIR KING: Or transmit it?

COUNCILMEMBER SUGIMURA: --voting on it. We received--

CHAIR KING: If we transmit it?

COUNCILMEMBER SUGIMURA: We received the information to us before the Board of Water Supply did. That's, that's the question that I have on that. So, is there any responsibility--

CHAIR KING: Sorry, the Chair's meeting was not televised. I thought it was, because we had it in the chambers.

COUNCILMEMBER SUGIMURA: Yea, I thought, thought so not. We should though. We should.

CHAIR KING: So, I'm not sure. Your question is if we, if we heard it as testimony, are we, I'm not sure what your question is with Corp. Counsel.

COUNCILMEMBER SUGIMURA: So, there's, they, Norm Franco and Shay Chan Hodges, I think, was at the meeting, right? So, they are two members of the board. I don't know who else was there, but. Tony Eaton and Dean Frampton was at our meeting, EACP meeting? So, that's violation of Sunshine. But, cause they have a nine member board and the report was submitted to us--

CHAIR KING: That's only four members--

COUNCILMEMBER SUGIMURA: Oh, they have a nine member, okay. The, the information was submitted to us before the board had it. So, what does that mean in terms of our ability to receive it? And was that a violation of their responsibility or our responsibility? Or what does that mean for the report?

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order. I don't believe the second question is relevant to this discussion and should be discussed here.

CHAIR KING: Yea, I, I agree. We're not talking about what we received at that meeting. We're talking about what's going to go forward.

COUNCILMEMBER SUGIMURA: But we're going to submit it as, we're talking about we're going to try to submit it as part of this--

CHAIR KING: We didn't, we're not on--

CHAIR KING: --communication.

CHAIR KING: Yea, we're not on that discussion yet. I mean, that was proposed by Member Kama, but we're not discussing that at this particular point. So, if you want to wait till we discuss whether or not we're going to attach it, then that would be relevant.

COUNCILMEMBER SUGIMURA: Okay, I'll wait, I'll have the same question later.

CHAIR KING: Thank you.

Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE THAT WE DON'T ATTACH WHAT WAS RECEIVED IN THE COMMITTEE, BUT WE ATTACH WHAT IS AVAILABLE NOW FROM THE TIG REPORT THAT WAS RELEASED YESTERDAY.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. So, we have a motion by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez to attach the publicly, the publicly noticed TIG report. Okay.

COUNCILMEMBER SUGIMURA: Is that allowed?

CHAIR KING: The, the one that became public.

COUNCILMEMBER SUGIMURA: Wait, are, I thought we were not going to talk about the Board of Water Supply? Is that what we're talking about now?

CHAIR KING: Well, we have a motion. That's why we're talking about it, cause now we have a motion on the floor. So, the motion is to attach the current TIG report from the Board of Water Supply to the comments.

COUNCILMEMBER SUGIMURA: They didn't submit it to us. They didn't submit it to--

CHAIR KING: No. Wait, I, I'm, let me just, wait till I call on you for.

We have a motion by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez. So, let, we'll let Member Paltin speak to her motion and then we can have discussion.

COUNCILMEMBER PALTIN: So, you know, as I said previously, I really support all nine members of the Board of Water Supply. I think they all do great work. And you know, I really applaud anyone that's willing to sit on a TIG and do extra work on top of the work that they're already doing.

And as that information was released publicly yesterday and we were all given a chance to go online at our own discretion and read it, I feel that it has a lot of just, you know, valid points on not one side or the other. Just that, you know, they have reviewed all this information and I think it's relevant.

And I think, you know, as the County Council, I would like to see us support them in all the work that they've done and then just get it up there for consideration. Basically, you know, I would like to see their response to that work that is done.

CHAIR KING: Okay. Thank you. Do we have, does the second want to speak to it and then we can open up for discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure.

CHAIR KING: Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I support the motion made by Member Paltin to include the, what is that, the findings of the TIG, the Board of Water Supply TIG that was published yesterday. That was basically the information, I believe, that Ms. Hodges was referring to at that meeting. And if there's any question about, you know, procedures, then I believe that this motion should address any procedural questions and would then be a moot point. Mahalo, Chair.

CHAIR KING: Okay. Mahalo.

And then we'll go to Ms. Sugimura. You had, now you can.

COUNCILMEMBER SUGIMURA: It's kind of interesting what we're doing, right? We're taking, we had a meeting, which is what we're talking about. And after the meeting, a report is, is submitted, the final report is submitted to Board of Water Supply, which was yesterday. Mr. Sinenci's meeting was on October the, what is it, 15? And, and we're going to accept a report that was not even submitted to us, talked about, and we're going to say it was part of this Committee meeting and part of the findings of, or what the Council will agree. So, I don't agree with that.

CHAIR KING: I don't see it as part of the Committee meeting. But as Ms. Kama, earlier, amended the resolution to say that it would include any comments made today. So, I

see this as a new comment that's, you know, new request to add information. We, we just made a, an agreement that anybody who wanted to add information today could propose that.

So, this is a proposal from Member Paltin about adding information to that, to this comment, you know, to the comments that are being made. Just like she also add, wanted to add in the comments about climate change options regarding the Kahului Sewage Treatment Plant and, and R-1 usage. And, and then we also had a request from Ms. Rawlins-Fernandez to add in the, the request to extend the deadline per, per the process outlined by Ms. Thompson.

So, I think they're, they're comments from today's meeting, which is also going to in, which is included in the resolution for their passage.

Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Just to address the, this TIG report, since I understand it has not been formally adopted by the Board. If it is referenced, it should be referenced as the unadopted report by the TIG.

The other thing is I think that you need to actually have the document in your record, so that it's properly before this body. So, I don't know, I haven't seen it, so I don't know if it's actually in the Council's record at this time.

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: I'll have that friendly amendment to say that it's unadopted. And if Ms. Kama wants to submit that one that she printed out, I don't know. Or I can print it out if you want and submit it. Is that, is that what you meant?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Yea, so that it's properly, you know, within the Council's record here. And I would encourage everybody to know what it says also.

COUNCILMEMBER PALTIN: Okay. I can go print it out.

COUNCILMEMBER KAMA: So, Chair.

CHAIR KING: Pro Tem Kama.

COUNCILMEMBER KAMA: The reason why I alluded to this 57 pages is because it was on Granicus. And the day that we had the discussion, I was kind of like breezing through it. So, I kind of had an inkling as to what it was saying. I haven't read the TIG report that just came out yesterday yet. So, I mean, would we have time to be able to at least breeze through that? Cause we're saying we support this, but I conscientiously can't support something I haven't read. So, I'm just asking if we can have time.

CHAIR KING: Okay. I actually was thinking that maybe we would, now would be a good time to take our, our lunch break.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR KING: Cause it's almost 12:30. And that would give us time if we want to, to look through the TIG report. But if we, if we, if we agree to give ourselves an hour and a half and come back at 2, is that acceptable to everybody; 2?

COUNCILMEMBER KAMA: How many page, Tamara, how many pages is the TIG report?

VICE-CHAIR RAWLINS-FERNANDEZ: 87. Sorry, I looked at it already.

CHAIR KING: Okay. It's 87 pages? Is there a summary, executive summary?

Okay. Sure, Member Lee.

COUNCILMEMBER LEE: Just for clarification. So, did we receive that report? Official.

CHAIR KING: I think we were told--

COUNCILMEMBER LEE: No, not from you.

CHAIR KING: --by Ms. Kama--

COUNCILMEMBER LEE: --I mean officially?

CHAIR KING: --that it was on Granicus the day of the Committee meeting.

COUNCILMEMBER KAMA: The date, the testimony of Shay Chan Hodges, which is 57 pages, is on Granicus. But the TIG report, unadopted, is not on Granicus. And that is what Tamara just submitted to OCS.

COUNCILMEMBER LEE: So, we did receive it officially from the Board?

CHAIR KING: From Member Paltin just now.

COUNCILMEMBER LEE: No, cause she's not the Board. Did we receive, did the Council receive this report?

COUNCILMEMBER HOKAMA: There's no official communication.

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER LEE: And did we receive an official transmittal?

CHAIR KING: No.

COUNCILMEMBER LEE: Okay. Alright.

CHAIR KING: No. So, so we have--

COUNCILMEMBER LEE: And on top of that, it wasn't approved by the Board?

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: I don't, I don't know that. I think it's not adopted yet. Is that, is that, okay.

COUNCILMEMBER SUGIMURA: Thirty days from now, or 30 days from yesterday.

COUNCILMEMBER LEE: So, it's unadopted and unofficially transmitted? Okay. Just checking.

CHAIR KING: So, we have a, can we take, Ms. Thompson or Ms. Lutey, can we take a break when we have a open, we have a motion on the floor and a second? Can we take this lunch break and come back? Because we, we, no one wants to vote on it until they get a chance to see the TIG. Are you good with that?

DEPUTY CORPORATION COUNSEL: I, you know, you can. Yea, we'll just have to get Josiah's help to make sure we know where we're at.

CHAIR KING: Yea. Okay. And you, you're clear where we're at, Mr. Clerk? Okay. So, everybody's clear where we're at. We have a open motion to attach the, the current TIG report and that's being passed out. And then we're coming back at 2:00, at the end of our lunch break. Okay. So, we're adjourned. It's 12:30. We'll see you at 2:00. Correction, we are recessed at 12:30, and we will come back at 2. Thank you for that correction.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:30 P.M., AND WAS RECONVENED AT 2:01 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS HOKAMA AND SUGIMURA, EXCUSED.)

CHAIR KING: Good afternoon. It's 2:01, will the County Council meeting of October 18, 2019 come to order. My name is Kelly King, I'm the Chair of the Maui County Council. And we are in the afternoon reconvening of the, of the full Council meeting for today.

Members, we have a motion on the floor. And it's, well, we're still working on item 19 dash, I'm sorry 418. Someone turned the page too quickly. So, the motion on the floor, as we move through the amendments to the main motion, is to add into the, the transmittal, the TIG report that was published yesterday. The TIG of the Board of Water Supply. And we were in the middle of that discussion.

(Councilmember Hokama returned to the meeting at 2:02 p.m.)

CHAIR KING: The TIG was handed out to everybody during lunch. And, it's a, also if, and just wanted to point out in comparison to what we received on Granicus in the October 17 meeting, I'm sorry, not the October 17, the October 7 meeting, was actually not the TIG report. It was the Temporary Investigative Group research notes. So, I think the research notes was, were what was on Granicus back then. I just wanted to point that out.

And what we're asked right now per the motion on the floor, is to attach the Board of Water Supply Temporary Investigative Group, October 17, 2019 report which was presented to the Board of Water Supply, is my understanding, not yet taken formal action on it. So, that's where the discussion is. And we're still on the floor with that.

Okay. Any other discussion or is everybody ready to vote on that item? Okay, that would be an amendment to the main motion.

COUNCILMEMBER LEE: Can you repeat the motion?

CHAIR KING: Okay. The motion is to attach to the transmitted notes, that I'm going to be, the comments that I'm going to be transmitting if, if this goes through, the Board of Water Supply Temporary Investigative Group report dated October 17, 2019. So, that was just from--

Member Paltin.

COUNCILMEMBER PALTIN: And I think we were going to clarify that these weren't adopted.

CHAIR KING: Right. We would, we would clarify they were, it was, that these were, this TIG report is not yet adopted.

COUNCILMEMBER PALTIN: Yea.

CHAIR KING: Okay. So, Member Molina.

COUNCILMEMBER MOLINA: Yea, Madam Chair, so is that just more of a, I guess, a consensus thing to attach it? Or are you going to do that as an amendment?

CHAIR KING: I think we're take, we're, it's a, it's a proposed amendment and a second.

COUNCILMEMBER MOLINA: Oh, okay. So, this is an amendment?

(Councilmember Sugimura returned to the meeting at 2:04 p.m.)

CHAIR KING: So, it would be an amendment to the main motion, so to attach these notes.

Okay. Did you want to make some comments, Mr. Molina?

COUNCILMEMBER MOLINA: Yea, the motion on the floor for the amendment? Yea, Madam Chair, based from my own personal concerns about any possible Sunshine Law issues and, and nothing against the TIG itself, but because it was not considered an official, you know, it didn't go through you, the Chair, and then disbursed to the Committee, I have concerns. So, I will not be supporting that amendment to attach the TIG to your Chair's letter to the Office of OE, the OEQC I should say. Thank you.

CHAIR KING: Okay. And then actually I think this is going to A&B and Mahi Pono, and the, if you look at the amendment, all the entities it's going to. Okay. Any other comments before we vote on this issue?

Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, in the, the TIG that Ms. Paltin had graciously allowed us to get a copy of, the stated purpose says, of the investigation, was to explore the feasibility of purchasing and maintaining the EMI water delivery system and examine other alternatives for ensuring that the people of Maui County have authority over the delivery of water, which is a public trust.

I'm having issues, because I'd like to have this discussion at this place as to whether or not we're going to look at the purchase or not purchase. Or, even, I don't even know if that's even something we should discuss or if that's something the Water Board will be discussing. But at some point in time, it'll probably come to us, because we're going to have to pay for it or we're going to have to figure that out. But at this time, I couldn't support this particular document just for this moment, but am, am open to discussion later on about this. Thank you.

CHAIR KING: Okay. Member Sinenci, followed by Member Yukimura *[sic]* or Sugimura.

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you for that additional time to look over the TIG. When looking over this TIG, I was pretty impressed with the amount of research and information that was shared in this, in this document and, and especially the different options. For me, after a 100 years of diversions and then, and then of course the system being up for sale and, and the whole process, this looks at, again, more monitorization, more details, more research.

And like some of the Members had mentioned, in 30 years we're not going to be here. And so, if something like this goes through, you know, we've got a, to those Members, we've got this opportunity here to really look at something, a resource, a, a public trust that could sustain us for generations to come. And so, I, I want to support this, because it's got some really great information. And, and I applaud the people, the TIG who, who put in the time and effort to put something like this together. Kudos. Mahalo.

CHAIR KING: Mahalo, Mr. Sinenci.

Councilmember Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. I too agree with Mr. Molina. I think that this may be a good report. And it's certainly a fodder for good discussion at a later date in my Committee. But you know, it has a lot of information and a lot of it doesn't pertain to an EIS. So, since it was not officially adopted by the Board of Water Supply nor officially transmitted to the County Council, I can't support this being included at this time.

CHAIR KING: Okay. Thank you, Member Lee.

And Member Sugimura.

COUNCILMEMBER SUGIMURA: So, I, Member Molina, Member Lee are echoing my thoughts. And I appreciate that we are respecting the Board of Water Supply for the

work that they did with the TIG. And as a organization as we are, you know, a body of the County, that the report, the TIG report that was transmitted yesterday still needs to be vetted by that Commission. And who knows, it may change. But I, I cannot support the motion and for the reasons stated earlier. And I think I said way more than all of you need to hear. But that is my, my feelings for the, these past two hours, right? Thank you.

CHAIR KING: Thank you, Member Sugimura.

And Member Kama, did you have another comment? Okay.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. You know, for those of us that had experience, a lot of experience with Environmental Impact Statements and draft Environmental Impact Statements, you know the purpose of it is to just get all the information, explore alternatives. And you know, just, so I think that's what this is doing, is it's exploring the alternative, one, one of them. The other one was, I mean, there's a million alternatives. But this is one alternative and it would be the feasibility of purchasing and maintaining the EMI water delivery system as opposed to leasing it to a foreign private entity for 30 years.

So, I think it's very relevant that the draft EIS explores all the alternatives out there. And being that we're admitting that it's not adopted by the Board of Water Supply, we're just, like when it says here, "Notes" on the document. "Much of this document consists of excerpts from other documents, whether the Maui Island Draft Water Use and Development Plan or the draft EIS" and all that kind of stuff. So, I mean, what I'm saying is they've done the footwork or the groundwork to get all these other sources of information together in this one place in this one document, and I think it would be helpful for the folks doing this draft EIS just to have this information available.

And you know, I don't think we are honoring the work from the TIG if, if we're just bowing down to the bureaucracy of this time, this date, or whatever. I think honoring the TIG is just, you know, taking their work at face value and letting people know that this is what has been compiled on this type of subject to date and it has not been adopted. But we'd like you to take it under consideration as comments being made.

And we're not taking a stand on it, but this is also another alternative for your review in your draft EIS. I understand some folks don't, don't have that much experience with draft EIS, but it really is a tool to look at all the option available. And I think that this is one very pertinent option that should be examined as well. And so, I think to, to keep it out is just disrespecting all that hard work that they've done. Thank you.

CHAIR KING: Thank you, Member Paltin.

Member Molina.

COUNCILMEMBER MOLINA: Oh, yea. Thank you, Madam Chair, for my second and last time on the amendment. Now, I don't know if Corp. Counsel would like to chime in now, that is now a public document and they haven't officially adopted it yet. I saw something in the Maui News this morning where there was a discussion about the EMI matter. But either way, it's a public document and I'm sure that they're watching what goes on, on the Board of Water Supply. So, they can, at any time, themselves go and get a copy of it as well.

And, and I don't see it as a, you know, just for my, where I, I sit as disrespecting the work of all what those individuals did, because in a matter of fact, I appreciate what they did. This issue for me is just a matter of transmitting it and making sure we stay within the parameters of the Sunshine Law. That's all the way I see it.

And I appreciate Member Lee mentioning that maybe it's something that we can take up soon and review in her Committee. So, just wanted to just state that for the record. So, you know, I think it's a wonderful document, I'm sure, but it's just a matter of attaching it to, you know, your letter, Chair, that maybe, there may be some unintended consequences doing it this way because it hasn't been officially adopted just yet. And so, just so we don't get in trouble with our favorite folks over at the Sunshine Law police. So, want to avoid any potential encounters. Thank you.

CHAIR KING: Okay. You, you had a question for Corp. Counsel, I believe? Did you want to--

COUNCILMEMBER MOLINA: Not so much if, if they had any comments on what I had stated. But I think, I guess it was more like just getting assurances from them that the A&B and the Okamoto firm, they can go to the Board of Water Supply and get a, get that document if we're not transmitting it ourselves. And I, I know I'm sure they're watching what goes on there so, you know.

CHAIR KING: Okay. That's your question?

COUNCILMEMBER MOLINA: Yea, if they wanted to comment on, add, add further comment to my statement.

CHAIR KING: Okay. Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Thank you. I'm not a 100 percent certain if it's been received by the Board of Water Supply or not. If it has, I'm sure it's a public document. And it can be provided by, you know, either, you know, another, the TIG itself or the Board of Water Supply if it chooses to, you know, during the comment period. Or like you said, the other firm that's preparing the document could access it as well.

CHAIR KING: Okay. Any other comments?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I don't know. I'm, I'm a little confused as to what kind of Sunshine Law violations we might be, you know, violating. Or I don't know if Member Molina would like to expand on that. But, yea, I, I don't really understand that concern and hoping maybe you'd like to expand on that a little bit more.

CHAIR KING: Mr. Molina.

(Councilmember Lee was excused from the meeting at 2:15 p.m.)

COUNCILMEMBER MOLINA: Yea, if I may respond? Only because I think we didn't get a chance to review it ourselves, I mean, fully, and then had it fully vetted in an open meeting like this. And then here we are, if we do accept transmitting it as part of your, your transmittal, Chair, there may be that concern. It's like something we didn't fully vet or public had a chance, at least through, through the Council, had a chance to look at it. So, that's why I'm, I'm taking a more extreme and cautious approach. I don't know if that helps.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that.

CHAIR KING: It's becoming your hallmark, Mr. Molina.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for the explanation, Member Molina.

Okay. So, I speak in favor of the motion for a lot of the reasons Member Paltin described. And as she said, that a lot of the information that's in the report is material that was either published or adopted by other entities before. So, if that's the concern.

And then to, to emphasize what Member Paltin was saying about the EIS, so I looked it up. So, an EIS is a tool for decision-making. It describes the positive and negative environmental effects of a proposed action. And it also lists one or more alternative actions that may be chosen instead of the action described in the EIS. And so, as was previously stated that I think it's good to have more information together. And that way

the decision-maker can look at everything that's available in order to make that decision.

I think it's also helpful to the applicant. You know, if the applicant wants to use some of the information that was cited in this report to describe the different impacts, positive or negative on the action that they're proposing. And also, to, you know, like as Member Paltin said, you know, a lot of the legwork was done in here. And it can be used to further explain the alternatives to the action being proposed as required by the EIS. So, I think, I think it's a good thing. I think it's being helpful. So, I will be voting in favor of the motion. Mahalo, Chair.

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

Mr. Hokama, did you want to make a comment? Okay, I thought I might have missed your hand going up.

COUNCILMEMBER HOKAMA: Chair, no, I was just listening to all my colleagues sharing their points of view; each one has a good point. I've, my practice has always been through other governmental reports, anything that's a draft is not an official document, and therefore should not have that standing of being an official government's position, until it's adopted accordingly through the agreed upon process. So, for me, until the Board decides what it wants to do with their report, I will not consider it as an official or any report at all since it is still a work in progress. Thank you.

CHAIR KING: Okay. Thank you, Mr. Hokama.

Any other comments, otherwise, Member Paltin.

COUNCILMEMBER PALTIN: So, just wanted to clarify as well that my understanding of the Board of Water Supply is as an advisory through, they really don't have the decision-making authority. And I, in this unadopted report, I don't, I don't see that their, you know, their just pretty much investigating and making recommendations. They're not making any decisions. We, on the other hand, do make decisions.

The people that we're sending it to makes decisions and I kind of disagree that we can assume that they're paying attention on what's going on. There's a lot of stuff going on everywhere, every day, and it's not really something that everyone pays attention to. I mean, there's stuff on this agenda today that folks haven't paid attention to. So, I think to make that assumption would be assumed. And so, I would just support putting this in just as information.

(Councilmember Lee returned to the meeting at 2:20 p.m.)

COUNCILMEMBER PALTIN: And we're not taking a stance whether it's right or wrong, just saying, you know, this is the current state of what's going on. This is what's being discussed. And because of, you know, certain deadlines and procedures and bureau, bureaucratic issues and their own timeline of 45 days, they all don't align into, we get to cover all the information and get it all out there in a, in a comprehensive timeline. Everybody has different deadlines, timelines, and processes and I don't see how providing more information is a bad thing.

We're not taking a stance on the information. We're just saying this is what's out there. This is what's current. This is what's being discussed. Please take it into consideration. If you have comments to make back to us, that would be great, because they're looking at it from a different angle than what we're looking at it, what different angle from what the Board is looking at it.

And I never see a situation where more hard work, more information about the current system to folks making a decision on a different island that aren't ma`a to the things that we're dealing with currently in real time. I just think it's good for people that are making a decision that affects our lives, our County, our people. I think that they should have all the most up to date, most current, most information that we have available to us and provide it to them. And then we're not taking a stance. We're just saying this is the current information out there, please consider it. Please send us your comments back so that we can communicate that, you know, where each other is coming from. Like, I, I thought we made it very clear earlier that we're not taking a stance.

And if, in that case, the information is just information and more information is better than less information. And so, I support giving more real time information to the people making decisions on our behalf that don't live here and aren't ma`a to what we're going through currently. Thank you.

CHAIR KING: Thank you, Member Paltin.

Member Sinenci.

COUNCILMEMBER SINENCI: Real quick. I just wanted to support comments from Member Paltin. Like I had said earlier, the resolution is to help ensure that all impacts that could result from the proposed water lease are addressed the forefront, and so that we may aide policymakers at the Board of Land and Natural Resources to make a more well-informed decision. So, again, that was the intent, which was to give them all this information so that this was part of the process, we wanted to chime in, and give them all of our resources as well. So, thank you, Chair.

CHAIR KING: Okay. Thank you, Mr. Sinenci.

Councilmember Lee.

COUNCILMEMBER LEE: Madam Chair, you know, I, it probably would behoove the Board of Water Supply to send their comments directly to Wilson Okamoto, because then it wouldn't be mixed with the various other types of comments that are included, that will be included in your transmittal. I think it would be more impactful if they sent it themselves, the result of the TIG.

CHAIR KING: Okay. Thank you, Member Lee. Any other comments?

Member Paltin.

COUNCILMEMBER PALTIN: So, we're talking about timelines and, and timeframes, and we are aware that the deadline to submit comments for feedback is November 7. There's no indication that that deadline meshes with the Board of Water Supply's deadline to adopt or amend this. So, that's goes to what I was speaking to.

I don't believe, and maybe Corp. Counsel can correct me if I'm wrong, that the Board of Water Supply can send an unadopted TIG report in. That's why I made the motion to do it. And, and it's not within their timeframe. So, that's, that's why it would not be a possibility for them to send it in, because of the timeframe and that, that whole bureaucratic issue, they can't just send in the unadopted?

CHAIR KING: Would you like a comment from Corp. Counsel?

Ms. Thompson.

DEPUTY CORPORATION COUNSEL: They would have to agendize it since they're a Sunshine Law board also. So, they would have to agendize either sending in the draft report or the full report once adopted, either way.

COUNCILMEMBER PALTIN: Do you know how often they meet?

DEPUTY CORPORATION COUNSEL: I don't, sorry.

COUNCILMEMBER PALTIN: Once a month? Yea, so it's kind of off the table by timelines and bureaucracies and what not.

CHAIR KING: Okay. Thank you.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And then I just wanted to reiterate the point one more time that we already said that we're not taking a position on any of the information that we're transmitting to DLNR and OED's *[sic]*, OEQC. So, we're just transmitting this information. We're not saying we support purchasing and maintaining the EMI water delivery system. That's, that's not what we're saying. And we're not saying that we, you know, support everything that each of the testifiers said. We're just transmitting this information and we are making that very clear.

We already, as a Council, agreed to put that in the letter; that we, we are not taking a position on the DEIS. That this is just information for them to consider. And this is the information that we received by our constituents. So, I just wanted to make that clear one more time in, in case there was any confusion. And yea, so I'll be voting in favor of the motion. Mahalo, Chair.

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

Okay. So, oh, Ms. Thompson, you have a comment?

DEPUTY CORPORATION COUNSEL: I just received a message from staff at the Water Department that the Board of Water Supply is trying to schedule a special meeting before the November 7 deadline. So, that doesn't mean that it's a done deal, but I think they're trying to.

CHAIR KING: Okay. Thank you. So, I think we've exhausted all the ideas and issues. And I'll just state my position as your Chair that, you know, it's a tough decision for me, because I do think that we need to have a full discussion on this report as a, as a Council, possibly, and hopefully through Ms. Lee's Committee. But I do understand about the timelines being important. And I think because of the amendment that our Pro Tem Kama made which is allowing us to put anything we want to into this attachment, into this submittal, anything that we come up with today, so I don't, I don't see a violation of Sunshine by us.

I'm not, I'm not seeing any, any potential violations of Sunshine by the Board of Water Supply, because I think when they came before us, they didn't come before us with a TIG report. They came before us with a document that says, "Research Notes". So, I'm, you know, I'm, what I want to do, what I want them to do is have all the information as well. And that because there's a statement that's in this document that I'm being

asked to transmit that says, "Please include different ownership options in the DEIS", that I think this document has some information about those different ownership options. So, I think it's important.

I, I agree we, we, more, more information is better than less. And so, I'm going to be supporting the motion on the floor. But we'll just call for the question and see where we land.

Mr. Clerk, let's go ahead and do roll call on this one.

COUNTY CLERK:	Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA:	NO.
COUNTY CLERK:	Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN:	AYE.
COUNTY CLERK:	Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA:	NO.
COUNTY CLERK:	Councilmember Alice Lee.
COUNCILMEMBER LEE:	NO.
COUNTY CLERK:	Councilmember Mike Molina.
COUNCILMEMBER MOLINA:	NO.
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 PALTIN, SINENCI,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR KING.

NOES: COUNCILMEMBERS HOKAMA, KAMA, LEE,
MOLINA, AND SUGIMURA.

COUNTY CLERK: Madam Chair, that is four "ayes", five "noes", motion fails.

CHAIR KING: Okay. Thank you.

COUNCILMEMBER PALTIN:

CHAIR, CAN I MAKE A MOTION TO INCLUDE THE REPORT
ON GRANICUS THAT WAS SUBMITTED ON THE 17TH?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. So, we have a motion by Councilmember Paltin, seconded by Councilmember Sinenci to include the, the document entitled "Board of Water Supply Temporary Investigative Group Research Notes, October 4, 2019". That's something that was on Granicus when we had the meet, the last EACP meeting. So, hopefully we can, I know there's been kind of similar arguments.

But you want to give your position as a movant?

COUNCILMEMBER PALTIN: Yea. So, I mean, it's pretty much the same position; more information is better than less. And I guess this one would be similar to the point that you just raised, that it's referenced in the transmittal. And you know, again, to the point of having all the information in one place makes it easier to go through and, you know, a timely manner and for efficiency. Yea, basically, that's kind of the same situation, you know. Draft EIS is about getting all the possible information together; so, not taking a stance, giving all the information.

And, and the cool part I like about it is that they're going to give us feedback. And, and you know, like, how it was mentioned earlier that this, this is evolving today from what

it was and what not, that, I think that's the point of discussion, that's the point of exchanging information; so, that it evolves into something that we can, you know, be proud of or live with, or whatever it is.

So, I think, you know, in, in, in looking at all of the options available, at all of the information out there, it serves the person or the entity that's doing the draft EIS to make it that much better of a document. If you put blinders on and only cherry-pick the information you want, your document is going to be junk, you know. You got to take in all the information, consider it, and then put your report. If you only put "A" out of 26 letters, it's going to be one/twenty-sixth as good as if you put in the full alphabet.

So, just, you know, the Board of Land and Natural Resources has, like, maybe one member from Maui. And, and the rest are from, you know, other places that maybe they don't even visit Maui, maybe they don't know, you know. It's at, there, there, I think they're a volunteer board and so it, it's not like they're getting paid to look at everything and search on their own.

So, I think it's incumbent on us to provide them relevant information without taking a stand on it. Just saying, hey, look at it, this is, this is what's currently going on by people who, who spend their entire board, volunteer board time plus extra TIG work on these types of things. So, to not want to include hours and hours of hard work, research notes, really makes me question your motivation in representing people on issues of such great importance as water, you know. So, that's about it. Thanks.

CHAIR KING: Thank you, Member Paltin.

Member Lee, followed by Member Sinenci.

COUNCILMEMBER LEE: Are we voting on the same thing we just voted on?

CHAIR KING: No. It's a different document. It's the document that was actually on Granicus when we had the meeting. So, it's, it doesn't, it's not the report, it's research notes.

COUNCILMEMBER LEE: Research notes officially transmitted by?

CHAIR KING: By Shay Chan Hodges when she testified on behalf of the Board of Water Supply.

COUNCILMEMBER LEE: Okay. So, are, are those notes like a portion of the results of the TIG. Is, is that what the notes?

CHAIR KING: Well, it just says "Research Notes". It says on this document "This document contains notes from the research conducted by the Board of Water Supply TIG as of October 4, 2019. These notes should not be construed as representing conclusions or recommendations of the TIG, and are provided in the public interest for discussion purposes."

COUNCILMEMBER LEE: Yea. That sounds kind of incomplete to me. And my feeling is that we should presume that the Board of Water Supply wants us to share this information with the consultant. I mean, they can easily do that on their own. And, and now that they have results, it's even better. So, I'm, I'm thinking that it's, it's really the role of the Board of Water Supply to provide their own input to, on the EIS, and that we should allow them to exercise their authority and their responsibilities. Thank you.

CHAIR KING: Thank you, Member Lee.

Let me go to Mr. Sinenci next.

COUNCILMEMBER SINENCI: Thank you, Chair. Just to reiterate, it was just testimony that was submitted. So, it was given in that vein and anyone can submit testimony. My question was, you know, for the, the TIG, does our TIG reports, my quest, are TIG reports adopted or unadopted?

CHAIR KING: Is the, is, the TIG report we're talking about?

COUNCILMEMBER SINENCI: Well, yea. I mean, so the previous conversation was about it not being adopted at the Board of Water, the Water Commission. So, my question was do they adopt it?

CHAIR KING: In a formal motion, you mean? Okay.

COUNCILMEMBER SINENCI: In a formal motion. Or does it just exist as a report.

CHAIR KING: Cause I don't, I don't think that we adopted the TIG report from, on the tax reform. We just addressed some of the, the proposals in there. We didn't actually make a formal adoption of the TIG report to my knowledge. But what is the proper procedure, Ms. Thompson?

DEPUTY CORPORATION COUNSEL: So, Temporary Investigative Groups typically take three meetings of the body that sets them up. So, the first meeting you agendize that you're going to be creating a TIG. And you give that TIG a mission, so it has a specific mission to go out and do. It comes back, if it's at least one more meeting, second meeting, provides the body with its work, which in this case, I guess is, you know, an

investigative report, so, an actual document that it's going to come back with. That body, which we're talking about the Board of Supply, can't adopt that report if that's the action it wants to take until the third meeting. But as to whether or not you have to adopt a report, not necessarily, it just depends on what the TIG's assignment was and what the Board that receives it, you know, wishes to do with that work.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR KING: Thank you, Ms. Thompson. Okay, well, let me--

VICE-CHAIR RAWLINS-FERNANDEZ: I was going to expand on that.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Just by saying that for our tax reform TIG, we just presented our recommendations to the body. We didn't take action on our final report.

COUNCILMEMBER SINENCI: Right. Okay. Thank you. And I believe at yesterday's Board meeting, they, they, it was agendized, but I don't know if they even presented it.

CHAIR KING: Oh, are you talking about the Board of Water Supply?

COUNCILMEMBER SINENCI: Yea.

CHAIR KING: Oh. Okay.

COUNCILMEMBER SINENCI: So, even though it was agendized, I don't think they were able to present it.

CHAIR KING: Right. On the, usually when you, when you, when you agendize it, you present it the first time. You can't deliberate on it or anything.

COUNCILMEMBER SINENCI: You can't, yea, I understand that.

VICE-CHAIR RAWLINS-FERNANDEZ: It's received.

CHAIR KING: Right. It's received.

COUNCILMEMBER SINENCI: Oh, it's received.

VICE-CHAIR RAWLINS-FERNANDEZ: You receive it, yea.

COUNCILMEMBER SINENCI: But, but you can't deliberate on it when, but presentation meaning you can just present it to the Board and not just have any discussions?

CHAIR KING: I believe that's correct.

Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Yes, that's correct.

COUNCILMEMBER SINENCI: Okay. Alright. Thank you.

CHAIR KING: Okay. Thank you.

Ms. Paltin.

COUNCILMEMBER PALTIN: Yea, so I just wanted to challenge that statement again, that the Board of Water Supply can easily submit it, because they're in the process of trying to get together a special meeting. So, they would need to do that before they can do anything of the nature. And they meet once a month, so I mean, you know, for those of us with the experience of how that works, it's not something that can easily be done by the Board of Water Supply. So, that's why we're here and that's why Ms. Chan Hodges came down and provided her notes that she thought was relevant to what we were doing at the time.

And again, I just was wanted to reiterate that, you know, this is a small group of people on their own time, spent a bunch of, hundreds of hours researching. And I think to the benefit of the Board of Land and Natural Resources, to present them with this information that was given to us is only going to be for their benefit. We're not taking a stance. We're just saying here's some information from this lady who happens to be the Chair of the Board of Water Supply. Here's her notes that she did in the process of working on this TIG that she feels is relevant to the decisions being made. Not taking a position, it's just information. Do with it what you will and let us know.

And, and that's how you increase communication between entities. And so, again, you know, if we're not for more information, we're for less information. If we're for, you know, bureaucratic procedures that slow things down and, and withholding information that's relevant, then, you know, vote how you got to.

CHAIR KING: Mahalo, Member Paltin.

Member Hokama, followed by Member Kama.

COUNCILMEMBER HOKAMA: I, I was just curious. You know, some of the Members brought some good logistic comments. So, was Ms. Hodges authorized by her Board to speak as the Board Chair before the Committee, Mr. Sinenci?

CHAIR KING: Mr. Sinenci, do you know the answer to that?

COUNCILMEMBER SINENCI: I don't think she was. I wasn't there personally. And, and so, I mean, I don't want to make comments that, that wasn't. But--

COUNCILMEMBER SUGIMURA: Not the Committee.

COUNCILMEMBER SINENCI: I don't think she was able, maybe, Ms. Sugimura, you had some people there? I don't know if she was able--

VICE-CHAIR RAWLINS-FERNANDEZ: Do you know what meeting that Member Hokama is talking about? Are you--

COUNCILMEMBER HOKAMA: Your Committee meeting--

COUNCILMEMBER SINENCI: Oh, excuse me.

COUNCILMEMBER HOKAMA: --where she presented that research notes, Mr. Sinenci. I was asking, did she go there speaking on behalf of the Board?

COUNCILMEMBER SINENCI: No, she, that was on Granicus.

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER SINENCI: And so, she wasn't--

COUNCILMEMBER SUGIMURA: Not for her presentation.

COUNCILMEMBER SINENCI: --and, and she spoke at the podium here as a testifier.

COUNCILMEMBER HOKAMA: Presenting Board notes that she wasn't authorized by the Board to speak on behalf of?

COUNCILMEMBER SINENCI: Yea, I, I don't recall her saying that she represented the, the Board.

COUNCILMEMBER HOKAMA: Okay. No, no, no, I just wanted some clarification, so I appreciate your best recollection, Mr. Sinenci. So, thank you.

Chair, my, my thing is yea, I find it interesting why we are trying to take responsibility for other people's testimony that they would like to share with those that are going to make a decision on this EIS, you know. If you want to send some testimony, then take the responsibility and submit it. Don't expect somebody else to do your job, including this Council, to share your thoughts on what you would like this group to consider as pertinent enough to make a determination of a decision, yea.

You know, if we're just a bag man to just transmit, other than that, what is our purpose? What is the purpose of the testifier should be to get his or her point across to the body that needs to be addressed? And so, for me, I'm tired. I'm ready to vote, Chair. Thank you.

CHAIR KING: Thank you, Mr. Hokama.

Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: So, if, I mean, I, I appreciate this conversation because you have a Board Chair, Board of Water Supply Chair who did the TIG, speaking at the podium, presenting whatever report it was. And I will tell you with all this discussion, if she thinks or the Board thinks that the, their comments can be transmitted the way they transmitted it to us, have them send it. Let them represent themselves if it's so important.

And I bet you, although I didn't read the 2700-page EIS, but if the EIS is that good, which I, I hope it is, that has data, I bet you it has a lot of information that the TIG came up with. You know, it's not a mystery. It's a, you know, it's a public, public resource. And, but I'm going to speak against the motion, as I've been speaking against it from the beginning. So, it started off with this 50-page document, then we went to the Board TIG, the 80-page document, and back to. I can't support that. Let them submit it themselves.

CHAIR KING: Okay. Thank you, Ms. Sugimura. So, this one is 47 pages, this document that we're talking about.

COUNCILMEMBER SUGIMURA: Okay. That, in Granicus.

CHAIR KING: Yea.

COUNCILMEMBER SUGIMURA: 47 whatever it is.

CHAIR KING: But I, I do want to make the point that, because I was in both of those EACP meetings, although I didn't, I didn't, I had to leave early on the second one, that I think the reason why people came to that meeting to testify was because of the agenda item, was we were, we were going to be discussing making comments. So, people came to that meeting thinking that their comments could be included in what we were going to be transmitting. And that's why people came.

And I, and I agree that all those same people could make those comments themselves as well, and some of them may. But that was the reason they came to that meeting, because they saw an item on the agenda that they thought they could, their comments could be included with what we were trying to do as a, what the Chair was doing with that agenda item. So, I just wanted to, to appreciate the people that do come out and give testimony, and give it based on the agenda items that they think they can be helpful with.

Okay, any other? Member Kama.

COUNCILMEMBER KAMA: I just wanted to just let you all know that I spoke to Buddy James Nobriga from Board of Water Supply. He sits on their Board. He told me their next meeting was November 4 and they were going to take up this issue. So, I told him oh, that's helpful to know that. Just wanted to let you all know that they are, and they will be taking this up. Thank you.

CHAIR KING: Okay. Thank you. Okay, well, if there's no other comments, are we ready to call for the question?

Oh, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll make it quick. Yea, so I speak in favor of the motion. Okay. So, what is my role as a Councilmember? What is our role as a Council? I believe our role is to represent those who, is to represent our constituents. It's my role, and they're also my boss. And I am held accountable by them. And I, I hope to represent my constituents whenever I, I sit here.

And what I've seen in the last meetings with EACP, and this has already been discussed, but they, the applicant refuses to attend meetings. They're invited to provide feedback and they, they refuse to be transparent. And so, you have all of our constituents that are asking for a response. There, they, the, the applicant never showed up to the EACP meeting, they didn't go to the Board of Water Supply meeting, they didn't go to the CWRM meeting. So, they're just being, like, super elusive. And this is an opportunity for our constituents to finally get some feedback regarding some of the information that they've been asking. And, I, I see that as, as our role.

You know, people call my office all the time asking questions. And I, you know, that's part of my responsibility, to try to find answers for them. And I see this as an opportunity to get them the, the answers that they haven't received at all, regardless of the numerous attempts in official capacity and unofficial capacity. And so, you know, I think this, this is, like I said, that's, that's my role. And I hope to fulfill, you know, my responsibilities in this role to the best of my ability. And so, yea, so I'll be voting in favor of the motion made by Member Paltin, seconded by Member Sinenci, and something that before our lunch break, Member Kama, expressed an interest in including in our resolution. Mahalo, Chair.

CHAIR KING: Okay. Thank you, Vice-Chair Rawlins-Fernandez.

Member Sinenci.

COUNCILMEMBER SINENCI: Real quick, Chair. You know, in some of this, on page 72 of this report, and this goes back to some of the discussions that this Council had the foresight to think about. Member Sugimura talked about possible acquisition of the EMI system. Member Lee spoke about the acquisition of the Wailuku Water System.

And this, on page 72, it talks about the market rates of, of what water, if water were delivered at current agricultural rates at \$1.10 per thousand gallons at 65 million gallons, the County could be potentially making upwards of 26 million. And so, these are types of the information that is, that is in this. And, and as far as market-rate prices, that's one of the questions that is, that is outlined in the executive summary of the DEIS. So, again, really pertinent information in here and unfortunate. Thank you, Chair.

CHAIR KING: Thank you, Member Sinenci.

Member Lee.

COUNCILMEMBER LEE: Madam Chair, I just want to remind everybody since we were told that the Board is meeting on November 4, there's, it's quite likely that, well not likely, but it's possible that they may change portions of the TIG report. And so, you know, I think it's incumbent upon them to provide their own testimony on this EIS. Thank you.

CHAIR KING: Okay. Thank you, Member Lee.

Member Paltin.

COUNCILMEMBER PALTIN: I just, are we talking about the TIG report or what's on Granicus? I'm not sure.

CHAIR KING: We're talking about what's on Granicus, the research notes.

COUNCILMEMBER PALTIN: Okay. So, we're all talking about what's on Granicus and we're not talking about the TIG?

CHAIR KING: That's what we're, that's what the motion is that's on the floor.

COUNCILMEMBER LEE: Yea, but you know, since she had a chance. My, my point is that a lot of it is the same information.

COUNCILMEMBER PALTIN: So, I just was clarifying we're not talking about the TIG?

CHAIR KING: Right.

COUNCILMEMBER LEE: Does the Water Supply not have stamps?

CHAIR KING: Stamps?

COUNCILMEMBER LEE: They can handle their own written communications or even emails to Wilson Okamoto. I, I just resent the fact that we, we're trying to overreach and now do things on their behalf for which we have no approval or authority. Thank you.

COUNCILMEMBER PALTIN: I thought the discussion about the TIG was over and we're talking about testimony received on October 4? So, I'm not sure what we're talking about here. We're not talking about the TIG, we're talking about testimony received at the EACP Committee on October 4--

CHAIR KING: Correct.

COUNCILMEMBER PALTIN: --from a testifier--

COUNCILMEMBER LEE: Yea. Well, Mr., Mr. Sinenci just talked about--

COUNCILMEMBER PALTIN: --from a testifier.

COUNCILMEMBER LEE: --the TIG on page 72.

COUNCILMEMBER PALTIN: That came and happens to be in another role, the Chairperson, but she was testifying as a testifier, same like all the rest of the testimonies submitted, written comments. And so, that's what we're voting on right now, not the TIG. Just clarifying.

CHAIR KING: Okay. Thank you, Member Paltin.

Okay, are we, so we're all clear that what we're voting on? It's not the TIG report from yesterday, we already voted on that; that did not pass. So, we're voting on the research notes that were included as testimony in the October 7 meeting. Okay.

Mr. Clerk.

COUNTY CLERK: Madam Chair, at some point, we'll need to actually get that submitted into the Council. I know that that was distributed to the EACP Committee, but the Council hasn't actually received those, the TIG notes of October 4, 2019.

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: Would that be--

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN: --if we voted in? Do you still need it if we don't vote it in?

CHAIR KING: Mr. Clerk.

COUNTY CLERK: Well, in terms of the legality of it, I'm not too sure. But I would recommend that you all have it in front of you before you vote. That, that would just be my personal recommendation.

CHAIR KING: Okay. Okay. Mr. Hokama, then we'll maybe take a recess.

COUNCILMEMBER HOKAMA: Yea, thank you, Chair. And this is about, yea, a procedural question.

CHAIR KING: Yea.

COUNCILMEMBER HOKAMA: I understand what the Clerk, Mr. Clerk has just made comment on and potentially is requesting. So, my thing is that, so obviously nothing that we're going to move forward from this point has been agendaized previously. So, now we're being asked to make a decision on documents that was never agendaized; we're just getting it today. And there has been no other review either publicly or through the media stating we're going to potentially make a decision on an unknown document that just popped up today to the Council, okay. The Council has received nothing officially.

CHAIR KING: Member Paltin.

COUNCILMEMBER HOKAMA: And yet we're going to make a decision on this document?

COUNCILMEMBER PALTIN: I believe that was the point of Member Kama's amendment.

COUNCILMEMBER HOKAMA: Chair, I'm asking Corp. Counsel.

CHAIR KING: Yea. Okay. You want to make, ask Corp. Counsel about this particular document?

Ms. Thompson.

DEPUTY CORPORATION COUNSEL: Thanks. So, that, that document is part of the EACP's record. And the original, the original reso does reference written public testimony on the draft EIS that was received at the Committee meetings. So, it's probably broad enough in terms of notice. But I agree with the Clerk, that the document should be before you and you should, you know, understand the document before you officially adopt it as the Council's position.

COUNCILMEMBER HOKAMA: As the Council's position? We're, we're not asking--

COUNCILMEMBER PALTIN: Transmittal.

COUNCILMEMBER HOKAMA: You used that term couple times, yea, already?

DEPUTY CORPORATION COUNSEL: Right.

COUNCILMEMBER HOKAMA: So, you're disturbing us because our understanding was it never about a position. But you folks keep saying, "the Council's position".

DEPUTY CORPORATION COUNSEL: I think you have to, going back to what the commenting, comments on a draft EIS. So, if the County Council is making comments on a draft EIS, each of those comments has to be responded to. I believe that if you're transmitting--

COUNCILMEMBER HOKAMA: Comments.

DEPUTY CORPORATION COUNSEL: --an attachment that that would be seen as adopting what's being transmitted, not just simply forwarding comments. Because you're not a body that would receive EIS comments unless you're an accepting agency, which we're

not in this case. You could, I don't want to make this any more complicated than it already is. But the Council could transmit its comments not as part of the draft EIS, but just transmit them to all of the parties involved. I know that's not what you want to do, but you know, that's, that is an option where you're not adopting these comments as your own or potentially adopting them as your own.

COUNCILMEMBER HOKAMA: Okay, that's clear as mud to many people out there.

CHAIR KING: I was going to say, I think we're a lot more confused than ever now because your, your, we, we're trying to move forward without making a commitment, by just transmitting comments. And then you're telling us that by transmitting comments, we're making a commitment to what we believe. So, I'm, you know, which is it?

COUNCILMEMBER PALTIN: I think that's the purpose of the cover letter. You know, to, that, to explain all this what we went through to transmit these comments.

CHAIR KING: Okay. So, you know where we're at right now with this particular document, I think we just need to take a recess and let's get this document in front of everybody, because that's the one thing everyone can agree on; that we need to have a copy in front of you at this vote, you know. It's on Granicus for the EACP, but we need to have the document on, in front of you for this meeting. So, let's take a 15 minute, well, how long do you think we need?

COUNCILMEMBER PALTIN: Point of information. Does it need to be in front of us in hardcopy or can it be in front of us in Granicus?

CHAIR KING: Corp. Counsel.

COUNCILMEMBER HOKAMA: Hardcopy. I want a hardcopy for me. You can give the other Members whichever version.

CHAIR KING: Mr. Hokama, can you?

COUNCILMEMBER HOKAMA: I want a hardcopy.

CHAIR KING: Hardcopy? Okay.

COUNCILMEMBER HOKAMA: Yea. My, my set is hard.

CHAIR KING: Okay. So, let's take a, can we get it done in 20 minutes? How many of you need a hardcopy? One, two, three, four; four?

VICE-CHAIR RAWLINS-FERNANDEZ: I have one already.

CHAIR KING: Okay.

CHAIR KING: Four, can we get four hardcopies in 20 minutes? Okay. We'll take a recess till 3:20.

(THE MEETING WAS RECESSED BY THE CHAIR AT 2:58 P.M., AND WAS RECONVENED AT 3:22 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Okay, Members, it's 3:22. Thank you, everybody, for being back in chambers. We have the full complement again of Councilmembers. And so, you should have been, you should have received the Board of Water Supply Temporary Investigative Group Research Notes dated October 4. The cover letter from the testifier, who submitted them, is, looks like this. And the first page looks like this.

So, I guess, are we ready for the vote or does anybody need? Any other comments or questions? Are you good with? Oh, I'm sorry, which, which? Oh, okay. Okay, I thought we only needed four copies, that we, were requested? Okay, so now everybody knows which document. This is a document that was on Granicus at the previous EACP meeting that was presented by a testifier.

And, if there's objections, I'll call for the question. Okay. Alright. The question is whether, the motion is to attach the research notes from October, from the Board of Water Supply TIG October 4, 2019 that were submitted as testimony on October 7, 2019. All those in favor say "aye".

COUNCILMEMBER PALTIN: Aye.

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

CHAIR KING: Opposed?

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: Okay. Mr. Clerk, I think we need a roll call.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
COUNTY CLERK: Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA: NO.
COUNTY CLERK: Councilmember Alice Lee.
COUNCILMEMBER LEE: NO.
COUNTY CLERK: Councilmember Mike Molina.
COUNCILMEMBER MOLINA: NO.
COUNTY CLERK: Councilmember Shane Sinenci.
COUNCILMEMBER SINENCI: AYE.
COUNTY CLERK: Presiding Officer Pro Tem Tasha Kama.
COUNCILMEMBER KAMA: YES.
COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
COUNTY CLERK: Chair Kelly T. King.
CHAIR KING: AYE.

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

NOES: COUNCILMEMBERS HOKAMA, LEE, MOLINA,
AND SUGIMURA.

COUNTY CLERK: Madam Chair, that's five "ayes", four "noes", motion passes.

CHAIR KING: Okay. Thank you. This will be attached. Alright. So, are we ready to vote on the main motion as amended?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR KING: Okay. And just to, and I'm going to just read these other notes that I have. And if someone feels like they need to make a motion on them just so they get included, feel free. So, the notes I have and the direction from this Council is that there will be a cover letter attached that states that the Council is not taking a position on the EIS, the draft EIS; is transmitting the comments; would like to see, would like to request to extend the deadline for comments per the process that the Corp. Counsel outlined. And that added to the list of notes that we have that will be attached will be a com, a comment added today by Member Paltin on the, and we'll get that from the, the meeting minutes, climate change options, the, the consideration of the Kahului Sewage Treatment Plant being moved in relocating, and the needs to be considered in terms of R-1 reuse.

COUNCILMEMBER PALTIN: Oh, can I just clarify? It wasn't necessarily for the Kahului Wastewater Treatment Facility to be moved in that we're going to take everything going there and move it. It was that should a new wastewater treatment facility be built to accommodate growth and then maybe some will be, not, not to replace the wastewater, Kahului Wastewater Treatment Facility. But should a new wastewater treatment facility be built, then the possibility of Mahi Pono using the R-1 water. Because the land that's available from A&B is, is in the general area of Mahi Pono's farming.

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: So, I'm not suggesting, like, something like we decommission the Kahului Wastewater Treatment Facility and move it in the event that a new wastewater treatment facility is built near Mahi Pono lands.

CHAIR KING: Okay. And then that could replace some of the water?

COUNCILMEMBER PALTIN: Yea. Thank you for allowing that clarification.

CHAIR KING: Okay. Thank you for clarifying it. So, do we have that, Mr. Clerk, those comments?

COUNTY CLERK: Yes, Madam Chair.

CHAIR KING: Okay. We got the time in the tape that, that it was made. Okay. Any other comments or concerns to be added?

Member Sinenci.

COUNCILMEMBER SINENCI: And also the Amendment Summary Form, those.

CHAIR KING: Those have already been voted on. So, everything that--

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR KING: This other, the others, I'm just going to ask for consensus on this one, I feel like they need to make a motion. So, if there's no other additions, is there consensus on the, the pieces I just described?

COUNCILMEMBER SINENCI: Consensus.

VICE-CHAIR RAWLINS-FERNANDEZ: Consensus.

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. So, we're, we're down to the main motion as amended.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Are we discussing or, is it, did you get your motion and second?

CHAIR KING: We didn't, I just asked for consensus on that piece. And the, we had consensus, but if you're not comfortable with it, we can take a vote.

COUNCILMEMBER SUGIMURA: So, you're actually asking for consensus on that sheet that the, the staff summarized at EACP meeting? Is that what you're asking for?

CHAIR KING: No. That's, that's actually part of the main motion. So, what I was asking for was consensus on what we talked about in this meeting, adding into the notes, which was comments made at this meeting by Member Paltin. And then the other comments that were made that was that to make sure that the cover letter specified strongly that we, that the Council is not taking a position on the draft EIS, and also that we are requesting in the cover letter that they extend the deadline for comment.

COUNCILMEMBER SUGIMURA: Okay. So, I would like to add to your letter to specifically state my objection for transmitting this, because I will definitely take this on myself, but not as part of this Council.

CHAIR KING: I think that would be done as a vote against the motion.

COUNCILMEMBER SUGIMURA: Could you include it, oh, sorry.

CHAIR KING: Do you want to make a motion?

COUNCILMEMBER SUGIMURA: Could you include it in the, yea.

CHAIR KING: You want to make a motion?

COUNCILMEMBER SUGIMURA: Yea.

CHAIR KING: Okay. Can you make the motion?

COUNCILMEMBER SUGIMURA:

SO, IF, COULD YOU ADD IN THE COVER LETTER, MY NAME, AND SAY THAT I DO NOT WANT TO PARTICIPATE IN THIS AS A, AS A COUNCIL BODY. I WILL SEND MY OWN COMMENTS INDIVIDUALLY. AND I DO NOT WANT TO BE SUED IN CASE OF A POTENTIAL LAWSUIT WITH THE REACTIONS FROM THE COMMENTS THAT ARE BEING TRANSMITTED THAT HAS NOT BEEN FULLY VETTED BY THE COUNCIL.

CHAIR KING: Is, I don't hear a second.

COUNCILMEMBER LEE:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: Okay. Moved by Member Sugimura, seconded by Member Lee, that we add comments to the cover letter, that--

COUNCILMEMBER SUGIMURA: Exclude my name from any transmittal, and I do not want to be liable in case of a lawsuit should it happen.

CHAIR KING: Okay. Okay, to specify that you, to, because they don't, it's not going to be a list of names. So, but you want your name specifically specified that you don't agree?

COUNCILMEMBER SUGIMURA: Yea.

CHAIR KING: Okay, I'm not sure. Is that, is that possible to do, Ms. Thompson?

DEPUTY CORPORATION COUNSEL: I think that, I think that you could do that, sure.

CHAIR KING: Okay. I just want to speak to the, well, let me let Ms. Sugimura speak to the motion since she moved and then we'll go to Member Lee as the second.

COUNCILMEMBER SUGIMURA: So, I think that what we're trying to do as a body is react to a document and do it through Committee work and then not fully vetting everything, there's no committee report, which was discharged having to take that kind of action. So, therefore, I do not want my name associated with this. I do not want to get sued in case of the comments that are going to be transmitted forward. That I think that I personally are going to be exposed to being brought into any kind of contentious discussion without having full, being fully vetted or protected. So, that's my reason.

CHAIR KING: Okay. Thank you for those comments.

Member Lee.

COUNCILMEMBER LEE: For Corp. Counsel.

CHAIR KING: Pardon?

COUNCILMEMBER LEE: For Corp. Counsel.

CHAIR KING: Oh, okay. You have a question?

COUNCILMEMBER LEE: We, in the past, have raised similar questions when, when people, when Members, let's say disagreed with the majority on a particular item. And the question was, would they still be liable in case there is a suit with regard to this subject matter? And in the past, the answer was yes, you know, even though the person voted "no". I just want to double-check.

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: So, I think, in the context of the potential liability relating to making comments on an EIS, I would say the risk of legal action is low. I'm not sure what it would be based on. You know, so, you'd have to have an actionable claim and I'm, I don't, I'm not sure that I see one here.

But in terms of how comments in general on an EIS could be used later on in something, most likely, the most likely scenario is that this EIS is going to be challenged by someone as it goes forward. It seems, you know, there's a lot of attention being placed on it right now, it's a big topic. So, if the EIS is challenged, potentially some of the comments that are being made collectively by the County Council could be used in that lawsuit. I still don't know that a County Councilmember would be named individually or the Council as a, you know, as an entity.

COUNCILMEMBER LEE: I don't, I don't mean that somebody would be named individually. I'm saying that if there is a lawsuit, the entire Council is sued regardless how that individual Councilmember has voted on a particular matter. Is, is that correct?

CHAIR KING: Ms. Lutey.

CORPORATION COUNSEL: Thank you. Typically, in a litigation that we have, it is a body that they would sue.

COUNCILMEMBER LEE: That's right.

CORPORATION COUNSEL: Yea.

COUNCILMEMBER LEE: So, in the case like this, would it be more, I don't know, more appropriate for, let's say Ms. Sugimura, to write a letter from herself regarding her, her vote and her position on the Chair's letter?

CORPORATION COUNSEL: That would be her option. That is an option.

COUNCILMEMBER LEE: So, that would have some weight, but maybe not that much?

CORPORATION COUNSEL: I think if there's going to be litigation off this, which I do think is low, but if it were to happen, it is you as a body, regardless of these documents. Those documents would be used later in a motion trying to get individuals out, out of the lawsuit.

COUNCILMEMBER LEE: Okay. I mean, I would strongly suggest that that be an option, because, God, we spent an awful lot of time on this already. And even though I

disagree, you know, with the majority, there comes a time when you just have to move on at some point.

And secondly, I'm afraid it's just going to make the Maui Council look, you know, disjointed and, and perhaps disorganized. And, and even though we are, I don't think that that's something we want to, you know, project, if at all. We have the option of trying to pretend like we're together, you know? But that's what I'm swirling in my head right now, is that I'm trying to think of the body as a whole and, but still respect and acknowledge what Ms. Sugimura is thinking, because she has a right to think what she's, to take the position she has.

But I'm just saying that it's not all that practical and it's not all that useful to the body as a whole, then I'm hoping that she will either take the option of writing her own letter or just, you know, just go along with the majority and vote "no". I mean, not go along with the, the majority; I mean, just vote "no" in this particular vote as I'm going to do. Thank you.

CHAIR KING: Thank you, Member Lee.

Member Sinenci, followed by Member Paltin.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarification question for Corporation Counsel. So, comments are, are our comments just a requests for information or are we making policy statements?

CHAIR KING: Ms. Thompson.

DEPUTY CORPORATION COUNSEL: That's a very good question. I'm just going to read this section from the Administrative Rules relating to how the applicant needs to respond to comments. It's not that long. So, the response to comments shall include a point by point discussion at the validity, significance, and relevance of the comments; discussion as to how each comment was evaluated and considered in planning a proposed action.

The response shall in, shall endeavor to resolve conflicts, inconsistencies, or concerns. And let's skip down a little bit. In particular, the issues raised when the applicants or a proposing agency's position is at variance with recommendations and objections raised in the comments shall be addressed in detail, giving reasons why specific comments and suggestions were not accepted and factors of overwriting importance warranting an overwrite of the suggestions.

What I take that to mean is that each of, each of those comments were topics that are raised in the, the bullet point list being considered will need to be responded to. And the response will be made to the County Council being the entity submitting these comments.

As to whether they're setting policy, some of those comments do kind of delve into policy areas. But I don't believe that the County Council has a direct role in the underlying matter, for what that's worth.

COUNCILMEMBER SINENCI: Okay. Thank you, Chair.

CHAIR KING: Okay. Thank you, Mr. Sinenci.

Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. My, my comments are, you know, due to the invention of lawyers, anybody can be sued at any place, at any time, for any reason. And I think that this would set a dangerous precedent. You know, I think it's clear and common knowledge that when something gets transmitted on behalf of the body, it's that a majority of the Members voted for it. It's not saying that this is how the nine Members of the County Council feel. This is the action that was taken, and it was voted for it.

I think if we're going to include in every vote people that have strong objection to the way the vote went down, I mean, I don't want my name anywhere on Makila Farms but, you know, that's how it is. And if that's how we're going to be moving forward, then, you know, I think it's going to all look kind of stupid, or I mean not professional. But yea, if that's the way we're moving forward, that's the way we're moving forward and I'd like my name taken off the Makila Farm vote.

CHAIR KING: Thank you, Member Paltin.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll echo the sentiments of my colleagues that, you know, we're one body. And you know, I support all the comments that Member Lee made, it, to that point of us, you know, at least looking like we're not disjointed, but yea.

And my understanding of a potential, a very low potential of a lawsuit is that we wouldn't be sued directly. The County would be sued. We could potentially very, you know,

again, low possibility as Corp. Counsel stated, be pulled into a lawsuit, because, you know, of, of the comments, our letter. So, it, we wouldn't be on the, the end of the, other end of the lawsuit. We would be on the petitioner's side of the lawsuit.

And as Member Paltin stated, if there's any ambiguity at the time that a potential lawsuit is filed, we could always make our position clear and, you know, remove ourselves from a very low potential of that lawsuit. Okay. Mahalo, Chair.

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

COUNCILMEMBER SUGIMURA: Chair.

CHAIR KING: Member Sugimura again.

COUNCILMEMBER SUGIMURA: Yea so, okay, I get it. I heard mother Alice Lee. So, we'll work for the team.

LET'S JUST, I WITHDRAW THAT.

CHAIR KING: Withdraw your motion.

COUNCILMEMBER SUGIMURA: Alice if you withdraw that, and let's just vote on this and move to the injection well issue because that's really the, I thought was going to be the big discussion for today until we got that Board of Water Supply stuff, so.

CHAIR KING: I echo your sentiments.

COUNCILMEMBER SUGIMURA: Yea, let's go.

CHAIR KING: I thought, I am surprised at how much time we're spending on this, but--

COUNCILMEMBER LEE: Thank you. Thank you, my child.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: Okay, mother.

CHAIR KING: Member Lee, you withdraw your second?

COUNCILMEMBER LEE: Yes.

CHAIR KING: Okay. So, that motion is withdrawn. And do we have anything else? Maybe we should go ahead and make a motion on the other items, just to make it clear; the ones I mentioned earlier that the cover letter. I'll entertain a motion that the cover letter is to include the explicit, no position of the County Council on the, the draft EIS. And add a request to extend the deadline for the comment period. And that the, Member Paltin's comments would be added to the original document with the notes.

COUNCILMEMBER PALTIN:

SO, MOVED.

COUNCILMEMBER SINENCI:

SECOND.

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

Any comments? If not, all those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: COUNCILMEMBERS LEE AND SUGIMURA.

CHAIR KING: Okay, seven "ayes", two "noes"; Member Lee and Member Sugimura. Is that correct? Okay. So, measure passes.

And we are down to voting on the main motion as amended. Was any, is everybody clear on what we're voting on? Okay. Any last comments? No. Okay. All those in favor of the main motion as amended, say "aye".

COUNCILMEMBER PALTIN: Aye.

CHAIR KING: Aye.

Any opposed?

COUNCILMEMBER LEE: No.

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: Okay, let's see we, I'm going to go ahead and do roll call vote. Okay.

Mr. Clerk.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

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: YES.

COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: Chair Kelly T. King.

CHAIR KING: AYE.

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

NOES: COUNCILMEMBERS HOKAMA, LEE, AND
SUGIMURA.

COUNTY CLERK: Madam Chair, that's six "ayes", three "noes", motion passes.

CHAIR KING: Okay. Thank you, Mr. Clerk.

Okay, everyone, take a deep breath.

COUNCILMEMBER SINENCI: Thank you, Members.

CHAIR KING: I have a logistics issue. I'm going to need to take a 15-minute recess. So, we'll reconvene at 4:00. It's 3:44.

(THE MEETING WAS RECESSED BY THE CHAIR AT 3:44 P.M., AND WAS RECONVENED AT 4:10 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBERS KAMA, LEE, AND PALTIN, EXCUSED.)

CHAIR KING: Okay. Reconvening the October 18 full Council meeting at 4:10. And Members, we have some quorum issues and we've had some family emergencies, so we're going to, I'm going to recommend that we recess this meeting. I know we've got some Members, . . . is taking off tomorrow. I don't know, Ms. Kama's schedule. But I'm willing to recess it to the 28th. And I was planning to be at the WIR Conference, but I can cancel that if that's what it takes to continue this meeting. Does that work for everybody? That's a Monday, October 28. Is there anybody that has an issue with that date?

(Councilmember Paltin returned to the meeting at 4:11 p.m.)

CHAIR KING: Oh, Member Paltin.

COUNCILMEMBER PALTIN: I thought I was going to go to the HSAC for you on that date.

CHAIR KING: Oh. Right. You were, because I was going to be at WIR. The 29th? Is everybody good with the 29th? That's Tuesday. That's a non-meeting week, 9:00. Does that work for everybody? It's a non-meeting week, so we could start at 10 if you want, but I'm willing to be here at 9. Okay. Okay. Is there anybody who can't make it. Okay, you have to rearrange something, yea I think I have meetings too that I have to rearrange. Okay, so we'll, we'll recess this meeting till 9 a.m. in the chambers on October 29, Tuesday morning. Thank you, Members, and drive safely. Adjourn, or recessed at 4:12.

(THE REGULAR MEETING OF OCTOBER 18, 2019 WAS RECESSED BY THE CHAIR AT 4:12 P.M., AND WAS RECONVENED BY THE CHAIR ON OCTOBER 29, 2019 AT 9:00 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Reconvening of the meeting from October 18, 2019, please come to order. It is 9:00. It is October 29, 2019 and this is the reconvening of the recessed meeting from October 8, 18, 18, 2019. So, we are starting our unfinished business on page 4 of the agenda on item, in communications, item No. 19-419.

And I'm going to go ahead and just do a brief, a roll call, catchup roll call.

ROLL CALL

PRESENT: COUNCILMEMBERS G. RIKI HOKAMA, NATALIE A. KAMA, ALICE L. LEE, MICHAEL J. MOLINA, TAMARA A.M. PALTIN, SHANE M. SINENCI, VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ AND CHAIR KELLY T. KING.

EXCUSED: COUNCILMEMBER YUKI LEI K. SUGIMURA.

(Councilmember Sugimura was not present when the roll was called; however, she arrived at 9:08 a.m.)

CHAIR KING: Okay, and, I'm going to, before we begin, let's, I'd like to ask everyone to please silence your cellphones and other noisemaking devices.

And, Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with county communications.

NO. 19-419 - KEANI N.W. RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated October 11, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO THE RETENTION AND TERMINATION OF SPECIAL COUNSEL".

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I think this one I'm going to let, get referred to Committee.

CHAIR KING: Okay. This is for referral to GET?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR KING: Okay. You're good with that, Mr. Molina? Okay.

The recommended action is that County Communication No. 19-419 be referred to the Governance, Ethics, and Transparency Committee.

CHAIR KING: Okay. Mr. Clerk.

NO. 19-420 - KELLY T. KING, COUNCIL CHAIR,
(dated October 9, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL TO ADVISE AND REPRESENT THE MAUI COUNTY COUNCIL RELATED TO INTERPRETATION OF THE CHARTER OF THE COUNTY OF MAUI REGARDING LEGISLATIVE AND EXECUTIVE AUTHORITY".

CHAIR KING: Okay. Thank you.

Councilmember Molina.

COUNCILMEMBER MOLINA: Sorry, Madam Chair, just trying to get my bearings--

CHAIR KING: That's okay.

COUNCILMEMBER MOLINA: --straight here this morning and the recess. Could I ask for a brief recess, Madam Chair.

CHAIR KING: Sure. Okay. We're going to recess at the call of the Chair, so nobody go anywhere.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:03 A.M., AND WAS RECONVENED AT 9:04 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER SUGIMURA, EXCUSED.)

CHAIR KING: Reconvening. Thank you for that brief recess everybody.

And back to Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT NO. 19-123.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. I think, Mr. Molina, you have to, your motion is for discharge first?

COUNCILMEMBER MOLINA: Okay. Yes, thank you, Madam Chair. Sorry, I'm trying to get my bearings straight here again.

OKAY, IT'S MOVE TO DISCHARGE THE GET COMMITTEE
FROM FURTHER CONSIDERATION OF THE PROPOSED
RESOLUTION ATTACHED TO COUNTY COMMUNICATION
NO. 19-420.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

Chair, do we have to withdraw our first motion, or is it cool?

CHAIR KING: Well, I didn't recognize it, so.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Second.

CHAIR KING: Okay. So, it's been moved by Councilmember Molina, seconded by Vice-Chair Rawlins-Fernandez to discharge item 19-420 from GET Committee.

Mr. Molina.

COUNCILMEMBER MOLINA: Yes. Thank you, Madam Chair. A discharge is needed to enable the Council to consider action today on the proposed resolution.

CHAIR KING: Okay. Thank you. Alright. Any discussion on the discharge? No questions? No discussion? Okay, all those in--

Oh, Member Lee.

COUNCILMEMBER LEE: No, I'm, I just, I was just going to say that I'm going to vote "no", because I think this should go to Committee. Okay.

CHAIR KING: Okay. This was, this was the item that was just discussed in Committee and recommended for discharge by the Committee.

COUNCILMEMBER LEE: Well, I didn't support it.

CHAIR KING: I understand.

COUNCILMEMBER LEE: I didn't support it then and I don't support it now.

CHAIR KING: Okay. Any other discussion? Okay, all those in favor of the--

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR KING: Oh, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I guess, I, I wanted to bring to everyone's attention the complaint that was just distributed to all the Members, which as one of the testifier's said that we would, should be expecting and it's here now. So, when, you know, in considering whether we should or shouldn't discharge, I think it's important to, you know, recognize that a lawsuit has been filed.

So, if we are, if the intention is to allow for the Mayor to hire special counsel to represent himself, because Corp. Counsel is conflicted in this matter and wouldn't be able to represent him, then I think that, you know, we, we also need special counsel. And here's our opportunity to hire special counsel at this time. Mahalo, Chair.

CHAIR KING: Okay. Thank you. I, I agree with Vice-Chair Rawlins-Fernandez. I think that if we do get this request from the Mayor, we should also act in an expeditious way, because he, if, if, if he comes to us for special counsel because we have been told by Corp. Counsel that they cannot go forward with representing either party, I would like to be fair to, you know, our Chief Administrator as well. So, I'm going to vote in favor of the discharge.

Any other discussion? All those in favor say "aye".

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

COUNCILMEMBER SINENCI: Aye.

CHAIR KING: Any opposed?

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER LEE: No.

CHAIR KING: Okay. I guess we need a voice vote.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

CHAIR KING: ABSENT.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: UM, I VOTE FOR THE DISCHARGE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

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 HOKAMA, KAMA, AND LEE.

EXCUSED: COUNCILMEMBER SUGIMURA.

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

CHAIR KING: Okay. Thank you, Mr. Clerk.

Back to Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, 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 Councilmember 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, to consider the proposed resolution today.

(Councilmember Sugimura arrived at the meeting at 9:08 a.m.)

CHAIR KING: Okay. Any other further discussion?

Member Lee.

COUNCILMEMBER LEE: Yes, so Madam Chair, in light of the fact that we just received this lawsuit, you know, we do need time to go through it, analyze it, discuss it in, at length, and not try to make a decision on the fly on the floor. Thank you.

CHAIR KING: Okay. Thank you. Just for everyone's information, this was distributed because it was just brought in this morning. But it doesn't have any bearing on our vote today, because the vote is not on this lawsuit. We, we would be hiring special counsel for our own, our own ability to, to file for a declaratory ruling to get, to find out if we have the authority or don't have the authority. It's not anything to do directly with this lawsuit.

COUNCILMEMBER LEE: Then why did we receive it this morning?

CHAIR KING: It was just brought in today. And I thought everybody needed to see it as soon as possible because it may have a bearing when we get to the actual vote on special counsel. It may have a bearing on the issue of fairness between, as, as Vice-Chair Rawlins-Fernandez pointed out that, that we may be getting a, a request for special counsel from our Mayor--

COUNCILMEMBER LEE: Yea, so--

CHAIR KING: --on this.

COUNCILMEMBER LEE: --again, again--

CHAIR KING: But this is not--

COUNCILMEMBER LEE: So, you just said there's no bearing, but that could be, could well be a bearing, a connection between special counsel and this new lawsuit, right?

CHAIR KING: Well, special counsel would not be rep, we're not being asked to represent in this lawsuit, because the Council is not being charged with anything, so.

COUNCILMEMBER LEE: Well, again, I think this is a very complex issue; the entire matter, and I think it requires a lot more discussion.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to clear up, I'm not sure if there might be confusion regarding this lawsuit. So, the lawsuit was filed against Plaintiffs Angus McKelvey, Joanne Winer, Archie Kalepa, Ke`eaumoku Kapu, and Maui Tomorrow Foundation against Michael Victorino, Mayor of the County of Maui, and Moana Lutey, Corporation Counsel for the County of Maui. The Council itself is not named in this lawsuit. So, we wouldn't necessarily need to go through this because we're not named parties in this lawsuit.

But as you stated, the Mayor and Ms. Lutey would need representation. And they would need to hire special counsel which means that a resolution would come to this Council and we, as a body, would have to decide whether we're going to approve that resolution, allowing the Mayor to hire special counsel to represent the Mayor because Corporation Counsel would be unable to, to act as legal representation for the Mayor in this situation.

And so, if we are considering, as we should, allowing the Mayor to hire special counsel to represent him in this lawsuit, then we should also be voting to approve this resolution that's before us to hire special counsel for us in determining whether, who has ultimate authority in this situation. Mahalo, Chair.

CHAIR KING: Okay. Mahalo, Vice-Chair.

Councilmember Sugimura, and then Councilmember Kama, and then I think Corp. Counsel has a, would like to comment after.

DEPUTY CORPORATION COUNSEL: Just a quick comment--

CHAIR KING: Oh.

DEPUTY CORPORATION COUNSEL: --before we get too far down the road.

CHAIR KING: I actually didn't call on you. Councilmember Sugimura was waiting to speak, so I'm going to let her speak first, and then we can let you comment.

COUNCILMEMBER SUGIMURA: Actually, I can--

CHAIR KING: Are you okay with them?

COUNCILMEMBER SUGIMURA: Yea, sure.

CHAIR KING: Okay. Go ahead.

DEPUTY CORPORATION COUNSEL: I just want to note that this lawsuit that was just received this morning is not on today's agenda. So, for Sunshine Law purposes, we probably shouldn't get into the depth of this current thing that was just passed out.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order.

CHAIR KING: Yes. Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: We're not getting into the merits of this lawsuit. We're talking about process. And so, I think we would be okay. And if we would like to get a second opinion by our OCS attorneys on whether we would be in violation of Sunshine Law, we're not talking about the merits of the lawsuit. We're just talking about its existence.

CHAIR KING: Mr. Raatz, can you opine on that issue?

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. If, if the body deems the matter relevant, the items that are on today's agenda, then we would regard it as appropriate for discussion. It's all about tying it to what's on the agenda.

CHAIR KING: Okay. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Raatz.

CHAIR KING: Mahalo. Mahalo, Vice-Chair.

Okay, let me put you in line with, and, and I forgot to recognize Councilmember Sugimura who joined us--

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR KING: --late. Thank you.

COUNCILMEMBER SUGIMURA: So, I, I defer my questions till later. I was wondering about this and Corp. Counsel brought this, my exact question up. So, I'll defer.

CHAIR KING: Oh, that was question?

COUNCILMEMBER SUGIMURA: Yea.

CHAIR KING: Okay. Councilmember Kama.

COUNCILMEMBER KAMA: So, just so that I'm not confused about things, what exactly did David Raatz say in plain pure English? Do we or do we not talk about this that was just given to us? And who gave it to us?

CHAIR KING: We, we passed it out this morning, because there was a press release that went out. And so, I thought, actually, one of the reasons I think it's relevant to, just so Councilmembers know that there isn't, this isn't a lawsuit against the Council. I mean, basically, there was a press release that went out this morning. I'm not sure who saw it and who didn't see it. But the, the Plaintiffs brought this in for the Council just to have, if we needed it. But it's not, it's not an item for discussion, but it may be an item to know about. And it, it may clear up whatever you have or haven't heard about the lawsuit that was filed yesterday.

COUNCILMEMBER KAMA: Well, I know last week, Mr. Anthony Ranken said they were depending on what the outcome was. So, I guess they just decided to jump the gun and do it before.

But I have a question about the opinion that Corp. Counsel had given to all of us. I don't know, I hope you all got a copy of that, that speaks to the two communications that we're going to be dealing with; 19 and 20. So, I'd like to hear them talk about that.

CHAIR KING: Well, when we get to the actual item, if we get to it, then we can ask them to speak.

Councilmember Molina, followed by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair; just dove-tailing off of your comments. For my second and final time on the motion on the floor, which is to waive the requirement of Committee referral and report. So, I think our discussion should be

confined to that, initially. And if this motion does pass, then we can go into a motion to propose adopting the resolution. Then maybe we can get into a more detailed discussion about what Mr. Raatz was saying and, and about the whole, you know, process with regards to this lawsuit that we just received. So, I just want to make that point.

And also, if I could get an opinion from either of our attorneys with regards to this motion. If it does not get the necessary six votes, then what happens? So, if I, under your, with your permission, Madam Chair, could we get the thoughts of Mr. Raatz?

CHAIR KING: I believe it goes back to Committee.

COUNCILMEMBER MOLINA: End of discussion, right?

CHAIR KING: Right, discussion ends.

But, Ms. Lutey, can you confirm that?

CORPORATION COUNSEL: That is correct, Chair.

COUNCILMEMBER MOLINA: Okay. Thank you, Madam Chair.

COUNCILMEMBER PALTIN: Point of information.

CHAIR KING: Yes. Member Paltin.

COUNCILMEMBER PALTIN: So, if it were to go back to Committee, could Committee Chair Molina then submit the Committee report at this time?

CHAIR KING: Well, they would have to, there was no vote taken, because the intention of the Committee was to discharge it. So, there is a Committee report that says that, that states that the intention was to discharge it, and have it discussed on--

COUNCILMEMBER PALTIN: Oh, so only if we had voted in his Committee, then it would be a Committee report, and then it would go to the full Council?

CHAIR KING: Yea, then it would have had to go, then it would go, it would have gone to the next Council meeting. So, the idea was to try to get it on as soon as possible, because, you know, Members felt that we needed to have, we needed to know what our authority is right now. Everything's kind of in--

COUNCILMEMBER PALTIN: So, if it goes back to Committee, then we vote in the Committee and then you just need simple majority?

CHAIR KING: Right.

COUNCILMEMBER PALTIN: Okay. Thank you. Sorry. Question.

CHAIR KING: Nope, that's okay.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I do appreciate this coming before us today on the chamber floor, because I wasn't aware of the press release. So, thank you for, I mean, giving this to us.

And then what Member Rawlins-Fernandez said about, you know, if the Mayor needs representation in such a lawsuit, then he would have to come to us, a resolution would need to come before us so that we could vote on that as well, right? So, I mean, just considering the tenure of the whole situation and where we're moving with this, I think, I mean, not to use the term "lawyer up", but I mean it sounds like we should, you know, kind of get our ducks in order and, and protect; everybody should be protecting ourselves from, from possible legal ramifications. So, thank you.

CHAIR KING: Okay. Thank you. Did you want a response from Corp. Counsel on that?

COUNCILMEMBER SINENCI: Sure.

CHAIR KING: Ms. Lutey.

CORPORATION COUNSEL: Thank you, Chair. Yes, the Mayor, if he chooses to seek legal counsel, would need to present a reso to this body.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair, for my second and final. Okay, I wanted to point out, since Pro Tem Kama brought up the discussion on item 19-419. That item was referred to Committee, so we wouldn't be discussing that item or asking questions about that. That goes to Committee.

CHAIR KING: Right.

VICE-CHAIR RAWLINS-FERNANDEZ: So, we would only be discussing questions regarding item 19-420. And again, so, GET Chair Molina brought up, you know, a point that we're discussing right now, whether we waive Committee referral or not. And it sounds like Members have questions. And we cannot have, ask those questions unless we vote for the referral. And if you decide after that point to vote against the item, you can do it at that time. But if you have questions, then those questions would need to be asked after we take this vote.

And the reason for the discharge and for the waiver is because of the urgency of this. The U.S Supreme Court's date to hear this case is next week Wednesday. That's the urgency; it's next week already. We're, we're, we've run out of time. So, if we don't act now, then we essentially will be giving our power away to the Mayor and setting a very bad precedent. And I, I think that's a, a matter that should be important to this Council. We're basically disenfranchising ourselves.

The Charter makes it very clear who has the power and it's very different from the U.S, sorry, the Hawaii Supreme Court, Harris v. DeSoto. Our Charter and the Honolulu City and County Charter is very different.

And our Corporation Counsel obviously has a conflict. And their advice is very biased in, in, in giving to this Council, because they want to go to the U.S Supreme Court. And so, it, it's, to rely on legal advice coming from our Corporation Counsel right now when there's obvious conflict and violations of their professional conduct, I think, you know, would be erroneous of us at this time.

And that if we would like to have the discussion, then vote "yes" so we can ask the questions that Members have. And at, after this vote, if you don't agree that we should be hiring special counsel for ourselves, then you can vote "no". But if you would like to have that discussion and more information, then you would vote "yes" on this waiver. Mahalo, Chair.

CHAIR KING: Okay. Mahalo, Vice-Chair.

And just to be clear, if we, if we vote "yes" on the waiver, the actual motion to hire special counsel will still take a two-thirds vote. So, we would just be in discussion. So, anyway, any other comments, or—

Member Paltin.

COUNCILMEMBER PALTIN: Yea, I'll support the waiver, cause it's like, it's the recommendation of the Committee Chair, one. And I support the waiver because it's not like the issue hasn't been thoroughly discussed or, you know, how much hours of

testimony, how much hours of discussion, and how many years of just what was going on. I know not everyone was following it for years, but in Lahaina, a lot of us been following it for years. And, you know, we had like 12 hours of public testimony on this issue, and like, 12 hours of discussion, and then there was another 4 hours. And so, I'm not sure what taking it back to Committee is going to give us more hours, but would a result be different?

And so, you know, I know some people don't like to waste time. And I think, you know, it's like do it or don't do it now, but let's not spend more hours discussing this. That's kind of like, you know, somebody was saying every time all these people in the room come and their salaries, and how much money it costs just to be here. So, let's not waste more time. It was thoroughly discussed, vote and vote, and it's either yes or no, and move on cause we got a lot of things that also need to be discussed as well.

So, I'll be supporting Chairman Molina of the Committee. And you know, I don't think there's much else to say about it. We said it for hours, and hours, and hours, so. And then you get your one and two discussion when it, if it passes. So, yea, basically that's my reasons. Thank you.

CHAIR KING: Member Lee.

COUNCILMEMBER LEE: Madam Chair, and I agree with Member Paltin and that's the reason why I'm going to vote "no" on everything. Because we have discussed the general topic of special counsel multiple times, and we voted on this matter multiple times in one way or another in various different contexts. So, I'm ready to vote "no". Thank you.

CHAIR KING: Thank you, Member Lee.

Member Sinenci.

COUNCILMEMBER SINENCI: Yea, just a final thought. You know, I believe in, in the previous meeting we did have Mr. Ed Kushi with Corporation Counsel and he, he clearly stated that we are at an impasse and that we should seek special counsel so that we can clear this, clear the air so to speak. So, I would support the motion.

CHAIR KING: Thank you, Mr. Sinenci.

So, the Chair wants to just remind everybody that if this vote for the waiver fails, it will go back to Committee. And I think that's Member Paltin's point, that then we go through the whole process all over again and we could end up right back here with the same vote on Corp., on whether to hire special counsel. So, if we can just, if we can pass

the waiver and have the discussion on the actual issue, and then if you don't want to hire special counsel, vote against it and then the matter's over and done.

Otherwise, it's still alive, it's still going to have to go through the whole process and come back, and we're going to be sitting right here doing the exact same thing. So, my recommendation is let's pass the waiver, let's discuss the item, and let's vote on whether or not to hire special counsel.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

CHAIR KING: Aye.

Any opposed?

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER MOLINA: Roll call.

CHAIR KING: Okay. Roll call.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

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 HOKAMA, KAMA, LEE, AND
SUGIMURA.

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

CHAIR KING: Okay. So, this item will get referred back to GET Committee.

COUNCILMEMBER HOKAMA: Chair.

CHAIR KING: Mr. Hokama.

COUNCILMEMBER HOKAMA:

I WOULD MOVE TO FILE THE COMMUNICATION.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: You know, I agree with my colleague from West Maui, Ms. Paltin. And I don't see why we need to refer it back. We should just file it. We've made enough decisions on this subject. Thank you.

CHAIR KING: Any other comments?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I will be voting against the motion because, again, after, you know, the Mayor is, sends down a resolution requesting him the power to hire special counsel to represent him in this lawsuit, I think we would also want to have that power to hire special counsel. And since this item is here, now it's, you know, it would be in the Committee, we would have to go through the whole process all over again to get an item in the Committee. So, for that reason, I'll be voting against the motion.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR KING: Mahalo, Vice-Chair.

Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. I must be a glutton for punishment. So, I will not vote to file this. And just a procedural question for Corporation Counsel or Council Services, this is just a simple majority vote or do we need two-thirds?

CHAIR KING: Ms. Lutey.

CORPORATION COUNSEL: To file?

CHAIR KING: Just to file.

CORPORATION COUNSEL: Simple majority.

COUNCILMEMBER MOLINA: Simple majority. Okay, thank you for the clarification.

CHAIR KING: Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I'm, I'm going to vote against the motion. You know, it sounds like it's, it's very clear that we don't have any representation for ourselves. And I don't, I don't believe, or if we, if we move forward with this, I don't believe that our Corporation Counsel can represent us if we need representation. So, there is a, a need for us to protect us as the Council if we don't have any representation. So, I'm voting "no" on this. And we should seriously look into having that protection for us. Thank you, Chair.

CHAIR KING: Okay. Thank you, Member Sinenci.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'll speak against the motion, even though I'm opposed to wasting time. I think the difference is that we didn't really need six Members to go through the normal process. And that we still do need the clarity.

I understand that we can do a Charter amendment and go through that whole process. But you know, for the sake of efficiency and covering our bases, we need to know how to interpret the Charter between then, between now and whenever the Charter amendment gets passed, and then it gets heard in Committee and then all that kind of stuff.

So, I don't think we should waste more, more, more, more time, and just get the issue clarified, because, you know, similar to the folks that want to go to the Supreme Court for clarity, I also would like clarity in this instance, because of our County Code and what it says in regards to settlement of claims and other civil litigation.

There's Section 3.16.020, which Part B clearly states, and I think it's also included in this document that was handed out, that "Other Claims or Civil Litigation. The corporation counsel, with the approval of the mayor, may settle, compromise, or otherwise resolve any claim not described in Subsection A", which is the worker's comp stuff on this section, "now existing or which may hereafter arise, requiring payment of a total amount not exceeding \$7,500". So, we're talking about something hundred-something thousand; so that's more, "provided, that the fund to settle claims has been appropriated and is available therefor. Any settlement in excess of \$7,500 shall require council authorization".

And then if you check Section E, "The council may deliberate in executive session, accept or reject the offer, or propose a" council, "counter-offer. If the council decides to accept the offer of settlements, the council shall do so by adopting a resolution specifying the terms of settlement and expressing its approval of the terms. The decision of the council to accept the settlement offer shall be binding on the County

and on legal counsel. in the event the council rejects the offer or proposes a counter-offer, it shall so inform legal counsel in executive session. Legal counsel shall transmit the council's acceptance of the offer of settlement or the council's proposed counter-offer to the claimant promptly without delay".

So, to me, even though I no more degree, it sounds pretty clear, you know, that what, what needs to be done. And also, Section 2.2 of the Maui--

CHAIR KING: Okay. So, Member Paltin, I kind of need to reign you in a little bit cause we're just, right now we're talking about the issue of whether or not to file this.

COUNCILMEMBER PALTIN: Yea. That's the reason why--

CHAIR KING: Okay. Okay.

COUNCILMEMBER PALTIN: --we wouldn't file it, because this needs to be clarified. If we file it, this will never be clarified until, like, you make a Charter amendment and all that. And the Charter clearly say, says, if it doesn't expressly give power to the executive branch to control the litigation, the county council is able to do so via resolution. So, I mean, that all will never get clarified. We might do a Charter amendment, we might not pass it, who knows. So, I mean, if we want to seek clarity, then let's seek clarity. But if we don't want to seek clarity, then let's not seek clarity.

It's pretty disingenuous to not take a settlement because you want clarity, and then this other issue arises where it's not clear, and we don't want clarity now? I mean, how does that pencil out? So, the reason why, if you say you don't want clarity for a settlement is because you know the outcome already of the settlement. It's all clear, like, what's going to happen. With a lawsuit to the Supreme Court, it's not clear what's going to happen. We could win or lose. So, I think we need clarity, you know. So, that's why I'll vote against.

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: Even though it might be wasting time. Thank you.

CHAIR KING: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair, for my second and last time on the issue to file. You know, the issue is not just about the injection well case. It's about for future cases that may have conflict between the, the executive branch and the legislative branch when it comes to settlement authority. And you know, dove-tailing off of what my colleague Ms. Paltin said, it's, you know, becoming more evident to, we

need to stop kicking the can down the road. And I guess the appropriate mechanism would be something that, you know, you as well as Member Hokama suggested, a Charter amendment, so we can have more clarity.

Cause the whole irony with this whole injection well thing was, you know, some of us want to just stop the litigation, settle and, you know, you know, put an end to all of this. But now we get whacked with another lawsuit here this morning. And you know, so it just continues on, and on, and on. So, you know, unfortunately it was my hope that we could at least get to the point of considering a motion to pass, to take a vote on the resolution, but it looks like it's, well, it's not going to get there, that's for sure, because the waiver was just killed. And now, we're here at the motion to file, which likely will happen. So, basically, it's done, it's done and over with once this vote is taken.

And then the drama will continue now with the lawsuit that has just been dropped off to us. So, more and more litigation. So, unfortunately, we just don't know when it will end. But I just wanted to state that for the record. But a lot of time was spent on this, and for what? But you know, this is democracy and that's what discussions are for; or whether you're for or against, and every type of mechanism and strategy will be exercised through all of this. And that in itself, this is going to be more not just a landmark case about the injection wells, but this whole thing about settlement authority between the executive and legislative branch. So, certainly something for future lawyers to consider in law school. You know, Maui County will again make more history as holding landmark issues. So, anyway, I've said enough. But thank you, Madam Chair.

CHAIR KING: Okay. Thank you, Councilmember Molina.

If there's no other discussion, I'd just like to add that, and thank you for your comments, Councilmember Molina, that I appreciate you trying to expedite this out of GET Committee. I don't see this as us getting whacked with this lawsuit, because the Council is not being named in it. But you know, the lawsuits will continue until we get clarity, so I agree with that. And we have not, we had an opportunity, but you know, it's going to go back.

I think that this needs to, this will, may also get, get, evolve in your Committee, because as the situation evolves and as other members of the Administration may need their own counsel, so I think it's wise of us to keep this alive and, and, and we'll see what happens between now and your next, whenever you can get this on your next Committee agenda.

So, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I echo all of your statements; Chair's, Member Molina's, Member Paltin's. And remind the Councilmembers that, you know, we're supposed to be separate but equal branches of government. And there's a reason that there's the check and balance on each of us, all three branches. And while some Members may think, you know, that we don't need the third branch which is the judiciary to tell us what our rules are, in this case, when the executive and the legislative branch, branches disagree, then that's the whole purpose of having that third branch; to help interpret the rules.

And as far as, you know, seeking clarity, I think what will happen in this case, we let the Mayor go forward and Corporation Counsel call the shots on this, you know, which shouldn't be happening, because the Council and the Mayor is, is their boss. They're not our bosses. And we're, we're letting that precedence stand; that Corporation Counsel has far more authority than the Charter ever gave them, and we're giving them that authority by saying, you know, we're not going to hold a check on the executive branch. And we're also giving the Mayor more authority.

So, we actually come out behind by allowing this to move forward. We, our, it, it, it's, it is going to be clear after this. It's going to be clear because we're setting clear precedent on settlement authority that the executive branch has far more authority than the Council. And that was not what was contemplated by the Charter. So, again, we're setting dangerous precedent by moving forward, and that's why we shouldn't be filing this.

And the Corp. Counsel itself has conflicting opinions. In May 2002, the Corporation Counsel, you know, stated that they cannot, when they cannot reasonably think that they can represent the Council and the executive branch fairly, they're prohibited from representing either party under Rule 1.7. And this is from Corporation Counsel themselves. So, you know, they themselves as a department is conflicting, is giving conflicting legal advice, and only holding rules or complying with rules when it's convenient for them and forgetting about precedent that was set, you know, in years past.

So, for that reason, I'll be voting against filing, because I don't want the, this Council to set such a bad precedent for future Councils which was never intended by the drafters of the Charter. Mahalo, Chair.

CHAIR KING: Mahalo, Vice-Chair.

Member Lee.

COUNCILMEMBER LEE: Yea. I'm going to make a prediction here. I predict that you will have your five votes to file so we can move forward. Thank you.

CHAIR KING: To not file you mean?

COUNCILMEMBER LEE: Well, not file, yea. I think it's pretty clear already where the votes are falling.

CHAIR KING: Okay. I'm going to go ahead and call for the, oh, Member Paltin, did you have another question or statement?

COUNCILMEMBER PALTIN: I, I just was, second and final, wanted to say that, you know, you can say you're going to make a Charter amendment, but the reality of that happening is kind of up in the air. And so, I think that it's prudent of us to just set it straight, even for folks that, you know, Mayor Victorino is not always going to be the Mayor, you know. You never know if, if that one person is going to be somebody that you can fully support.

And so, I think, like, Member Rawlins was saying, the checks and the balances should all legal, legal decisions for the entire County be made by one person, it's kind of, I don't, I don't, that's not the way that I interpreted what I read in the Charter. And the Charter is in pretty plain language, so I think it needs to be addressed. The sooner and easier, the better, than the long and unknown route. So, same thing, not, not filing.

CHAIR KING: Okay. Thank you, Member Paltin.

Okay, if there's no further commu, or deliberations, we'll go ahead and call for the question. All those in favor of the motion to file, let's just do voice vote.

Mr. Clerk.

If you vote "yes", you're voting to file.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: YES.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: NO.

COUNTY CLERK: Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA: AYE.
COUNTY CLERK: Councilmember Alice Lee.
COUNCILMEMBER LEE: YES.
COUNTY CLERK: Councilmember Mike Molina.
COUNCILMEMBER MOLINA: NO.
COUNTY CLERK: Councilmember Shane Sinenci.
COUNCILMEMBER SINENCI: NO.
COUNTY CLERK: Presiding Officer Pro Tem Tasha Kama.
COUNCILMEMBER KAMA: YES.
COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: NO.
COUNTY CLERK: Chair Kelly T. King.
CHAIR KING: NO.

AYES: COUNCILMEMBERS HOKAMA, KAMA, LEE, AND
SUGIMURA.

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

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

CHAIR KING: Okay. So, this item will be referred to GET Committee.

The recommended action is that County Communication No. 19-420 be referred to the Governance, Ethics, and Transparency Committee.

CHAIR KING: Let's see, is there, is there an issue, Mr. Clerk, if we've discharged it but not waived the Committee referral?

COUNTY CLERK: Madam Chair, all that discharge does is take it from the Committee and place it before the Council. So, the appropriate--

CHAIR KING: Okay.

COUNTY CLERK: --action--

CHAIR KING: So, we're placing it back now?

COUNTY CLERK: Yes.

CHAIR KING: Okay. So, the, it goes on the list of referrals. Okay. And so, moving forward then. If there are no objections, since we're on the referrals still, if there are no objections, I'd also like to bring up County Communication 19-402, with the remaining communications being recommended for referral. And that's the one that was on "Unfinished Business", because it was referred from the previous Council meeting. So, somehow it got stuck on the end under "Unfinished Business". Any objections?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER SUGIMURA: Where, where is it?

CHAIR KING: Okay. Okay. So, Mr. Clerk, please pro--

COUNCILMEMBER HOKAMA: Under "Unfinished Business".

CHAIR KING: Okay. Mr. Clerk.

What did you say, Mr. Hokama.

COUNCILMEMBER HOKAMA: It was under "Unfinished Business", Chair, for referral.

CHAIR KING: Right. Right.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: Okay. Mr. Clerk.

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

NO. 19-421 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated October 8, 2019)

Transmitting a proposed bill 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)".

The recommended action is that County Communication No. 19-421 be referred to the Economic Development and Budget Committee.

NO. 19-422 - YUKI LEI SUGIMURA, COUNCILMEMBER,
(dated September 27, 2019)

Relating to airport shuttle services.

The recommended action is that County Communication No. 19-422 be referred to the Multimodal Transportation Committee.

NO. 19-402 - KELLY T. KING, COUNCIL CHAIR,
(dated September 27, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40, MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION".

The recommended action is that County Communication No. 19-402 be referred to the Planning and Sustainable Land Use Committee.

NO. 19-423 - HELENE KAU, DEPUTY DIRECTOR OF WATER SUPPLY,
(dated October 3, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY AND COUNTY OF HONOLULU, HONOLULU BOARD OF WATER SUPPLY, THE COUNTY OF HAWAII, DEPARTMENT OF WATER SUPPLY, AND THE COUNTY OF KAUAI, DEPARTMENT OF WATER SUPPLY FOR MUTUAL AID AND ASSISTANCE DURING EMERGENCIES (HAWAII WATER AGENCY RESPONSE NETWORK (HIWARN) INTRASTATE PROGRAM FOR MUTUAL AID ASSISTANCE)".

The recommended action is that County Communication No. 19-423 be referred to the Water and Infrastructure Committee.

CHAIR KING: Okay. Any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. So, so ordered.

Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with general communications for referral.

GENERAL COMMUNICATIONS

NO. 19-4 - RICARDO CEPIN, MGT OF AMERICA CONSULTING, LLC,
(dated October 10, 2019)

Transmitting a copy of the final report of the "FISCAL AUDIT PHASE I, MAUI COUNTY COUNCIL".

The recommended action is that General Communication No. 19-4 be referred to the Governance, Ethics, and Transparency Committee.

CHAIR KING: Okay. Mr. Clerk, do these, did this have any action attached to it? I wonder why it got separated from the rest.

COUNTY CLERK: Madam Chair, it's just because it's a general communication as opposed to a county communication.

CHAIR KING: Oh, okay. Okay. Any objections to the general communication being referred?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: No. Okay. So, ordered.

Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 19-121 - AFFORDABLE HOUSING COMMITTEE:

Recommending the following:

1. That Bill 53 (2019), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HUMAN SERVICES TO IMPLEMENT THE OHANA ZONE – KAHULUI AFFORDABLE HOUSING FOR HOMELESS FAMILIES", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-367, from the Director of Housing and Human Concerns.

CHAIR KING: Okay. Pro Tem Tasha Kama.

COUNCILMEMBER KAMA:

I MOVE THAT THE BILL ATTACHED TO COMMITTEE REPORT 19-21 [SIC], ENTITLED "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HUMAN SERVICES TO IMPLEMENT THE OHANA ZONE – KAHULUI

AFFORDABLE HOUSING FOR HOMELESS FAMILIES", BE
PASSED ON FIRST READING AND BE ORDERED TO PRINT,
AND THAT COUNTY COMMUNICATION 19-367 BE FILED.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER MOLINA: Second.

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

Ms. Kama.

COUNCILMEMBER KAMA: The purpose of the bill is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii for the Kahului Affordable Housing for Homeless Families Ohana Zone, a 12-unit rental housing project at the former dormitory site at Wahinepio and Kaahumanu Avenues. Under the agreement, Maui County would receive \$864,200 through June 2022 to fund property and wrap-around services provided by the project.

The recommendation for approval of this ordinance was unanimous by your Affordable Housing Committee. And I ask my fellow Councilmembers to honor that recommendation and vote affirmatively on my motion. Thank you.

CHAIR KING: Okay. Thank you, Pro Tem.

Member Hokama, followed by Member Molina.

COUNCILMEMBER HOKAMA: Chair, thank you. I speak in support of the motion before us this morning, Chair, with some reservations. I commend our Committee Chair, Ms. Kama for her steadfast devotion to bring housing to this island, to our County. I will say though, my disappointment, we've worked hard to make sure that this County has the financially where-with-all and standing to be able to move projects that we deemed worthy to move forward, Chair. You know, for me, is this 800,000 from the State worth us losing six years of having this built? Cause I've been waiting six years for the project, okay. And finally, it's coming cause the State, we want the State's 800,000.

I've worked hard so that we don't need that State money, that we should have built it six years ago. And that's where I still am today, Chair. We have the capacity to move our housing forward. And we shouldn't be waylaid because somebody else wishes to

give us money, and then we're going to wait six years for this project. That's not good enough for me, Chair. Thank you.

CHAIR KING: Okay. Thank you, Mr. Hokama.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. And I too express my support for this. And I thank Committee Chair Kama for ushering this through, and also the Administration. I know we've been a little tough on the Administration sometimes with regards to this, but I certainly appreciate the, their call to action on this, if you will. So, and I again, sometimes in dealing with the State there's a lot of frustration. And I can certainly echo Mr. Hokama's frustration with, with having to try to deal with the State. But now the ball is in our court and, and we're moving forward. And this Council is certainly showing its commitment to address this critical crisis of attainable housing. So, thank you.

CHAIR KING: Okay. Thank you, Mr. Molina.

Any other comments? If not, I'll call for the question. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero; unanimous.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 53 (2019).

COMMITTEE REPORT

NO. 19-122 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-180, entitled "AMENDING THE RULES OF THE COUNCIL RELATING TO THE COUNCIL CHAMBER," be ADOPTED.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE
REPORT NO. 19-122.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay, been moved by Member Molina, seconded by Member Sugimura.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Your GET Committee met on October 1, 2019, to discuss incorporating a rule change requiring structural, permanent, and rather than decorative, or non-emergency modifications to the chamber, and that it be discussed in a Chair's meeting prior to any funds being expended.

And mandated modifications relating to occupational safety and health could also be implemented without prior discussion for Council approval.

Your Committee voted 9-0 to recommend adoption of the proposed resolution. Thank you.

CHAIR KING: Okay. Thank you, Mr. Molina.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair, thank you. Very quickly, I speak in support of the motion. And I would tell you that, yea, I had a very, of course priority issue with the old chamber seal that we contracted out at the beginning of this building in the 60's. I will say that the Chair and I had a very good discussion.

And if the body would support this rule change, you know, I've mentioned to Chair King that I'll be working with the Clerk's Office to assist not only the Clerk's Office, but the family of, creator of our original seal, so that it can be placed in its, in an appropriate setting and follow any requirements that we need to for the benefit of the artist. So, I just wanted to say that and thank the Chair for her openness on this. Thank you.

CHAIR KING: Okay. Thank you, Mr. Hokama. I appreciate your willingness to help out in this issue.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: I'm just curious, what does that mean?

CHAIR KING: That's not--

COUNCILMEMBER HOKAMA: That means that I've been, the family has been in contact with me and we'll be working with the Clerk's Office, since they have responsibility of the chamber and this eighth floor, of potential areas that it can be properly displayed in the manner befitting the artwork.

COUNCILMEMBER SUGIMURA: Not in the chambers?

CHAIR KING: We don't know that yet.

COUNCILMEMBER HOKAMA: Yea, it may not be. But again, part of the, this process will be so that Clerk's Office and I will be sending recommendations to the Chair for final consideration. But we'll be working within the parameters of the potential rule adjustment.

COUNCILMEMBER SUGIMURA: I, I--

CHAIR KING: Do you want to speak to the motion and not, and this is kind of an aside, but do you want to speak to the motion that's on the floor?

COUNCILMEMBER SUGIMURA: Okay. I support the motion and the discussion that you guys are having. So, I just want to contribute to that, that I hope we then look at the tapestry and the Kagawa Family and bring forward the history and recognition that it deserves, because that's what you guys are talking about.

CHAIR KING: Well, yea, we're not, we're not really discussing the details of that. We're discussing the merits of the resolution.

COUNCILMEMBER SUGIMURA: So, I support the resolution.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I voted in support of this resolution in Committee. I brought this to the attention of our GET Chair that there may be a potential conflict within our rules. Rule 14 *[sic]* says, "Hold a Chair's meeting, as needed, to informally discuss matters that are within the decision-making authority of the Chair or a committee chair, that do not require Council approval". And in the resolution, it says, any structure, "structural, permanent fixture, or any other nonemergency modifications to the Council Chamber shall be approved, approved of, in a Chair's meeting prior to funds expended".

So, not sure how to, so I discussed that with our GET Chair. I don't know if there was any, we discussed potentially amending it on the floor to make it consistent. And I don't have a proposal to, to, to fix the conflict at this moment.

CHAIR KING: I did discuss this with--

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

CHAIR KING: --with our, our office of, our legal supervisor, and that it's real, if we change the words "shall be approved" to "shall be discussed", in a, a Chair's meeting, then it doesn't conflict. But if the idea is to try to have, take a vote, that's counter to another Council Rule that we have. So, we can send it back to Committee and have you work on the other Rule and change that, or we can change the language on the floor. What is your pleasure, Mr. Molina?

COUNCILMEMBER MOLINA: Madam Chair, I'm amenable to either one, because I was also considering the fact maybe possibly sending this back to Committee to work on that aspect of the Council Rules. But if the body is okay with maybe considering an amendment today, either way, I'm fine with it.

CHAIR KING: Okay. I'm, I'm open to whatever the body wants too.

COUNCILMEMBER MOLINA: Pleasure of the body.

CHAIR KING: Maybe since you're the Committee Chair, you could, what, what, you're, you're good either way. Okay.

COUNCILMEMBER MOLINA: I'd prefer to, my personal preference, if we could take care of it today; sooner the better.

CHAIR KING: Okay. Do you want to make an amendment? Or someone want to propose an amendment?

COUNCILMEMBER MOLINA: I'll leave it to my Committee Vice-Chair to propose the amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I move to amend the resolution, oh, okay, okay.

COUNCILMEMBER HOKAMA: Chair, if I may.

VICE-CHAIR RAWLINS-FERNANDEZ: Strike, strike that motion.

CHAIR KING: Mr. Hokama.

COUNCILMEMBER HOKAMA: I would ask, if there's no objection by the body, that the body consider this for end of calendar and allow Mr. Molina and Ms. Rawlins-Fernandez to take some time to actually write out the language that we would consider--

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: --for this morning, if that's the body's choice.

CHAIR KING: Okay. End of calendar today, you're talking?

COUNCILMEMBER HOKAMA: Yes.

COUNCILMEMBER MOLINA: No objection.

CHAIR KING: Okay. Is any, any objections to--

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. We'll defer this to the end of the--

VICE-CHAIR RAWLINS-FERNANDEZ: Do we need a motion to defer?

COUNCILMEMBER HOKAMA: No.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, we'll just--

CHAIR KING: No. If there's no objections, we'll just--

VICE-CHAIR RAWLINS-FERNANDEZ: Do we have to--

CHAIR KING: But you need to withdraw your motion.

VICE-CHAIR RAWLINS-FERNANDEZ: Withdraw the motion?

COUNCILMEMBER MOLINA:

YEA, I'LL WITHDRAW MY MOTION.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And the second. Good.

CHAIR KING: Okay. Actually, we had this, we had a, I mean, you were in Japan, Vice-Chair, but we had a training on protocol and that was one of the things that was discussed is you need to withdraw a motion, the main motion but not the second, just for everyone's edification.

(See pages 182 through 188 for discussion and action.)

CHAIR KING: Mr. Molina, oh, Mr. Clerk, the next.

COMMITTEE REPORT

NO. 19-123 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-178, entitled "AMENDING THE RULES OF THE COUNCIL RELATING TO POSTING ITEMS ON THE COUNCIL AGENDA," be ADOPTED.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE
REPORT NO. 19-123.

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. Your GET Committee met on October 1, 2019, to discuss incorporating a Rule change that would allow Councilmembers with a mechanism to prevent items or matters from being withheld for posting on a Council meeting agenda by the Council Chair unless the Council Chair receives permission in writing from the Councilmember transmitting the item to delay posting.

Your Committee voted 7-2 to recommend adoption of the proposed resolution. Thank you.

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

Ms. Sugimura, you have your light on.

COUNCILMEMBER SUGIMURA: Oh, no.

CHAIR KING: Okay. If not, call for the question. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure carries nine to zero.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-177 [sic]. 178; I apologize.

COMMITTEE REPORT
NO. 19-124 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-179, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30180343818-0001 OF GARRISON PROPERTY AND CASUALTY INSURANCE COMPANY, ON BEHALF OF ALAN DITCH," be ADOPTED.

CHAIR KING: Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT NO. 19-124.

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. Your GET Committee met on October 1, 2019, to discuss the proposed resolution to authorize settlement of this case.

The claim alleges damages to Alan Ditch's vehicle resulting from an unsecured gate that swung open on June 4, 2018, at Maui Lani Regional Park.

Your Committee voted 7-0 to recommend adoption of the proposed resolution. Thank you.

CHAIR KING: Okay, 7-0, so that was two "excused"? Okay.

COUNCILMEMBER MOLINA: That's correct.

CHAIR KING: Okay. Member Paltin.

COUNCILMEMBER PALTIN: I just, I'll be supporting this motion. And I, I informally spoke with guys from the Parks Department and they're already addressing the issues of the

gate being locked in the open position. So, if there was any worries that we weren't addressing the situation, I think that the Parks Department is on it. So, hopefully we don't see this type of thing again.

CHAIR KING: Okay. Great. Thank you for that follow up.

Any other discussion? If not, I'll call for the question. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero; unanimous.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-179.

CHAIR KING: Okay.

COMMITTEE REPORT

NO. 19-125 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 54 (2019), entitled "A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI COMMUNITY PLAN LAND USE MAP FROM SINGLE-FAMILY TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT LOWER MAIN STREET, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-4-018:106," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 55 (2019), entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-1 RESIDENTIAL DISTRICT TO P-2 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED

AT LOWER MAIN STREET, WAILUKU, MAUI, HAWAII, TAX MAP KEYS (2) 3-4-019:003 AND (2) 3-4-018:106," be PASSED ON FIRST READING and be ORDERED TO PRINT;

3. That the County Clerk RECORD the unilateral agreement; and
4. That County Communication 19-127, from the Planning Director, be FILED.

CHAIR KING: Okay. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 19-125.

COUNCILMEMBER SINENCI:

SECOND.

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

Ms. Paltin.

COUNCILMEMBER PALTIN: At its meeting on July 24, the Planning and Sustainable Land Use Committee considered these land use entitlements for St. Anthony's Church Schools.

The proposed changes are necessary to allow St. Anthony to construct the gymnasium with the proper height on its property. However, because the P-2 Public/Quasi-Public District zoning requested by St. Anthony allows many uses, your Committee recommended one condition of zoning to prohibit the following uses: cemeteries and crematoriums; fire and police stations; government buildings and facilities; hospitals; wastewater treatment facilities; and wastewater, and water treatment facilities. You know, it's just, it's like a .3-acre parcel, so it, it just, those things wouldn't fit in.

(Councilmember Kama was excused from the meeting at 10:01 a.m.)

COUNCILMEMBER PALTIN: And I wanted to mention that for the unilateral agreement to come back to us was the reason for the delay since it passed out of Committee on July 24. So, I respectfully ask the Members support for this motion. Thank you.

CHAIR KING: Okay. Thank you, Member Paltin. Any discussion? If not, I'll call for the question. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR KING: Measure passes eight to zero, one Member "excused"; Member Pro Tem Kama.

Mr. Clerk.

COUNTY CLERK: For the record, BILLS 54 and 55 (2019), respectively.

COMMITTEE REPORT

NO. 19-126 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 56 (2019), entitled "A BILL FOR AN ORDINANCE ADOPTING DIGITAL ZONING MAP (2) AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-346, from the Planning Director, be FILED.

CHAIR KING: Okay. Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 19-126.

COUNCILMEMBER SINENCI:

SECOND.

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

Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Last year, a Digital Zoning Map was made the official zoning map for the island of Maui.

Since that time, the Department of Planning identified 13 errors in the map that were, you know, just errors in transcription of getting the process or that lined up with everything else.

Your Committee reviewed each of these errors and the proposed corrections, which would go into effect if Digital Zoning Map (2) is adopted. I respectfully ask the Members support for my motion. Thank you.

CHAIR KING: Okay. Any discussion?

Member Hokama.

COUNCILMEMBER HOKAMA: Chair, I have one. I, I'm speaking in support this morning. I have some reservations, but I appreciate the work of our Committee Chair, Ms. Paltin. This is a, a big task that she's, she undertook on our behalf.

My one question would be, as far as the adjustments to the language on our bill, which is under B, 19.06.020 Maps. Under B, at the bottom of the proposed bill, if I can ask our, Ms. Paltin, just a clarification please, Chair. It says that the digital zoning map on file will make the determination. And then of course for people like me, always worried about the word "however, the digital zoning map shall be used to determine zoning boundaries and designations in the event of a conflict".

My question would be, was the thought of using the map as far as what Real Property does, because of the metes and bounds, we are now using parcel fabric so that the accuracy and information at RPT is the best we can have? And why wouldn't we make Planning and Zoning adjust to our RPT maps, which is the basis of, of everything for us?

CHAIR KING: Do, are, do you want to response from our--

COUNCILMEMBER HOKAMA: So, I'm, I was asking, maybe if Chair Paltin had some comment from Planning or Finance.

CHAIR KING: Okay. Cause I don't believe RPT was in that meeting. But Member Paltin, would you like to respond?

COUNCILMEMBER PALTIN: Oh, yea. RPT was not in the meeting. And my understanding of the situation is they're a long way off from that. I mean, that may be the goal in the future, but they're not there yet is, is my understanding. But maybe the Administration would be the better one and, and possibly my Committee can send a request on the timeframe if any of that occurring. But yea, my understanding is they're not near that point yet.

COUNCILMEMBER HOKAMA: Okay. Follow-up, yea, Chair.

CHAIR KING: Okay. Mr. Hokama.

COUNCILMEMBER HOKAMA: So, the status of not being ready, that was the comment from Planning on Finance or Finance comment on Finance?

COUNCILMEMBER PALTIN: I--

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: --imagine it was the comment on Planning on Planning, not any, I don't think they've even started talking to each other.

COUNCILMEMBER HOKAMA: Yea, see, cause when it comes to maps, I have very low confidence in Planning Department. I've seen a lot of things I don't want to see, including stick-ums.

COUNCILMEMBER PALTIN: That was like a, I think it was like a 18-year process just to get to this point, so I mean.

CHAIR KING: Well, we actually, we actually approved the maps last year in Planning Committee.

COUNCILMEMBER HOKAMA: Yea, I agree. I was--

CHAIR KING: And then, now they're going back and they're, they're making corrections. But it still hasn't, it hasn't been overlaid by the, by RPT at all.

COUNCILMEMBER PALTIN: Yea. Ideally, all the maps in the whole County would.

COUNCILMEMBER HOKAMA: Eventually.

COUNCILMEMBER PALTIN: Yea.

COUNCILMEMBER HOKAMA: That would be an overlay or underlay, yea. Yea, we--

COUNCILMEMBER PALTIN: Considering how long it took just to get where we are. I don't, I think we're far away from getting to where we want to be. But that's within the Administration's purview more so than us guys.

COUNCILMEMBER HOKAMA: Thank you, Chair. I'll follow-up--

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: --on my, on my own. But I appreciate Ms. Paltin giving comment. Thank you.

CHAIR KING: Okay. Thank you. And there were, there were questions about RPT when, in that meeting, so I think there's that general feeling from the Committee that they would like to understand both in relation to each other.

(Councilmember Kama returned to the meeting at 10:06 a.m.)

CHAIR KING: So, if there's, any other questions or comments? If not, I'll call for the question. This is on the Committee Report attached to see, Committee Report 19-126. All those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure passes nine, zero.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 56 (2019).

COMMITTEE REPORT
NO. 19-127 - WATER AND INFRASTRUCTURE COMMITTEE:

Recommending the following:

1. That Bill 57 (2019), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE U.S. GEOLOGICAL SURVEY, PACIFIC ISLANDS WATER SCIENCE CENTER, UNITED STATES DEPARTMENT OF THE INTERIOR (COOPERATIVE WATER-RESOURCE MONITORING PROGRAM)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-375, from the Director of Water Supply, be FILED.

CHAIR KING: Okay. Member Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS CONTAINED
IN COMMITTEE REPORT NO. 19-127.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR KING: Okay, moved by Member Lee, seconded by Member Hokama.

Ms. Lee.

COUNCILMEMBER LEE: Just to add to Mr. Clerk's summary description; Section 2.20.020, Maui County Code, provides that the Mayor shall not enter into any intergovernmental agreement which places a financial obligation upon the County or any department or agency unless authorized by ordinance.

CHAIR KING: Okay. Is everyone clear on that? So, so, meaning that this has no financial implications? This particular one.

COUNCILMEMBER LEE: Oh, no. There is. We're, we're splitting the cost of the monitoring.

CHAIR KING: Okay.

COUNCILMEMBER LEE: And the County will pay \$91,440, and USGS \$39,250.

CHAIR KING: Okay. So, not sure what the other, so what, the other was just a statement of the, the actual ordinance?

COUNCILMEMBER LEE: Yes.

CHAIR KING: Okay.

COUNCILMEMBER LEE: Requiring our approval.

CHAIR KING: Okay. Alright. Any questions on the comments? If not, call for the question. All those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 57 (2019).

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

ORDINANCES

ORDINANCE NO. _____
BILL NO. 50 (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 COUNTY CLERK (STATE OF HAWAII, ACT 136, SLH 2019 –
IMPLEMENTATION OF ELECTION BY MAIL SYSTEM)

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I ask the Clerk to also call up
Bill 51?

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: No. Okay. Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 51 (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,
DEPARTMENT OF MANAGEMENT
(ART WORKS, NATIONAL ENDOWMENT FOR THE ARTS)

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I take Bill 51 first out of order,
and then Bill 50?

CHAIR KING: Okay. You want to make the motion on Bill 51 first?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ:

I MOVE TO PASS BILL 51 ON SECOND AND FINAL READING.

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. Bill 51 will add to the Fiscal Year 2020 Budget a 75,000 grant from the National Endowment for the Arts for the Department of Management. The grant will be used for murals on the side of buildings in Wailuku Town. No further discussion, Chair.

CHAIR KING: Okay. Any other questions or anything? Any comments? If not, I call for the question. All those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero; unanimous.

Vice-Chair Rawlins-Fernandez on Bill 50.

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

I MOVE TO PASS BILL 50 ON SECOND AND FINAL READING.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Bill 50 will add to the Fiscal Year 2020 Budget a \$106,176 grant for the Office of County Clerk for implementation of the new Election by Mail System. And that's for this fiscal year and we expect to get a second installment next fiscal year. No further discussion, Chair.

CHAIR KING: Okay. Any other comments? If not, all those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Okay. Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 52 (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR
OF THE COUNTY OF MAUI TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH THE
DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII

CHAIR KING: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO PASS BILL 52 ON SECOND AND FINAL READING.

COUNCILMEMBER LEE:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR KING: Okay, moved by Member Molina, seconded by Member Lee.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Just to refresh everyone's memory, approval of this bill will allow the Mayor to enter into an intergovernmental agreement with the Department of Attorney General, State of Hawaii. And this is to authorize, I guess, acceptance of funds of up to \$54,962 for the Maui Police Department to use with their Domestic Violence Program. Thank you.

CHAIR KING: Okay. Any discussion?

COUNCILMEMBER HOKAMA: Mr. Hokama.

COUNCILMEMBER HOKAMA: I forgot to ask Mr. Molina one question. I support--

CHAIR KING: Go ahead.

COUNCILMEMBER HOKAMA: I'm in support of the motion. I just was unclear. When it says, "The Agency is the designated State Administering Agency", so we doing it only for our County or we doing it for all the departments in the State, Chair Molina?

CHAIR KING: Okay. Mr. Molina.

COUNCILMEMBER MOLINA: I believe it's just for our County if I'm correct. Maybe Corporation Counsel can provide clarity on that. But I know it's through MPD.

CHAIR KING: Ms. Lutey.

COUNCILMEMBER HOKAMA: It's in Section 1, Corporation Counsel. "The Agency is the designated State Administering Agency for purposes of distributing federal funds". So, I'm just asking if they need to take care our sister counties as well.

CHAIR KING: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair, I don't want to hold up the proceedings of this body, so I can follow up with Corporation Counsel later on.

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: The key is that Maui will get its finance. I just wanted to know if we took additional responsibilities to process for the three other sister counties.

CHAIR KING: Oh, okay.

COUNCILMEMBER HOKAMA: And I can follow up, Chair.

CHAIR KING: Is that something you can answer, Ms. Lutey, or should we?

CORPORATION COUNSEL: I can follow up with Member Hokama.

CHAIR KING: Okay. Is it, is that, are we, do you feel like you can vote on it?

COUNCILMEMBER HOKAMA: Yea, I can vote on it. Yea. I just wanted to know if we had additional responsibilities to other departments. Thank you.

CHAIR KING: Okay.

Mr. Molina.

COUNCILMEMBER MOLINA: Madam Chair, maybe I can add a little bit of clarity on that for Mr. Hokama. I believe part of the agreement requires that the County provide matching funds in the amount of \$18,321 as part of this agreement as well, if that'll help add to providing more clarification to allow--

CHAIR KING: So, that it's just for our County?

COUNCILMEMBER MOLINA: Yea.

CHAIR KING: The Police Department.

COUNCILMEMBER MOLINA: For what it's worth, yea. Thank you.

CHAIR KING: Thank you for that clarification.

Okay, if there's no other questions, call for the question. All those in favor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Okay. We have one more, we're, that we deferred to the end of the--

Did you, Mr. Molina, do you have the language?

COUNCILMEMBER MOLINA: Not at this time, Madam Chair.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: If we could just take our normal morning recess, I think we can hammer, do some wordsmithing--

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: --for a consideration to amend.

CHAIR KING: Okay. We're, is everybody okay with that? We'll take a morning recess, come back at 10:30. We're a little early, but this is the only other thing outstanding. So, I can promise to get you out of here by noon. Okay. Alright, recess 10:16.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:16 A.M., AND WAS RECONVENED AT 10:30 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS LEE AND PALTIN, EXCUSED.)

CHAIR KING: Okay, 10:30, we're reconvening for our final item.

And going back to Mr. Molina for his amendment. Mr. Molina.

**DISCUSSION AND ACTION RELATING TO
COMMITTEE REPORT NO. 19-122**

COUNCILMEMBER MOLINA: I guess, Madam Chair, I guess for the sake of procedure now, we need to put the motion back in play, cause I know I withdrew my original motion, right?

CHAIR KING: I think so.

COUNCILMEMBER MOLINA: Yea, okay.

CHAIR KING: Yea, I don't think you can, I think you have to put the motion and then do the amendment.

COUNCILMEMBER MOLINA: Okay. Alright, thank you very much.

SO, WITH THAT BEING SAID MADAM CHAIR, MOVE TO
ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT
NO. 19-122.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

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

Mr. Molina.

COUNCILMEMBER MOLINA: I guess, Madam Chair, there's a consideration for an amendment, so I'd like to yield the floor to my Committee Vice-Chair Ms. Rawlins-Fernandez.

CHAIR KING: Okay. Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO AMEND RULE 27 TO: 1) MODIFY THE TITLE OF THE RULE TO REMOVE WORDS "APPROVAL OF"; 2) MODIFY LANGUAGE FROM "APPROVAL OF" TO "DISCUSSED," AND 3) INCLUDING A NONSUBSTANTIVE REVISION TO ADD THE WORD "BEING", SO THAT RULE 27 WILL READ AS FOLLOWS: "RULE 27. MODIFICATIONS TO THE COUNCIL CHAMBER. ANY STRUCTURAL, PERMANENT FIXTURE, OR OTHER NONEMERGENCY MODIFICATIONS TO THE COUNCIL CHAMBER SHALL BE DISCUSSED IN A CHAIR'S MEETING PRIOR TO FUNDS BEING EXPENDED".

Mahalo, Chair.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Okay, moved, oh, I thought we already had a. Okay, moved by Vice-Chair Rawlins-Fernandez, second by Member Sinenci.

I think. Is there any other discussion needed?

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I, I don't have any problem with this. I just, for discussion, I just wanted to point out that's what happened right?

CHAIR KING: Right.

COUNCILMEMBER PALTIN: In this case? I mean, not in this Rule, but that's what happened with the seal?

CHAIR KING: Yea.

COUNCILMEMBER PALTIN: So, just pointing it out that nothing really changed or, I mean, it, I don't know. I'll support it.

CHAIR KING: Yea, I think it's, I think it's more of in the spirit of putting that in for, you know, before we expend funds and, you know, having maybe a broader discussion.

Mr. Hokama.

COUNCILMEMBER HOKAMA: I speak in support of the motion before us at this time, Chair. And I appreciate the efforts of all the Members trying to work out something that is workable. But I, I think, and I appreciate the, I think all the Members including yourself, have embraced the discussion of why we talked about it. And I believe moving forward, things will be smoother.

But my one suggestion, Chair, is that maybe at a future Chair's meeting, it might be helpful for, because you know for those of us that had been Chair like Ms. Lee, myself, and you, I think there's maybe some assistance we can provide by making the rest of the membership know what is under the Chair's authority for certain decisions. And I think maybe once we get that clarified, then we have a general understanding, I believe, then things can be really work, work out more smoothly, Chair. Thank you.

CHAIR KING: Okay. Thank you, Mr. Hokama. I, I appreciate that comment, because I am working on trying to, at the request of Ms. Lee, trying to put together a list of who has purview over what areas, because I was asked by Councilmember Lee who do I go to if I want to use the, the conference room on the eighth floor or the conference room on the seventh floor.

So, we're trying to, there are some old internal policies that were accepted, and they were revised but never accepted by the body. So, I'm working on that to try to figure out who has purview over what. Nothing's in the Charter or in our ordinances, so, and then we can come to some agreements and massage that if we want in the next Chair's meeting. So, thank you for, yea, absolutely.

Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: So, I wanted to also include a thought that maybe is explicit. But I wanted to be sure that any structural permanent fixture or other nonemergency modifications to the Council chamber shall be approved of by a majority of the full Council prior to funds expended.

CHAIR KING: That's actually the, the change that we're making because of the fact that there, there's another Council Rule that says that Chair's meetings are only made, are only for non-approval items.

COUNCILMEMBER SUGIMURA: Right. And I just wanted this item to also say, "by approval of the full Council".

CHAIR KING: Are you making a amend, are you proposing an amendment?

COUNCILMEMBER SUGIMURA: I'm sorry, by a majority of the full Council, so that it would be, you know, put to vote and discussed. So, it's not going to be one person's decision.

CHAIR KING: Are you making a proposed amendment?

COUNCILMEMBER SUGIMURA: Yea.

CHAIR KING: An amendment to the amendment? Right now, we have one amendment on the floor.

COUNCILMEMBER PALTIN: Can I have a--

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: --point of information?

CHAIR KING: Yes.

COUNCILMEMBER PALTIN: Did you mean that it's discussed at the Chair's meeting and then voted--

COUNCILMEMBER SUGIMURA: Approved.

COUNCILMEMBER PALTIN: --in the--

COUNCILMEMBER SUGIMURA: Approved by the majority of the Council.

COUNCILMEMBER PALTIN: At the Chair's meeting or at the Council meeting?

COUNCILMEMBER SUGIMURA: At the Chair's meeting is where we're talking about.

COUNCILMEMBER PALTIN: Oh. Cause that's what it used to say and, and that conflicted with a existing other Rule. Because you're not supposed to take votes in Chair's meeting.

CHAIR KING: That's correct.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. I think Member Paltin kind of said what I was going to say. You can discuss it in a Chair's, but you cannot formally vote on, especially when it comes to funds. The vote has to take place for a funds at a regularly scheduled Council meeting if I'm correct.

CHAIR KING: Yea, and I think the, I think that's the, the spirit of discussion would be, you know, if we're talking about thousands of dollars and, and Councilmembers have some reservations then that might be something that the Chair could refer to the EDB Committee before spending. So, the, the discussion hopefully will be fully informed.

COUNCILMEMBER MOLINA: Yea, so the mechanisms in place already--

CHAIR KING: Right. The mechanism--

COUNCILMEMBER MOLINA: But I appreciate Member Sugimura trying to bring light to this, but I believe we have the mechanisms that ensures that any expenditure of funds will take place; one in Committee and then go onto the full Council for final--

COUNCILMEMBER SUGIMURA: So, question.

CHAIR KING: Yes, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Chair, so the seal that you have behind you, how much did it cost? And when was the decision made?

CHAIR KING: I don't, yea, I don't have that information. But we can--

COUNCILMEMBER SUGIMURA: So, maybe we can get that. Because, just in--

CHAIR KING: --we can, if you, if you have some, if you have some questions, you can follow up, you know--

COUNCILMEMBER SUGIMURA: I will. Just in light of what Chair, you know, Mr. Molina said, right, and what you said. So, you're saying that if it costs a certain amount of money, it would come to the full Council to be discussed?

CHAIR KING: I'm suggesting that be, that this would, this would have promulgate that, this discussion. And, and if there is concern and, and folks wanted to, then that could happen.

COUNCILMEMBER SUGIMURA: And I, I guess the thought then, that I have, based upon the discussion right now on the floor is, at what dollar amount threshold does something get thrown to the full EDB Committee? And then at what point does the Chair have, and with discussion with the Council?

CHAIR KING: Yea, that's, yea, there's, right now there's no, there's no threshold or anything, so.

COUNCILMEMBER SUGIMURA: So, we should establish one then.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I believe that's what Member Hokama was saying in his initial comments, is that we would like to know in detail what is under the Chair's authority. And I believe that Member Sugimura's concern would fall under that matter, and so that can be addressed at that time.

And I, I wanted to read the Rule one more time. Council Rule 6A, 14, "Hold a Chair's meeting, as needed, to informally discuss matters that are within the decision-making authority of the Chair or a committee chair, that do not require Council approval". And so, approval cannot take place, votes cannot take place in a Chair's meeting. Informally discuss, informal discussion is what happens in a Chair's meeting. So, that is the purpose for my motion, which amends it, which amends the resolution to remove the word "approval of" and replace it with the word "discussed" to be consistent with our Council Rules. Mahalo, Chair.

CHAIR KING: Okay. Mahalo. Okay, if there's no other discussion, all those in favor of the amendment on the floor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER LEE.

CHAIR KING: Measure passes eight to zero, one "excused"; Member Lee, or actually "absent", Member Lee.

This is another thing that we learned in our, our protocol; is that when it comes to the vote that you, you have to, you have to say that someone's "absent", the vote is "absent", not "excused". So, anyway, we're, I'm trying to follow some of the, the new protocol that we learned about at the, I think there were four of us present.

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

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER LEE.

CHAIR KING: Measure passes eight "ayes", one "absent"; Member Lee.

Okay. Mr. Clerk.


COUNTY CLERK: For the record, RESOLUTION 19-180.

And there's no further business before the Council.

CHAIR KING: 19-180. Okay, Members, thank you very much for showing up today, and getting us, getting our, our October 18 meeting done. So, this, I'm going to adjourn the, the reconvened meeting of October 18, 2019, and have a great day; 10:40.

ADJOURNMENT

The regular meeting of October 18, 2019 was adjourned by the Chair on October 29, 2019 at 10:40 a.m.



**JOSIAH K. NISHITA, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII**

County Clerk

From: Linda Lyerly <llyerly7@gmail.com>
Sent: Wednesday, October 16, 2019 10:59 AM
To: County Clerk
Cc: Sierra Club Maui Group Rob Weltman; laluzmaui@gmail.com
Subject: CC 19 -420 for this Friday 16th meeting.

RECEIVED

2019 OCT 16 AM 11:39

OFFICE OF THE
COUNTY CLERK

Aloha Chair Kelly King and Council Members,

I am submitting testimony in encouragement to go forward with this resolution To procure independent council In order to 1. Stop abuse of Mayor and his council in refusing to abide by your council's decision to settle Lahaina injection well case. 2. To mandate that no one is above the law. 3. To stop public Funding towards this abusive action. 4. To safe guard our environmental rights Of the Clean Water Act since 1972. 5. 2 courts have already upheld our State Law.

Sincerely, Linda Lyerly.
100 Ala Hoku Pl., Lahaina 96761
808-868-6402 cell

From: Barbara Barry <begoniabarry@gmail.com>
Sent: Tuesday, October 15, 2019 5:47 PM
To: County Clerk
Subject: CC 19-420

RECEIVED
2019 OCT 16 AM 8:06
OFFICE OF THE
COUNTY CLERK

Aloha Chair King and Council Members,

I support Maui County Council's hiring of it's own independent attorney since the Corporation Council has sided with the Trump Administration and a nationwide class of polluters in insisting that the injection well appeal go forward.

Since the majority of the Council Members have voted to settle the case which is well within their jurisdiction to do, the Mayor needs to be reminded of his responsibility to support what the Council has decided upon through countless hours of their time as well as countless hours of taxpaying citizens who have showed up to testify on this important matter. All this money could be spent on moving forward with a long term workable solution instead of paying millions of dollars to California Attorneys. This is appalling to me.

Corporation Council is suppose to work for the County Council. If they did that then hiring an independent attorney to advise the Council would not be an issue.

Since the Mayor and Corporate Council are still stonewalling the process of coming up with a long term, responsible solution, an independent attorney needs to be hired to protect the Council and the will of the people.

Council Members Yuki Lea Sugimura, Alice Lee and Tasha Kama should be ashamed of themselves for wasting taxpayers money and precious time with their charades.

The people are not impressed with their behavior throughout this whole debate.

There are many important things to be fighting for but this fight should be over, time to get to work on finally fixing the problem instead of stonewalling the process.

Mahalo for supporting hiring an independent attorney to clarify why this IS a done deal.

Mahalo to the Council Members to voted for settling this lawsuit and being willing to get to work to finally solve the problem. I appreciate you all so much and you will have my vote in the next election.

Ms. Barbara Barry

Ha'ikū

[§5-7.5] "Aloha Spirit". (a) "Aloha Spirit" is the coordination of mind and heart within each person. It brings each person to the self. Each person must think and emote good feelings to others. In the contemplation and presence of the life force, "Aloha", the following unuhi laula loa may be used:

- "Akahai", meaning kindness to be expressed with tenderness;
- "Lokahi", meaning unity, to be expressed with harmony;
- "Oluolu", meaning agreeable, to be expressed with pleasantness;
- "Haahaa", meaning humility, to be expressed with modesty;
- "Ahonui", meaning patience, to be expressed with perseverance.

These are traits of character that express the charm, warmth and sincerity of Hawaii's people. It was the working philosophy of native Hawaiians and was presented as a gift to the people of Hawaii. "Aloha" is more than a word of greeting or farewell or a salutation. "Aloha" means mutual regard and affection and extends warmth in caring with no obligation in return. "Aloha" is the essence of relationships in which each person is important to every other person for collective existence. "Aloha" means to hear what is not said, to see what cannot be seen and to know the unknowable.

(b) In exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the "Aloha Spirit". [L 1986, c 202, §1]

Previous

Vol01_Ch0001-0042F

Next

from your haiole
friend

Jasee Law

OFFICE OF THE
COUNTY CLERK

2019 OCT 17 PM 3:02

RECEIVED

County Clerk

From: Diane Appler <dianeappler@gmail.com>
Sent: Wednesday, October 16, 2019 10:50 AM
To: County Clerk
Cc: Diane Appler
Subject: CC 19-420 Testimony

RECEIVED
2019 OCT 16 AM 10:53
OFFICE OF THE
COUNTY CLERK

I strongly urge the action of getting the mayor to uphold the decision of the County Council to settle the case.

-But since the council indicates he has no jurisdiction, he should not be standing in the way, and the council decision should be followed. The path of least cost and resistance is to have the Mayor uphold the decision whether or not he had jurisdiction and don't hire the lawyers. But if the Mayor won't support the council, I agree to hire lawyers to settle the matter. I would rather the county coffers not be tapped to pay lawyers to fight lawyers, and the money come back to other needed programs here on the island.

-Maui County cannot let this decision be stalled any further, nor do we want to be in the limelight as to promoting further destruction of our water quality and the impact it will bring on our environment. We rely on tourism here for the livelihood of the most of the island residents, including me. More and more people are coming to the island, more and more waste water.

With Aloha

Diane Appler
3418 Kuaua Place
Kihei, Maui, Hawaii

+1 408-314-1627

RECEIVED

From: Bodhi <bodhi@doorwayintolight.org>
Sent: Thursday, October 17, 2019 7:35 AM
To: County Clerk
Subject: Written Testimony CC 19-420

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

Aloha,

This is my written testimony urging the County Council to approve the hiring of independent counsel in the matter of CC 19-420.

Reverend Bodhi Be
PO Box 1268
Haiku, HI 96708
(808) 283-5950

County Clerk

From: Jonathan Boyne <boyne@hawaii.edu>
Sent: Wednesday, October 16, 2019 12:00 PM
To: County Clerk
Subject: Re: CC 19-420. The only way to achieve a fair resolution to Hawai'i Wildlife Fund, et al. v. County of Maui is for the Council to have its own, independent lawyer.

Dear Maui County Councilmembers,

Councilmembers, you must see that the only way to achieve a fair resolution to Hawai'i Wildlife Fund, et al. v. County of Maui is for the Council to have its own, independent lawyer.

On September 20, the County Council approved a resolution to settle Hawai'i Wildlife Fund, et al. v. County of Maui, which is currently scheduled for oral argument before the U.S. Supreme Court on November 6. Maui County uses the Lahaina Wastewater Reclamation Facility (LWRF) to dispose of millions of gallons of treated wastewater daily into injection wells. The polluted water flows underground into the Pacific Ocean, killing the reef.

The County's position that this pollution cannot be regulated under the Clean Water Act is supported by the Trump Administration and a host of the nation's dirtiest industries..

Now that the Council has decided to end the case, Corporation Counsel refuses to execute the settlement and withdraw the appeal, claiming that only the mayor has the authority to settle the case.

This is a violation of Corporation Counsel's responsibilities towards the Council, which is a client.

Section 2.2 of the Maui County Charter says in the section titled "Exercise of Powers" that "if the Charter makes no provisions" then powers of the county shall be carried out "by ordinance or resolution of the County Council."

In this case, since the Charter doesn't expressly give power to the executive branch to control the litigation, the County Council is able to do so via resolution.

Because of this disagreement, Council Chair Kelly King is asking that the Council vote to approve a resolution authorizing the Council to hire its own attorney to resolve this "crisis of the charter."

Councilmembers, you must see that the only way to achieve a fair resolution to this dispute is for the Council to have its own, independent lawyer.

Corporation Counsel, the office that is mandated to represent the County as a whole, has sided unequivocally with the Trump Administration and a nationwide class of industrial polluters in insisting that this appeal go forward.

That should tell you that this decision is on the wrong side of history.

The people of Maui have spoken through their public testimony and their elected representatives, and their voice is being silenced.

Sincerely,

Jonathan Boyne

RECEIVED
2019 OCT 16 PM 12: 37
OFFICE OF THE
COUNTY CLERK

RECEIVED

From: Bill Evans <billev2k@gmail.com>
Sent: Wednesday, October 16, 2019 6:21 PM
To: County Clerk
Subject: CC 19-420

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

To whom it may concern,

I am a resident of Haiku, Maui County. I am writing to express my support for a resolution by the Council authorizing the Council to hire an independent attorney, to assist in the resolution of questions surrounding the Council's vote to withdraw the appeal regarding the Lahaina Wastewater Reclamation Facility case.

The County Council can not perform the tasks for which we elected them without proper legal support, and due to the intransigence of the Corporation Council on this matter, it is imperative that the Council hire their own attorney.

Thank you for your attention and consideration.

Sincerely,

William Evans
Haiku

RECEIVED

From: Gordon Firestein <gfirestein@seapact.com>
Sent: Thursday, October 17, 2019 8:19 AM
To: County Clerk
Subject: CC 19-420

2019 OCT 17 AM 8:52

OFFICE OF THE
COUNTY CLERK

Aloha Councilmember,

I am writing in support of the resolution to retain independent counsel to enforce your decision to settle the injection well lawsuit.

It is vitally important that this lawsuit be withdrawn before oral arguments at the Supreme Court next month.

It is equally vital that the council's right to make this decision be upheld.

Sincerely,

Gordon Firestein
Lahaina

RECEIVED

From: Steve Forman <stevenmforman@yahoo.com>
Sent: Wednesday, October 16, 2019 9:41 PM
To: County Clerk
Subject: Independent Counsel

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

I support the Council's decision to hire an independent Attorney to represent them in the Lahaina injection well dispute

RECEIVED

From: Michael Gach <mrgach@att.net>
Sent: Wednesday, October 16, 2019 5:26 PM
To: County Clerk
Subject: Reference : CC 19-420

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

To the County Maui Clerk —

As residents of Maui, I urge the Council to approve the hiring of independent counsel.

To achieve a fair resolution to this dispute the Council must have its own, independent lawyer. Corporation Counsel, the office that is mandated to represent the County as a whole, has sided unequivocally with the Trump Administration and a nationwide class of industrial polluters in insisting that this appeal go forward. The people of Maui have spoken through their public testimony and their elected representatives, and their voice must be heard skillfully now in court.

With sincere Aloha —

Barbara & Michael Reed Gach, Ph.D.
Residents & Home Owners in Kihei
PO Box 1808 Kihei, HI 96753

RECEIVED

From: Lisa Maria <lisa.on.lanai@gmail.com>
Sent: Thursday, October 17, 2019 6:04 AM
To: County Clerk
Subject: testimony re: "CC 19-420"

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

I strongly support the Maui County Council in their effort to secure an independent attorney to represent Maui's legislators in its dispute with Corporation Counsel and the Mayor's office over the authority to settle the Lahaina injection wells case.

Thank you for your consideration.

Lisa Galloway, PhD
Lana'i City, HI 96763

From: Brett Gobar <uluusurf@gmail.com>
Sent: Thursday, October 17, 2019 10:44 AM
To: County Clerk
Subject: support council hiring independent counsel to oppress corp. counsel

Corporate Counsel and Mayor are way out of line and should be removed from Office promptly

Brett Gobar Broker Gobar Realty

808 633 6916..above signature & msg.is nonbinding; any contract must be in detailed writings & signed personally by
brett gobar

RECEIVED

2019 OCT 17 AM 11:37

OFFICE OF THE
COUNTY CLERK

RECEIVED

From: Debra Greene <debra@DebraGreene.com>
Sent: Thursday, October 17, 2019 7:45 AM
To: County Clerk
Subject: CC-19-420 Hire Indepent Counsel

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

As a constituent of Maui County, I am appalled that the Maui County Charter is not being followed with regard to the injection well issue. The people have spoken and the Council has voted to represent the will of the people, yet this is not being carried out. The only way to achieve a fair resolution to this dispute is for the Council to have its own, independent lawyer. Please approve hiring independent counsel.

Debra

Debra Greene, PhD
debra@debragreene.com

RECEIVED

From: Kevin Hagan <kthagan@yahoo.com>
Sent: Wednesday, October 16, 2019 9:40 PM
To: County Clerk
Subject: CC 19-420 -- support for hiring independent counsel

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

Hello County Council,

My name is Kevin Hagan and I am a resident of Paia on Maui. I am writing to express my support for securing an independent attorney to represent Maui's legislators in its dispute with Corporation Counsel and the Mayor's office over the authority to settle the Lahaina injection wells case. I am disappointed that Corporation Counsel refuses to execute the settlement and withdraw the appeal, claiming that only the mayor has the authority to settle the case. This is a violation of Corporation Counsel's responsibilities towards the Council, which is a client. I believe that the only way to achieve a fair resolution to this dispute is for the Council to have its own, independent lawyer.

Thank you,

Kevin Hagan
2455 Waipua St
Paia, HI 96779

kthagan@yahoo.com

RECEIVED

From: Cory Harden <333cory@gmail.com>
Sent: Wednesday, October 16, 2019 10:32 PM
To: County Clerk
Subject: lawyer CC 19-420

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

Hello Council, yes, you deserve your own lawyer! The waters of Maui and the entire United States are at stake! Many mahalos for your efforts to protect the water. aloha, Cory Harden, Hilo

From: Joan Heartfield <joan@talkinghearts.com>
Sent: Wednesday, October 16, 2019 11:21 AM
To: County Clerk
Subject: reference "CC 19-420."

RECEIVED
2019 OCT 16 PM 12:36

OFFICE OF THE
COUNTY CLERK

the only way to achieve a fair resolution to this dispute is for the Council to have its own, independent lawyer. Corporation Counsel, the office that is mandated to represent the County as a whole, has sided unequivocally with the Trump Administration and a nationwide class of industrial polluters in insisting that this appeal go forward. The people of Maui have spoken through their public testimony and their elected representatives, and their voice is being silenced.

approve the hiring of independent counsel.

Sincerely,

Joan Heartfield, PhD
232 Door of Faith Rd
Haiku, HI 96708

From: Sulara James <sulara@mind.net>
Sent: Wednesday, October 16, 2019 11:32 AM
To: County Clerk
Subject: CC 19-420

RECEIVED
2019 OCT 16 PM 12:36

OFFICE OF THE
COUNTY CLERK

Dear Council Members,

I strongly urge you to approve the hiring of independent council to resolve this matter!

Thank you, Sulara James

From: Kelly King
Sent: Thursday, October 17, 2019 8:53 AM
To: County Clerk
Subject: FW: CC 19-420

RECEIVED
2019 OCT 17 AM 9:02
OFFICE OF THE
COUNTY CLERK

With Aloha,



Office of Council Chair Kelly T. King
South Maui Residency
Office: 808.270.7108
200 South High Street, 7th Fl
Wailuku HI 96793
maucounty.us

From: Doris Lang <doelang@yahoo.com>
Sent: Wednesday, October 16, 2019 8:13 PM
To: Kelly King <Kelly.King@maucounty.us>
Subject: CC 19-420

Aloha Council Member Kelly King

I am writing to you in supporting to approve hiring of independent counsel. We need to stop this once and for all from going to the Supreme Court.

Mahalo and Aloha,
Doris Lang
Launiupoko

County Clerk

From: Martha E. Martin <mauimarttha@gmail.com>
Sent: Wednesday, October 16, 2019 10:51 AM
To: County Clerk
Subject: CC 19-420

RECEIVED
2019 OCT 16 AM 10: 53
OFFICE OF THE
COUNTY CLERK

My name is Martha Martin. I am a voter from Kahului, HI.
In cases where the Mayor and the Council disagree, the County Council
lawyer acts for the Mayor. Then the County Council needs an
independent lawyer to act.

I support withdrawing the Lahaina wastewater lawsuit before the Supreme Court and I support hiring an independent lawyer to
follow the decision of the
County Council (which voted to withdraw the case).

Mahalo,
Martha Martin
40 Kunihi Lane #226
Kahului, HI 96732 808-868-0300

October 16.2019

Delfin Yoshida

From: Rita Massey <ritahands@yahoo.com>
Sent: Thursday, October 17, 2019 4:36 PM
To: County Clerk
Subject: Testimony re: CC 19-420 appointment of Special Counsel for County Council

Aloha Council members,

I am submitting my testimony in favor of CC 19-420 to appoint a Special Counsel to represent the County Council and get clear on whether the County Charter supports the Council in overriding the wishes of the Mayor to continue with the Lahaina injection wells case, to settle the case instead.

We need to be clear on the intent of the County Charter and not set precedents of allowing expedient interpretations of it that don't reflect its intent in balancing the powers of government. Does the Mayor have a right to go against a vote of the Council on an issue that involves money? I don't feel the Corporation Counsel is being objective here; they have a definite agenda to move forward with the case. I don't believe they should have more say than an elected body.

Hiring a Special Counsel does not guarantee one outcome or interpretation or another; hopefully it will bring an objective big picture view to preserve the integrity of the Charter.

Please vote yes to appoint a Special Counsel to give us that objective view.

Thank you.

Rita Massey
613 Luana Place
Kihei, HI 96753
808-633-1497

RECEIVED
2019 OCT 18 AM 7:53
OFFICE OF THE
COUNTY CLERK

County Clerk

From: MauiMercer <mauimercer@gmail.com>
Sent: Wednesday, October 16, 2019 10:48 AM
To: County Clerk
Subject: CC 19-420

RECEIVED

2019 OCT 16 AM 10: 53

OFFICE OF THE
COUNTY CLERK

Aloha County Council members,

I am writing to urge you to approve the hiring of an independent counsel for the Lanai injection wells case. I am in 100% support of the decision the County Council made regarding the settlement of this issue. I am very disappointed that the Mayor is not carrying out the Councils decision and believe it is important to do what is necessary to force the Mayor and Corp Council to execute the settlement and withdraw of this case from the Supreme Court.

Janet Mercer
A voting Haiku Resident

RECEIVED

From: Renee Miller <reneclare5@gmail.com>
Sent: Thursday, October 17, 2019 9:49 AM
To: County Clerk
Subject: CC 19-420

2019 OCT 17 AM 9: 54

OFFICE OF THE
COUNTY CLERK

Dear Maui County Council,

I urge you to vote to approve the hiring of independent counsel in the face of current counsel blatantly disregarding your will (our will!) in the Injection Well matter. This is outrageous behavior on Moana Lutey's part, behavior that must be met with swift and decisive action to preserve the Constitutional power of the Maui County Council.

Respectfully,
Renee Miller
Kahului, HI

County Clerk

From: Mike Moran <mmmmahalo2000@aol.com>
Sent: Wednesday, October 16, 2019 11:59 AM
To: County Clerk
Cc: Kelly King
Subject: KCA testimony in support of securing independent attorney October 18, 2019

Aloha Chair King and County Council

Mike Moran President of KCA speaking for the Association

We support the Maui County Council in securing an independent attorney to represent Maui's legislators in its dispute with Corporation Counsel and the Mayor's office over the authority to settle the Lahaina injection wells case.

**Mahalo,
Mike Moran**

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2019 OCT 16 PM 12:36
OFFICE OF THE
COUNTY CLERK

TESTIMONY TO COUTY COUNCIL FRIDAY OCT 18 2019 IN SUPPORT OF CC 19-402 COUNCIL CHAIR KING, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40, MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION".

Aloha Chair King and Council members ;

Mike Moran for the Kihei Community Assoc (KCA)

We were at Council two weeks ago to express community support for this action, and thought we had achieved it until Mike Molina and the six minutes delayed it 2 weeks. So today we repeat our request for Council support

During the 2 week hiatus we encountered a matter which can offer a good example of one of the benefits of having this committee in place.

Almost a year ago, the prior Council, in spite of community opposition, voted to send a matter requesting a change of zoning for undeveloped land to the Maui Planning Commission (MPC) . Now it appears the MPC plans to address this matter at its Nov 12. meeting.

There never have been any public meeting in the South Maui District on this matter. So if the community wants to express there manao, they have to travel to Wailuku on a Tuesday morning and plan to potentially devote several hours, depending where the matter falls on the agenda, to be permitted to address the appointed volunteer island wide commission.

Were the South Maui Advisory Committee established, the community could attend an **evening** meeting right in their **own district**, where they could offer their manao to an appointed volunteer committee composed of all **local**

district residents. Then that committee would offer that information to the MPC.

We came to you two weeks ago because we felt it is so important to our region to have some “official” input concerning development, since in spite of the verbiage in our current community plan, development is nowhere near concurrent with infrastructure.

Because of limitations of an all volunteer unfunded group, we are not able to continuously do so, so we ask you to give strong consideration to this written submission,

Again we thank you Chair for instituting a So Maui Advisory Committee and we hope it is officially in place to start the new year. Mahalo.

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2019 OCT 16 PM 12: 37

OFFICE OF THE
COUNTY CLERK

From: Michele Paularena <marvshel@gmail.com>
Sent: Wednesday, October 16, 2019 1:22 PM
To: County Clerk
Subject: CC-19420

RECEIVED
2019 OCT 16 PM 3:15
OFFICE OF THE
COUNTY CLERK

Dear County Clerk,

Please hire independent council to solve the injection well case. The case should not go to the Supreme Court.

Thanks,
Michele Paularena
Kahului

From: Tom Pierce <tom@mauilandlaw.com>
Sent: Wednesday, October 16, 2019 8:24 AM
To: County Clerk
Subject: Testimony in favor of CC 19-420

RECEIVED
2019 OCT 16 AM 9:50
OFFICE OF THE
COUNTY CLERK

Aloha,

I support hiring an independent attorney to challenge the Corporation Counsel's interpretation of the charter. To the extent the Mayor is reluctant to act due to budgetary constraints, the County Council should assist the administration with identifying a source of funds for the required mitigation.

Thank you for your consideration.

Tom Pierce Attorney at Law LLC mauilandlaw.com . [LinkedIn](#)
PO Box 798, Makawao, HI 96768 . Phone: 808-573-2428 . FAX: 866-776-6645

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County Clerk

From: Joan Salvato <nookie1916@gmail.com>
Sent: Wednesday, October 16, 2019 11:36 AM
To: County Clerk
Subject: Attorney

Please think of the native Hawaiian's and citizens of Maui when you Help them, an independent attorney is necessary

Sent from my iPhone

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2019 OCT 16 PM 12: 37
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Annette Schmidt <annettejpschmidt@gmail.com>
Sent: Wednesday, October 16, 2019 11:17 AM
To: County Clerk
Subject: CC 19-420

RECEIVED
2019 OCT 16 AM 11:39

OFFICE OF THE
COUNTY CLERK

Dear County Council.

I am urging the County Council to hire independent legal counsel. It is the will of the people in this county to settle the injection well case.

Thank you,

♥ Annette Julia Pearson Schmidt
74 Laukahi Street
Kihei, HI 96753
925-216-0381

annettejpschmidt@gmail.com

Let love be my legacy...

From: Mark Sheehan <mark@marksheehan.com>
Sent: Thursday, October 17, 2019 8:10 AM
To: County Clerk
Cc: Sheehan, Mark
Subject: CC19-420

RECEIVED
2019 OCT 17 AM 8:52
OFFICE OF THE
COUNTY CLERK

Dear County Council Members,

Of course you should have your own counsel. Clearly the Corporation Council staff is conflicted in the light of past action and by recent statements by Ms. Lutey.

You must have your own attorney to provide objective, unbiased advice in the wastewater matter as well as other issues.

Please take this action ASAP.

Mark Sheehan
Haiku

From: John Shockley <shockleyjr@gmail.com>
Sent: Wednesday, October 16, 2019 5:06 PM
To: County Clerk
Cc: Rita Shockley; Stuart Coleman; Rafael Bergstrom
Subject: Independent Council

RECEIVED
2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

We support the Sierra Club of Maui.

Let's resolve this sewage injection problem as quickly as possible.

John & Rita Shockley
Free Access Coalition facilitators. www.freeaccesscoalition.weebly.com

From: Jette <jette@vcasa.net>
Sent: Thursday, October 17, 2019 1:16 PM
To: County Clerk
Subject: CC 19-420

I strongly support the Counsel to hire an independent counsel! Shameful the mayor is not supporting this county's decision making and the voice of the people!

Sincerely,

Jette Slater,

55 E. Waipio Rd.

POB 790913, Paia, HI 96779

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COUNTY CLERK

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From: Steve Slater <steve@vcasa.net>
Sent: Thursday, October 17, 2019 12:59 PM
To: County Clerk
Subject: Testimony CC 19-420

2019 OCT 17 PM 1: 24

OFFICE OF THE
COUNTY CLERK

This is disgusting. If the corporate counsel had any question about jurisdiction it should've been done before allowing well over 200 people to testify and waste their time. If a competent corporate counsel had had any doubts he should've investigated it before taking the time of the entire county council to go over this resolution. Only if there were alternative motives hoping that the resolution would fail and then using this corrupt attempt at contesting jurisdiction, can this corrupt action be understood.

Section 2.2 of the Maui County Charter says in the section titled "Exercise of Powers" that "if the Charter makes no provisions" then powers of the county shall be carried out "by ordinance or resolution of the County Council." In this case, since the Charter doesn't expressly give power to the executive branch to control the litigation, the County Council is able to do so via resolution.

There's an executive dictator in the oval office, our x-insurance agent is feeling his oats. Now his citizens are dead tired of this kind of governance. Maybe it's time to let our visitors know about what kind of corrupt government we actually run here.

I fully support the hiring of an independent counsel NM disgusted that the council that we pay tax payer money to is a Wanabee Giuliani

Delfin Yoshida

From: Anne Summers <annesummers101@gmail.com>
Sent: Thursday, October 17, 2019 10:01 PM
To: County Clerk
Subject: CC 19-420: Lahaina Injection Well Case

Aloha County Council Members:

As a resident and citizen voter of Maui, I urge you to settle the Lahaina Injection Well case. Maui's County Council was elected to be the "voice of the people." Since our mayor refuses to honor the majority vote of our County Council then I support the council hiring a lawyer to resolve this crisis.

Many citizens, such as myself, will remember this moment in the history of Maui and our country and what side you were on. Protect our island waters and land for our people and future generations.

Respectfully Yours,

Anne Harue Summers

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2019 OCT 18 AM 7: 53
OFFICE OF THE
COUNTY CLERK

From: Marta Sweeney <amakih9@gmail.com>
Sent: Wednesday, October 16, 2019 2:28 PM
To: County Clerk
Subject: Approve the hiring of Independent Council

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2019 OCT 16 PM 3:15

OFFICE OF THE
COUNTY CLERK

Aloha Council Members, we write this letter in total support of hiring an Independent council, as per subject line CC19-420. It is obvious that there is stonewalling taking place on the part of Mayor Victorino, and 4 other council members who do not wish to abide by the vote of the majority of council who voted to resolve the settlement of this long standing, important environmental issue. Please do what is PONO, and do right by the people who came out in droves to speak out for the well-being of our precious Ocean & its creatures who are voiceless if not for its citizens who care.

Respectfully,
Marta & Brian Sweeney
Haiku,Hi. 96708

Delfin Yoshida

From: Madolin Wells <wellsmadolin@gmail.com>
Sent: Thursday, October 17, 2019 4:15 PM
To: County Clerk
Subject: CC 19-420

To the County:

I urge the County and Council members to hire independent counsel to represent the people of Maui County. This is crucial for fair and even consideration of CC 19-420.

I hope that once hearing all the information, you will decide to support the resolution.

Thank you,

Madolin Wells

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2019 OCT 18 AM 7: 53
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COUNTY CLERK

From: Pete Wilson <perhansahi@gmail.com>
Sent: Wednesday, October 16, 2019 2:58 PM
To: County Clerk
Subject: cc19-420

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2019 OCT 16 PM 3:15

OFFICE OF THE
COUNTY CLERK

Because there is no reason that a government entity in the State of Hawaii should be allowed to release pollution into the air, land or water of this planet I encourage the County council of Maui to hire a lawyer to pursue a case to stop the Mayor of Maui from going contrary to the will of the people. This is a violation of Corporation Counsel's responsibilities towards the Council, which is a client. Section 2.2 of the Maui County Charter says in the section titled "Exercise of Powers" that "if the Charter makes no provisions" then powers of the county shall be carried out "by ordinance or resolution of the County Council." In this case, since the Charter doesn't expressly give power to the executive branch to control the litigation, the County Council is able to do so via resolution.

The people have spoken that should be the end of it.

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From: Nathan Yuen <808nateyuen@gmail.com>
Sent: Thursday, October 17, 2019 6:05 AM
To: County Clerk
Subject: Maui County Needs Outside Counsel

2019 OCT 17 AM 8:01

OFFICE OF THE
COUNTY CLERK

The Maui County Corporation Counsel—whose mission is to "support County government by providing legal advice and representation that promotes public interest, and promotes the countywide strategic priorities" isn't doing its job on the Lahaina Injection Wells case.

Its almost like they have been bought by the Koch Brothers to sabotage the clean water act. They are interfering with public policy and blocking the actions of the County Council (and the people) by not executing the settlement and withdraw of the appeal from the Supreme Court—as voted on by the County Council.

Maui County Council needs outside lawyers. The people of Maui County demand clean water and insist on getting lawyers who will do the will of the people. Please hire outside counsel.