

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

October 6, 2017

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 6, 2017, BEGINNING AT 9:00 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

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

Mr. Clerk, please call the roll.

ROLL CALL

PRESENT: COUNCILMEMBERS ALIKA ATAY, S. STACY CRIVELLO, DONALD S. GUZMAN, G. RIKI HOKAMA, KELLY T. KING, YUKI LEI K. SUGIMURA, VICE-CHAIR ROBERT CARROLL, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBER ELEANORA COCHRAN.

(Councilmember Cochran was not present when the roll was called; however, she arrived at 9:02 a.m.)

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

CHAIR WHITE: Thank you very much.

For opening remarks this morning, we have them from Member Hokama.

OPENING REMARKS

The opening remarks were offered by Councilmember Riki Hokama.

(Councilmember Cochran arrived at the meeting at 9:02 a.m.)

CHAIR WHITE: Thank you for that perspective, Mr. Hokama.

Will you all please rise and join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

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

CHAIR WHITE: Thank you. And before we proceed, please make sure that your phones are placed on silent mode. Thank you very much.

Mr. Clerk, proceed.

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

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 17-138

CONGRATULATING ISLAND WATER POLO FOR
WINNING THE 4TH ANNUAL SHAVER LAKE
OPEN WATER TOURNAMENT

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ENTITLED "CONGRATULATING ISLAND WATER POLO FOR
WINNING THE 4TH ANNUAL SHAVER LAKE OPEN WATER
TOURNAMENT".

CHAIR WHITE: Do we have a second?

COUNCILMEMBER HOKAMA:

SECOND.

COUNCILMEMBER COCHRAN: Second.

CHAIR WHITE: Thank you. We have a motion from Ms. Sugimura, and a second from Mr. Hokama.

Ms. Sugimura.

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

CHAIR WHITE: Certainly.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. I'd like to speak in favor of this resolution and to talk about these nine young amazing high schoolers, or 14 to 16 year olds. When you think about it, I asked them "how long do you stay in the water, you know, for practice?". They said two hours. Can you imagine that? And, during a game for one hour.

Not only are they good athletes, but they're all 3.5 grade point averages. This is an activity that is taken outside of school. So, besides doing their regular school excellence, they also put in a lot of dedicated time for this sport.

And it's interesting, because when you think about water sport, my notes tell me, and I really believe this, swimming in this kind of activity is a combination of soccer, basketball, ice hockey, rugby, and wrestling, as a lot of action takes place as they try to vie for points well deserved. There is physical and mental toughness. And I think that with this kind of activity, you have, you have the making of fine young adults.

This is just another example of local kids performing well on the national stage. And I just wanted to congratulate the team and their coaches on their win and there, and to their parents and grandparents for supporting them and all of, for all of their accomplishments thus far.

Members, I ask for your full support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion on this item?

CHAIR WHITE: Well, I will just add that I swam during high school. And, and I'm very comfortable in the water, but water polo is one tough, tough game to play in. And what jumps out at me is that you crushed the folks that you went up against; 12-6, 16-4, 12-2, and 12-4. That is awesome.

So, that, that shows that you all trained awfully hard. It shows that you've got fabulous coaches and great parents to support you in this effort. And it's an unbelievable accomplishment. It just shows the mental toughness that your parents have helped you generate, and your coaches have brought to the front. So, I congratulate you all.

As Ms. Sugimura pointed out, water polo, to me, is one of the most difficult team sports there is, because you're always getting pushed under, you're having to fight for the ball, and you know, almost climb over your opponents to get to the ball. All the while making sure you've got enough breath to get you to the next spot where you're going to grab, grab the ball and do something with it. So, I take my hat off to you.

As a swimmer, I always looked at the water polo folks as, as another, another notch above, because it takes so much more effort and extended effort than swimming. Swimming you get in, you swim back and forth a couple of times, and you get out. But, water polo you're in there for the, for the count. So, I take my hat off to the coaches and to all of you who did such a incredible job. Congratulations.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes". Congratulations.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. At this time, I'd like to ask Shawn and Cathy Donohue, the coaches, as well as the team members, to come forward to receive their resolution.

CHAIR WHITE: Certainly. Will you please join us on the floor.

COACH SHAWN DONOHUE: Okay. Thank you. I did actually prepare something. Thanks. Aloha and good morning. My name is Shawn Donohue. My wife Cathy and I started Island Water Polo over six years ago as a free program for the youth and community of Maui.

We want to thank all of you for this honor bestowed upon us. This is quite amazing. I wanted to talk about the experience, but I think this experience for them is just eye-opening and a great thing for young student athletes who are going to be in high school and on their way to college to experience something like this. This is amazing for them.

The nine student athletes you see before you are from the County of Maui, spent two weeks in Southern California, which culminated in the Shaver Lake Tournament, which was on a lake, which we drove up through the Yosemite Mountains to get to. And I was like, oh my gosh, what have I brought these girls to? Cause I didn't know where the lake was going to be, and all of sudden we came out on this beautiful lake, and I think many of them have never even seen a lake. They had to play in snow-melt water basically. We were over 5,000 feet up, so we were over a mile high. So, we had altitude and things we, as a team, had never discovered before or been a part of. And yet, they came up and, as you can see like you said in the scores, they played amazing. And they were complimented by many coaches while they were there.

This program is a, you know, benefactor of great support from the County of Maui Aquatics as well. We are a free program. We do not charge, so that they have money to travel, because you have to travel to go play. And the County of Maui Aquatics Division has done a great job of giving us pool time, pool space for free. They don't charge us. It's a huge important thing for our group and our community, as we don't charge either. My wife and I volunteer, Leighton Hao another volunteer coach, and his sister Ashlyne Hao, we volunteer all our time for this. And the girls just keep coming,

keep working, and we're just so proud of them. The volunteer coaches have, for the last six years, done a great job here.

And the culmination of this has been this championship, which we have the award as you can see. Hold it up nice and high. Our first-place award, which was given to us in the lake, in the muddy sandy water. And thank you so much.

COUNCILMEMBER SUGIMURA: Thank you.

COACH DONOHUE: Thank you. Aloha. Mahalo.

CHAIR WHITE: Thank you very much.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record RESOLUTION 17-138.

RESOLUTION
NO. 17-139

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

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ENTITLED "RECOGNIZING THE MONTH OF OCTOBER AS
DOMESTIC VIOLENCE AWARENESS MONTH IN MAUI
COUNTY".

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. May I please request the Clerk to read the resolution in its entirety?

CHAIR WHITE: Certainly. Thank you.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. October has been commemorated as a national domestic, excuse me, violence awareness month. And, the observants serves to educate the community and our people of, and how important this is, and to address the big problem of domestic abuse.

All across the country we pause to remember the victims of domestic violence. And I want to commend agencies like Women Helping Women, Children and Family Services, Parent and Children Together, or known as PACT, and the various state and counties for their tremendous efforts on behalf of many women and children, and men, I want to say. It's not only, not only women who have sheltered and protected. Let us all work together to end the violence.

I'd like to congratulate Sanoë Ka`aihue, the new Executive Director of Women Helping Women. I think all of us remember the many years that Stacey Moniz was the Director. And in the shadow was Sanoë getting ready for this new directorship. So, I'd like to welcome her this job and the challenges.

And Stacey Moniz is now the head of the Hawaii State Coalition Against Domestic Violence on Oahu. And coincidentally, I just happened to run into her over last week. And she seems to have been really enjoying that job too. And I can appreciate her now using what she's learned here in Maui County to help spread this knowledge and awareness statewide.

I ask my fellow Members for their support in adopting this resolution. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion on this item?

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I would also like to acknowledge the month of October as Domestic Violence Awareness Month. This is, this month is very important for our community to recognize those who lost their lives because of the domestic violence. And if you ever had the opportunity to join in the candlelight vigil, during those vigils, hundreds of names are called out to recognize those who have lost their lives. It's one name too many in my opinion.

Out of my seven years that I as a deputy prosecutor, two of those years were served on the domestic violence unit division. And so, that being said, I, I understand the circle of violence that victims go through. And that the, that we as a community have the responsibility for intervention and education. There are victims out there that need the help.

And I must, at this time, also recognize those agencies that do that service; and that is the MPD, the Prosecutor's Office, as well as the, as well as Parents and Children Together, Women Helping Women, Children and Family Services. All of those agencies and their workers should, should be recognized and are truly blessed in, in what they do, because it's a very difficult subject matter to work through.

And the cases that we have so far, 4,000 cases in 2016, have risen. Back when I was a prosecutor, we had about 2,000 per year. So, it's, it's increasing. And because of this increase, we have to work harder in making sure that the victims are, are helped and services are provided. So, I recognize all those that are in that service. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. I fully support this resolution. And, you know, just reading through the resolution, it makes me sad to read that our nation is making tremendous progress and reducing these crimes, and yet, the number of incidents has tripled in Maui County. So, I think we need to be aware of this every day. I thank all the agencies that are addressing this issue.

And I think all of us have been touched. One of my best friends was a victim of domestic violence here on Maui. And so, it's a, it's a fight for all of us. I'm glad the young ladies from the previous resolution are here to see this as well, because it really needs to be an awareness that starts at that age and continues through adulthood.

And so, I want to thank my colleague for bringing this forward, this resolution forward, and also thank my friends, Senator Roz Baker and the late Representative Mele Carroll for their work at the State Legislature.

And the, this is, the bills that were mentioned in this resolution are extremely important to addressing the things that we don't think about when we think about domestic violence, especially the rental agreements. You know, if you need to get out of your rental because you're being abused, you need, you need that back up there. So, it's great that people are thinking about the behind the scenes issues that we need to make it easier for women to escape domestic violence.

So, thank you Member Sugimura for bringing this forward, and I fully support this resolution. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Members, any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, I too would want to go on record in support of this resolution.

In my prior life, I've worked for 30 plus years with the youth of Maui, primarily focused on youth development. In one area, for several years, I've worked with agencies such as Maui Youth and Family Services, Child and Family Services. And during that period, I participated in the program called Ho`okala, which was a police diversion program. And I carried a pager, back then when there were pagers, and I responded on a 24-hour call, on-call basis, responded to the police station to pick up the youth. Many a times they're runaway situations, occurred because of domestic violence.

Also, while carrying that pager, I also responded a lot to teen suicides. And so, with that it was teen suicide prevention calls; carried the pager 24 hours, on-call, to respond to teen suicides. Many of those were also because the results of domestic violence in the households. So, I fully support this resolution, and protect Maui.

CHAIR WHITE: Thank you, Mr. Atay.

Any further discussion, Members?

Seeing none, the Chair would just add that this is something that touches many, many families. I was not aware of this, but one of my daughters was subject to domestic

violence and I didn't realize it until she was out of the relationship. I wish that she had come forward significantly earlier so that we could have done something to help her.

I think it's important that we all continue to talk about it so that people will come forward rather than keeping it to themselves, because once, once you bring it forward, the help is there and organizations like Women Helping Women provide a fabulous service. They're very quick to respond. They'll help the individuals with things that, you know, none of us generally will know about. And so, it's important for us to keep this in people's minds that this is something that you shouldn't be ashamed of. It's something that you should report, and something that you need to allow others to assist you to deal with.

So, I thank Ms. Sugimura for bringing this forward. And I thank the organizations for coming down here and being a part of this reminder to all of us that we need to deal with this issue in whatever way is appropriate as quickly as we can.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: May I ask for Women Helping Women and their supporting staff to come forward and receive the resolution?

CHAIR WHITE: Certainly. Please join us.

COUNCILMEMBER SUGIMURA: So, Sanoe, you want to say a few words?

MS. SANOE KA`AIHUE: So I gotta pull um down cause I'm kind of short. Aloha, Councilmembers and esteemed guests. My name is Sanoe Ka`aihue, the Executive Director for Women Helping Women. Thank you for recognizing October as Domestic Violence Awareness Month in the County of Maui.

I'd like to start the morning off with a question, a question that we as advocates hear almost daily. Why does she stay? It's a simple question, however, the answer is anything but that. She stays because she loves him and hopes the man she fell in love with will come back.

On average, it takes a woman seven times before she leaves her abusive relationship. She stays because she feels helpless, hopeless, and trapped. Abusers isolate their victims to help them financially, or to keep them financially dependent on them. She stays because she believes that without him she has and is nothing. Abusers take away their victims' self-worth and identity so much so that they've forgotten who they were before the relationship. She stays because if she leaves, he will kill her and their children.

The most dangerous time for victims is immediately after they leave their partners. We've seen this with victims like Kehau Farias Schmidt, Charli Scott, and countless others. These are just few of the answers to that simple question, why does she stay. But there are many more.

People forget that domestic violence happens to anyone from every walk of life. It does not discriminate based on age, gender, sexual orientation, or religion. Domestic violence looks like me, looks like you, your neighbors, your families, your friends. We talk about domestic violence being a women's issue, but it is not. It's not a men's issue. It's a we issue.

We need to come together and decide that as a community we will do better in supporting our victims, educating ourselves and the public to help prevent domestic violence from occurring. So, I encourage us to all do better as advocates, as partners, and as leaders to change the way we approach domestic violence, and change our thinking from why does she stay, to how can we help. Mahalo.

CHAIR WHITE: Thank you very much. Thank you, Ms. Sugimura, and thank you ladies for joining us here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-139.

Mr. Chair, proceeding with the presentation of testimony on agenda items. We've established limited interactive communication that enables individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

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

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

Currently, we have no testifiers waiting at our District Offices. Mr. Chair, we have six individuals who have signed up to testify in the Council chamber. The first person to testify in the Council chamber is Barbara Barry, testifying on County Communication 17-396 and County Communication 17-394. She will be followed by Kaniloa Kamaunu.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. BARBARA BARRY (testifying on County Communication Nos. 17-394 and 17-396):

Aloha, Chair, County Councilmembers. My name is Barbara Barry, and I'm here testifying on behalf of myself. This is in reference to CC 17-396 and CC 17-394. Thank you for the opportunity to testify on this important matter; sand mining and the desecration of ancient burial sites at Maui Lani.

First, I am wondering about the behavior that most of the County Councilmembers have shown the public and the taxpayer who pay your salary, regarding a sand moratorium in the past several weeks. For instance, the boycotting of Ms. Cochran's IEM meeting a few weeks ago so there wouldn't be a quorum. You were all here that morning. If you don't show up to work for the people of Maui, you shouldn't be paid. For instance, do we need a report card showing your attendance to make sure you're earning your salaries you're being paid for?

Many people who came to testify did so for free because sand mining and desecration of ancient burial grounds, and disrespect for the iwi kupuna is unacceptable. It is cultural genocide. While people took off time work to testify, some people took time off work to testify, so they actually lost money that day. Mr. Atay, and later Mr. Guzman, were the only Councilmembers that bothered to attend. Why?

Last week, Mr. Guzman and Ms. Sugimura stonewalled the process again. Why? Who are you working for? The citizens who are desperately trying to protect this precious resource and protect the culturally significant burial sites and the iwi kupuna at Maui Lani or the corporations you are hoping to receive campaign donations from?

If the County had, if the County of Maui had been doing their job the last decade and enforcing the law, we would not be having this conversation, or the irreparable desecration that has taken place.

Mr. Guzman's behavior towards Ms. Cochran was out of character for a County Councilmember. Just because you're both running for Mayor in the next election is no reason to disrespect Ms. Cochran in anyway. You are still working for the public. Please remember that. I'd actually like to see a public apology, not only to her, but all of us who were in Council that day that had to, had to observe that. We've seen our Mayor throw a fit in these Council chambers, so please don't follow in his footsteps and think that is acceptable. That behavior is not pono and cannot be accepted.

Why didn't any other Councilmembers second Mr. Atay's motion for the moratorium? It was thoroughly reviewed and could have been continued to be fine-tuned and would have provided immediate protection for the iwi kupuna. Judge Cardoza has specifically stated that the County of Maui must do its job and enforce the law.

So, the meeting today is not what it appears to be. Where are the three most important items from Ms. Cochran's IEM meeting last week that addressed Judge Cardoza's very real concerns concerning, regarding the irreparable harm being done by sand mining to the iwi kupuna--

DEPUTY COUNTY CLERK: Three minutes.

MS. BARRY: --addressing the SHPD to have, addressing the need for SHPD to have stringent oversight or a fail-safe message for developers to follow AMP's and updating the sand study to determine how much sand is actually left?

CHAIR WHITE: Ms. Barry, would you please provide a concluding remark.

MS. BARRY: My concluding remark is that I've submitted this to you all in writing, and you can follow if you would. Please finish reading my testimony, and take into consideration what this bill, what these two bills today are actually calling for. Mahalo.

CHAIR WHITE: Thank you for being here this morning.

Members, any need for clarification?

COUNCILMEMBER KING: Chair, I have a question.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Thank you, Ms. Barry. I didn't get a clear sense of, because you said you were testifying on 17-394 and 17-396, what specifically in those bills you support or don't support.

MS. BARRY: Actually, I support these bills being referred to their proper Committees and not being combined with the moratorium bill, because I feel it's, it's an attempt to disregard the moratorium. And I believe both of these, both of these items should be assigned to different Committees, and looked at properly there.

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

CHAIR WHITE: Any further need for clarification? Seeing none, thank you for being here this morning, and thank you for providing written testimony.

MS. BARRY: Mahalo.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Kaniloa Kamaunu, testifying on County Communications 17-394, 17-395, and 17-396. He will be followed by Jennifer Noelani Ahia.

MR. KANILOA KAMAUNU, (testifying on County Communication Nos. 17-394, 17-395, and 17-396):

Good morning, Chair.

CHAIR WHITE: Good morning.

MR. KAMAUNU: Good morning, Council. My name is Kaniloa Kamaunu, from Waihee Valley with the Aha Moku today representing Aha Moku o Wailuku, which is under Act 212, as one of its participants.

And, you know, I've come to, I've come into politics naïve thinking that government, Federal, State, and Counties, speaks for and protect rights of all people. But, my eyes have been opened, and no longer do I hold this system in high moral, high moral pedestal. I've come to realize it's the persons in office, that they have allegiance to specific parties, and private agendas, what is not, and what I come to find out is that

that's what they work for; for their other constituents, not for the public themselves. And that the only reason that the public gets addressed is when we have to come forward, and we have to defend the position that's not being defended and bringing through thought.

And, you know, it's, I wish the children had stayed, because then the real face of politics comes out. I understand you have constituents outside that have supported you through your political career, that you have allegiance to, and that you pay allegiance to. And I know that politics is you have a nine-member board, and that you have to solicit at least a majority to push your own agendas through, understandable. That is politics, and I understand how that works.

But it's very, very disheartening that we come through with what is true. Many of the things that we have specifically talked about that are on this agenda, as far as, you know . . . the resources themselves, whether it be sand or aggregate, we have come forward many, many years. We have gone through the different departments; Federal, State, and County, and we get no relief. So, we find ourselves opposing in court the parties that actually should be represented by this body, whether they be a private entity or, or whether they be a business.

But this, this body here addresses both sides evenly. You weigh according to what is morally correct, then you weigh to see anything after its effect. But we get, we don't get that situation here. We are put to the side, so we take it upon ourselves and private citizens, who luckily for us the Lord that we have, has stepped up to extinguish his cost to take it upon himself to travel here from off-island to participate and put in his time so that we can get resolve.

And the only reason I'm here today, I know my time is up, is because the judge told us that we had to come back. And we have to extinguish all, all remedies. And so, because the complaint from the defendant was we did not do so even after 10 years. So, we are here today to resolve that issue. We come to you through, whether you do your due diligence or not, that we coming forward because we are forced to once more, because of our case. We've proved our position that they've, did not fulfill their monitoring program. They were hit with that. What more do we need for us to move along? Thank you.

CHAIR WHITE: Thank you, Mr. Kamaunu.

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

MR. KAMAUNU: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Jennifer Noelani Ahia, testifying on County Communications 17-394, 17-395, and 17-396. She will be followed by Amy Halas.

MS. JENNIFER NOELANI AHIA, (testifying on County Communication Nos. 17-394 and 17-396):

Good morning. I'm Jennifer Noelani Ahia, and I'm testifying on 17-394 and 396, actually.

So, I am in favor of this legislation, however, I'm against it being put into a package with the sand mining moratorium. This legislation does nothing to protect the iwi kupuna now as a sand mining moratorium would. Please keep this legislation separate, and assigned to appropriate Committees. And please pass the sand mining moratorium immediately. Protect our burials now.

I would also like to comment on the resolution you just passed, 17-139. In response to October as Domestic Violence Awareness Month, I congratulate this resolution. I would also like to point out that there is a very strong connection between desecration of aina, which is our first mother, the one who feeds us and provides for us, and violence against women. In cultures that desecrate the land and cause disconnection in the society, violence against women is common.

We need to put our attention on the larger structures and systems like imperialism and colonialism that perpetuate violence against aina and women. This has been very well researched, especially in first nation communities across the world. And I would highly recommend you do a little homework and look into the connection between violence against land, resource extraction, over-development, cementing over our iwi kupuna, and what happens to our women in our culture when people are disconnected from that which feeds us and that which nourishes us like our mothers, our women, and our aina. Thank you.

CHAIR WHITE: Thank you, Ms. Ahia.

COUNCILMEMBER KING: Chair, I have a question.

CHAIR WHITE: Members, any need for clarification?

COUNCILMEMBER KING: Yea, I have a quick question.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you. Thank you for being here. Because I'm not a member of the IEM Committee, so I haven't been following that particular piece of legislation closely. But, your testimony on 394 and 396, is the, is the concern that this legislation would replace the legislation that's being considered in the IEM Committee? Is that what the concern is?

MS. AHIA: Or, or that if it's put as a package, it will delay the ability for the sand mining moratorium to be passed. I really feel that that needs to be passed immediately in order to protect the iwi kupuna.

COUNCILMEMBER KING: Okay. So, it's a, it's a, you're feeling like it's going to hold it up?

MS. AHIA: It's just, they need to be kept separate so that it doesn't hold up the moratorium.

COUNCILMEMBER KING: Okay. Thank you, Chair.

COUNCILMEMBER GUZMAN: Chair. Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you for coming forward. And I guess this is, and I will preface this that I do have a question, Chair. I know that what is perceived out there as it's going to be a package deal, but it's actually about planning. And because of the, the recent judge's decision, it spurred this type of legislation that I was proposing to at least get the ball rolling in the right direction in accordance to what the judiciary is guiding us for. And a lot of times, we have, you know, we have conflict in our political system between the administration and the executive branch. And it's the judiciary that guides us and makes the, somewhat of the determination of what we need to do with our laws.

So, this was actually done for the right reasons in conjunction with Judge Cardoza's decision to get it moving forward. It's not necessarily, it was never done to block the moratorium, but it's about the planning of it. It could be that there's a delay in, in the process to get these two bills out that the moratorium could come into effect. But, I'm just saying that--

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Yea, I apologize. I just--

CHAIR WHITE: This is, this is a time for testimony, not, not for an explanation.

COUNCILMEMBER GUZMAN: Yea, yea, I, yea. But, the, I kind of know the answer, but I'll ask the question here. Do you know how long the preliminary injunction is imposed for?

MS. AHIA: So, it's indefinite at the moment, because litigation will be ongoing. It was not given a time limit, because the, the trial will be continuing to move forward as more evidence is, is brought forward to Judge Cardoza.

COUNCILMEMBER GUZMAN: Okay. Thank you.

MS. AHIA: And, and also if this legislation wasn't meant to block the moratorium, and if you are in favor of the moratorium, I'm curious why you didn't second Mr. Atay's motion to even take a vote.

CHAIR WHITE: We're not going to get into that discussion.

MS. AHIA: Okay. Well he brought it up, that's all.

CHAIR WHITE: No, no I understand that.

COUNCILMEMBER GUZMAN: I, I just--

CHAIR WHITE: I'm not, I'm not suggesting that you shouldn't address it. It's just that this is, this is a time for testimony and not for a back and forth.

MS. AHIA: I know. I'm just responding to what he said. That's all.

CHAIR WHITE: No you, that's fine.

COUNCILMEMBER GUZMAN: Can I ask one more question? Did you, did you realize that the moratorium bill was not signed off by Corporation Counsel as to legal form and legality? Until it gets signed off, it will have legal challenges. I brought up three issues that needed to be corrected on the legal definitions, and, and needed to be deferred to get those things resolved. I was, so did you know it needed to be--

MS. AHIA: I'm okay, I'm okay, yes, I'm okay with allowing it to move forward and have a vote taken, because it's going to take some time to work out the kinks anyways. But, it needs to get moving in order to protect my ancestors immediately who are in danger.

COUNCILMEMBER GUZMAN: Yes. Okay. I agree, I agree.

Thank you.

MS. AHIA: Okay. Thank you.

CHAIR WHITE: I think we all agree with that. Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Amy Halas, testifying on County Communications 17-394 and 17-396. She will be followed by Tosh Tokugawa.

MS. AMY HALAS, (testifying on County Communication Nos. 17-394 and 17-396):

Aloha kakahiaka. My name is Amy Halas. I live in Maui Lani, and I will be testifying on County Communication 17-394, County Communication 17-396.

In regards to the resolution and the ordinance introduced by Councilmember Guzman, I feel that we're putting the horse before the cart, and that there's some other issues that need to be addressed.

First of all, as many of you remember, in 2006, the County ordered the Maui Inland Sand Resource Quantification Study. And it is now 2017. Had it not been for the recession, I believe we wouldn't have any sand hills remaining, any Pu`u One.

The purpose of this study was to better understand the extent of the inland sand supply that is available for excavation on the island of Maui. And again, Howard Hanzawa authored this document in February 2006. The sand mining moratorium legislation that Councilmember Elle Cochran introduced had the specific intent to actually update this document. And I feel that before we move forward, this needs to be updated.

The other document that I wanted to share with you, that I find of curiosity and significant importance, is the 2002 Wailuku-Kahului Community Plan. And this was put together by the 2002 Maui County Council. If you look at this document, it has a list. And on the list, it says, "Significant Wailuku-Kahului region sites and areas include

the following: Wahi Pana. Wahi Pana (Significant Traditional Places)". And as we all know, the Pu'u One Sand Dunes, the Pu'u One Sand Dune series is an area where iwi kupuna, where ancestral human remains have been interred for century, in addition to that having been the battle site of Kakanilua and most likely other battles in pre-contact history.

So again, referring to the 2002 Wailuku-Kahului Community Plan, we look on page 17, and on page, the following page on 18, we see a list of sites. If you look under item "t.", you see "Pu'u One Sand Dune Formation from Kahului Harbor to Waikapu."

As many of you know, the sand mining mass excavation, sand grading activities that have occurred within the 1,000 acres of the Maui Lani Development Project has resulted in the demolition and the obliteration of many of these topographical features that characterize this land.

So, I just feel that with all respect to Councilmember Guzman, that his ordinance and his resolution are best referred to other Committees. And that I really would appreciate it if the IEM Committee, when they convene again, if they could call a roll call for a vote, because I'm not sure exactly what happened this past Monday, but I was just really saddened and horrified, because I feel that time is, is moving.

I, I actually live in the Parkways, and it just seems that we need to have some kind of oversight to protect the iwi kupuna, to protect the burials. I see all kinds of sand stockpile sites in the Parkways. I don't, there's no archaeological monitoring there during construction.

DEPUTY COUNTY CLERK: Four minutes.

MS. HALAS: So, back to the topic of hand--

CHAIR WHITE: Thank you. I'm sorry, you'll, thank you very much for being here this morning, but your time has--

MS. HALAS: Yea, well, thank you. And again, if you would like copies, I would be more than happy to provide copies of the Wailuku-Kahului Community Plan from 2002, and then the Maui Inland Sand Resource Quantification Study.

CHAIR WHITE: If you can provide them to the, to the staff. Thank you very much.

MS. HALAS: So, okay. Mahalo.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Tosh Tokugawa, testifying on County Communication 17-394 and County Communication 17-396. He will be followed by Joyclynn Costa.

MR. TOSH TOKUGAWA, (testifying on County Communication Nos. 17-394 and 17-396):

Good morning.

CHAIR WHITE: Good morning.

MR. TOKUGAWA: My name is Tosh Tokugawa. I am the son of Kunio, grandson of Momoe, great-grandson of Goro, and great great-grandson of Yoshinobu Tokugawa, of the Tokugawa Shogunate clan.

In following with my family's ancestry of being peacekeepers for over 250 years, I would like to share some information with all of you.

For our struggle is not against flesh and blood, but against the rulers, against the principalities, against the authorities, and powers of this dark world and against the spiritual forces of evil in the heavenly realms.

The hand of the Lord was upon me, and he brought me out by the spirit of the Lord and sent me in the middle of the valley, it was full of dry bones. He led me back and forth among them, and I saw a great many bones.

Then he said to me, "Prophecy to the breath; prophecy, son of man, and say to it, this is what the Sovereign Lord says: Come from the four winds o breath, and breathe into the slain that they may live."

So, I prophesied as he commanded me, and breath entered them. They came to life, they stood upon their feet, a insurmountable vast army.

Praise be the Lord my Rock, who trains my hands for warfare, my fingers for battle. He is my loving God and my fortress, my stronghold and my deliverer, my shield, in whom I take refuge, who subdues people under me. Deliver me and rescue me from the hands of foreigners whose mouths are full of lies, whose right hands are deceitful.

Then our sons in their youth will be like well-nurtured plants, and our daughters will be like pillars carved to adorn a palace. Our barns will be filled with every kind of provision. And our livestock will increase by thousands, by tens of thousands in our fields.

I am a nine-year combat veteran. My job, while I was in the Marine Corps, was to be dropped two miles behind enemy lines and find my way back. In doing that, I gather a lot of information. And due to rules of engagement, we do not engage unless forced to. Once again, I find myself behind enemy lines.

We have this tool that we use called IFF; "Identify Friend or Foe". It's a little tool, you press it, it sends out a beep frequency. And we either find a beep frequency back to identify friend, and if there is silence, then you're my foe.

My question to all of you is that people have come before you and you guys are talking about moratoriums. You guys are talking about all these other forms of legality that you guys are trying to place, move forward, and so forth. My question to you is beyond that.

I said at the last time I testified, to go farther back before the laws, before the moratoriums, before all of this legal stuff, and ask the kanaka what was in place? So, I have some documents. I'm not sure if I should present them to Corporation Counsel or to the Council themselves. But, I dug a little deeper. And in doing that digging, it led me to the Bishop Museum, in their archives. And I have certified copies of Lunailo's will in regards to the lands, in regards to who owns the lands. It has not been brought forward yet.

I've also been studying a little bit more with Doctor Keanu Sai, and the court levels, or the level of court that he's been working with to follow up--

DEPUTY COUNTY CLERK: Four minutes.

MR. TOKUGAWA: --on these documents. So, I ask that you dig a little bit deeper. And in regards to what Councilmember Guzman is trying to present, in regards to the moratorium, you need to go back and just pull the permit. Because you guys are just piling up layers of inconsistencies and injustice upon that permit. Thank you.

CHAIR WHITE: Thank you very much. And we'd be more than happy to receive whatever documents you feel we, you would like to share with us.

MR. TOKUGAWA: Thank you.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The last individual who has signed up to testify in the Council chamber is Joyclynn Costa, testifying on County Communications 17-394, 17-396, and Committee Report 17-127 and Committee Report 17-128.

MS. JOYCLYNN COSTA, (testifying on County Communication Nos. 17-394 and 17-396 and Committee Reports 17-127 and 17-128):

Good morning, Councilmembers.

CHAIR WHITE: Good morning.

MS. COSTA: Good morning, Chair. My name is Joyclynn Costa. I'm a representative of Hamakualoa Aha Moku, but today I'm representing myself.

I can appreciate what Member Guzman was attempting to do for Chapter 19 and 20. However, the process he was amending for Chapter 19 may be redundant. State Historic Preservation Division, in its name, describes their existence. The process allows for a commentary period 30 to 45 days depending on the subject matter. This period will expose the concerns and issues that may occur, or being violated. SHPD would then have the opportunity to deny the submittal and list the corrections or give the applicant the opportunity to explain. SHPD has done the contrary to what, to what the process calls for, especially with the commentary period to help address particular issues or delinquencies. Lack of exercising and asserting the authority by SHPD allowed this situation we are in now that we're facing.

Also, as a safety net, there is another process, which is permit. No project can be passed if the criteria for a permit with Maui County, which is, which is extensive in its checklist, will be approved unless complied, and completed. Therefore, if there is a delinquent document, it can be caught in the permitting process.

Both State Historic Preservation Division and Maui County has equally failed their fiduciary responsibilities. Neither governmental bodies has ever done the most basic procedure within the checklist. Documents were not verified and validated. It appears the status quo has been to operate on assumptions and finger pointing.

On the last meeting, there was a, there was concerns of definition by what standards is the moratorium going to be met? Yet, we are here because not even the most basic standards were ever followed to begin with. Another comment was, what is rational, which directed the possible impact businesses, those who already have entitlements may incur? Then we speak of cultural respect, while tons upon tons upon tons of resource and desecration, irreparable harm, and injury is acceptable and rationalized in Maui County's opinion. One might argue that that was not the intent of the County, yet, as deliberation carried on, our sand and kupuna were being carried away.

None of the parties, departments, staff, but not limited to, should be exempt from responsibility of liability. The fine details and litigation concerns fogs the most critical and basic fundamental intent this Council should uphold, which is to protect Maui. Instead, you have made Maui vulnerable and victim to any entity that would care to plant themselves here, even if it be on our ancestral resting place.

Making a perfect law does not compel one to comply, as proven. How much information would you require to become better equipped and function accordingly? I would point out, you have a number of legal advisors to assist, unlike the everyday public. We, the public, have done the work and advised you, and no result or remedy. All I can do is pray for you today. Mahalo.

CHAIR WHITE: Thank you very much, Ms. Costa. Members, any need for clarification? Seeing none, appreciate your coming this morning.

Mr. Clerk.

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

CHAIR WHITE: Thank you.

Members, without objection, the Chair would like to receive the written testimony for 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. Barbara Barry;
2. Amy Halas;

3. Joyclynn Costa;
4. Tulsì Greenlee;
5. Robin Knox; and
6. Tamara Paltin.

CHAIR WHITE: And, without objection, we will close public testimony for today.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

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

MINUTES

The minutes of the Council of the County of Maui's regular meeting of July 7, 2017, was presented at this time.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE THAT THE MINUTES OF THE REGULAR MEETING OF
JULY 7, 2017, BE APPROVED.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Any discussion?

VICE-CHAIR CARROLL: No discussion.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with County Communications.

COUNTY COMMUNICATIONS

NO. 17-381 - DON MEDEIROS, DIRECTOR OF TRANSPORTATION,
(dated September 20, 2017)

Transmitting a copy of the notice of Authorization and Project Agreement for the Maui County Metropolitan Planning Organization FY 2018 Unified Planning Work Program in the amount of \$200,000.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I would request the Clerk bring up the following communication also.

CHAIR WHITE: Any objection, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

NO. 17-382 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 15, 2017)

Transmitting 100 contracts/grants for August 2017.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO FILE COUNTY COMMUNICATION 17-381, AND COUNTY COMMUNICATION 17-382; REFERRING TO BUDGET AND FINANCE TWO CONTRACTS FOR FINANCE REVIEW, THAT WOULD BE CONTRACT C6308, UNDER THE LANAI AFFORDABLE HOUSING PROJECT, AND THEN THE SECOND ONE FOR FINANCE REVIEW WOULD BE C6310, WHICH IS THE PAYROLL REPLACEMENT PROJECT.

CHAIR WHITE: Thank you, Mr. Hokama.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR WHITE: Thank you for the second. And, Members, we have a motion from Mr. Hokama, and a second from Ms. Sugimura.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR WHITE: Ms. Crivello, do you have another contract you would like to have referred?

COUNCILMEMBER CRIVELLO:

YES, I WOULD LIKE TO, IF THERE ARE NO OBJECTIONS, I WOULD LIKE TO REQUEST TO HAVE THE FOLLOWING CONTRACTS AND GRANTS REFERRED TO HOUSING AND HUMAN CONCERNS, AND TRANSPORTATION, NINE CONTRACTS ALTOGETHER: C5325-6, RELATING TO THE MAUI BUS ADA PARATRANSIT SERVICE OPERATION; C5326-6, RELATING TO THE MAUI BUS COMMUTER BUS SERVICES; C5327-9, RELATING TO THE BUS, MAUI BUS

FIXED ROUTE SERVICES; C6308, RELATING TO THE COUNTY OF MAUI'S LANAI AFFORDABLE HOUSING PROJECT, I BELIEVE MR. HOKAMA HAS REFERRED THAT TO HIS; AND THEN G4349-1, RENTAL ASSISTANCE PROGRAM FOR FAMILY LIFE CENTER; G4382-2, RENTAL ASSISTANCE PROGRAM FOR MAUI ECONOMIC OPPORTUNITY; G4414, RELATING TO THE RENTAL ASSISTANCE PROGRAM FOR WOMEN HELPING WOMEN; AND G4546, RELATING TO MEO TRANSPORTATION SERVICES; AND G4550, RELATING TO HALE MAHAOLU EWALU PHASE II PROJECT.

CHAIR WHITE: Thank you.

Members, any objections to the referrals as mentioned by Mr. Hokama and Ms. Sugimura *[sic]*?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER COCHRAN: No, it's Crivello.

CHAIR WHITE: Oh wait, I'm sorry. Any additional contracts?

COUNCILMEMBER COCHRAN: Yea.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes, Chair. Thank you.

G4552, THIS IS THE AXIS DEER MANAGEMENT GRANT.
JUST WANTED THAT FORWARDED TO--

CHAIR WHITE: To IEM.

COUNCILMEMBER COCHRAN: Or, oh, I don't sure if it's IEM. Is it IEM? I, I'd take it, whichever appropriate standing Committee.

CHAIR WHITE: Okay, we'll refer that to the appropriate Committee.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

The recommended action is as follows: Contract No. C6310 be referred to the Budget and Finance Committee. Contract Nos. C5325-6, C5326-6, C5327-9, C6308, and Grant Nos. G4349-1, G4382-2, G4414, G4546, G4550 be referred to the Housing, Human Services, and Transportation Committee. Grant No. C4552 be referred to the Policy, Economic Development, and Agriculture Committee.

CHAIR WHITE: Mr. Clerk.

NO. 17-383 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 21, 2017)

Informing of the acceptance of Waterline Easements W-2, W-3, W-4 & W-5, Kualono Subdivision, TMK: (2) 2-3-011:124, 125, 126, 127, 128, 129, & 130.

(Councilmember Crivello was excused from the meeting at 10:07 a.m.)

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you, Chair. May I also request the Clerk bring up County Communication 17-384?

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR WHITE: So ordered.

Mr. Clerk.

NO. 17-384 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 22, 2017)

Informing of the acceptance of a Warranty Deed for Roadway Lot 11-D-3-A, Mahalani Street Extension Subdivision, Wailuku, TMK: (2) 3-8-007:146.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. If this Committee approves, I'd like to request both of these items be referred to IEM. There's some outstanding questions I do have for 17-383, just a little more detail on what that subdivision is and, cause I've heard, I've had queries from the community.

17-384 has to do with Waiinu Road. And I've been working with Public Works about trying to address the traffic there, and this map shows only like a portion of the. So, I'm just want to double make sure that it's not going to hinder the process that Public Works and myself are in right now. So, request to have--

CHAIR WHITE: Thank you.

Members, any objections to referring those to Committee?

MEMBERS VOICED NO OBJECTION.

The recommended action is that County Communication Nos. 17-383 and 17-384 be referred to the Infrastructure and Environmental Management Committee.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR WHITE: Okay, so ordered.

Mr. Clerk.

NO. 17-385 - ALAN M. ARAKAWA, MAYOR,
(dated September 25, 2017)

Informing of a vacancy on the Molokai Planning Commission due to the resignation of Michael Drew on September 22, 2017.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Chair, could I ask the Clerk to also bring up the next item, 17-386?

CHAIR WHITE: Mr. Clerk.

(Councilmember Crivello returned to the meeting at 10:09 a.m.)

NO. 17-386 - ALAN M. ARAKAWA, MAYOR,
(dated September 26, 2017)

Informing of a vacancy on the Molokai Planning Commission due to the resignation of Wiliama Akutagawa on September 26, 2017.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER COCHRAN: Thank you.

I, I MOVE TO FILE COUNTY COMMUNICATION 17-385 AND
386.

Both--

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER SUGIMURA: Oh, sorry.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Both individuals served on the Molokai Planning Commissions and have resigned; Michael Drew on 9/22/2017, and Ms. Akutagawa on 9/26/2017.

Would like to thank them very much for all of their work that they have given the community, and wish them the best in their future endeavors.

CHAIR WHITE: Thank you, Ms. Sugimura.

Any further discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I just want to add it's not Ms. Wiliama, it's Mr. Wiliama Akutagawa. Just to make note, a correction.

COUNCILMEMBER SUGIMURA: Oh, sorry.

CHAIR WHITE: Any further discussion? All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

NO. 17-387 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,
(dated September 14, 2017)

Transmitting the State of Hawaii's Commission on Water Resources Management water use reports for June and July 2017 for all registered well reporters in the County of Maui.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY:

MR. CHAIR, I MOVE TO FILE COUNTY COMMUNICATION
17-387.

COUNCILMEMBER COCHRAN:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Atay.

COUNCILMEMBER ATAY: Mr. Chair, this report is strictly informational. There is no Council action needed. I appreciate receipt of the information, and respectfully request the communication be filed.

CHAIR WHITE: Thank you, Mr. Atay.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

NO. 17-388 - KELLY KING, COUNCILMEMBER,
(dated September 28, 2017)

Relating to a Councilmember's report on the Kihei community meeting on homelessness, held on September 16, 2017.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING:

CHAIR, I MOVE TO FILE COUNTY COMMUNICATION 17-388.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Councilmember Crivello, Councilmember Sugimura, and myself, attended the Kihei community meeting on homelessness on September 16, 2017, at the Malcolm Center on the Maui Economic Development Board's campus in Kihei, Maui.

I'm making this report pursuant to the State Sunshine Law, specifically Section 92-2.5 (e) of the Hawaii Revised Statutes.

The purpose of the meeting was to: 1) educate the community on homeless issues facing the South Maui area; and 2) seek input from the community on how to utilize \$1.5 million from the Workforce Housing Development Fund to address homelessness and affordable housing in South Maui.

The meeting was attended by community leaders, representatives from social service organizations, such as Family Life Center, and Ka Hale A Ke Ola, as well as the new organization Share Your Mana. And homeless, there were several homeless people who were in attendance, and formerly homeless residents as well.

The Workforce Housing Development Funds were entrusted to Ka Hale A Ke Ola with an agreement that the money be used for a center in South Maui similar to Ka Hale A Ke Ola's Lahaina Center. The agreement, however, may need to be tweaked to find something that would best fit the needs of the South Maui community. And at the meeting, ideas were, we did some brainstorming.

There, a quorum was not, a quorum of the Council was not present at the meeting. And the meeting was not specifically and/or exclusively organized for or directed towards Members of the Council. So, this meeting was more of a community meeting

to gather input for Ka Hale A Ke Ola in the expenditure of those funds so that what they choose to do with that money is supported by the community. And it is the first of, probably, two or a total of three to four meetings to, to gather this input. No commitment relating to a vote on any Council business was made or sought at the meeting.

I thank my colleagues who were at the meeting. And that concludes my report.

CHAIR WHITE: Thank you, Ms. King.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with County Communications for referral. The following County Communications are recommended for referral to the following committees as noted.

NO. 17-389 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 12, 2017)

Transmitting the Summary of Total Funded Indebtedness Outstanding and Unpaid as of July 1, 2017.

The recommended action is that County Communication No. 17-389 be referred to the Budget and Finance Committee.

NO. 17-390 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 18, 2017)

Transmitting the Finance Director's Quarterly Report for Fiscal Year July 1, 2016 to June 30, 2017 as of June 30, 2017 and the Capital Improvement Projects Report as of June 30, 2017.

The recommended action is that County Communication No. 17-390 be referred to the Budget and Finance Committee.

NO. 17-391 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated September 27, 2017)

Reporting on transfer/loans from the General Fund and Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of August 31, 2017.

The recommended action is that County Communication No. 17-391 be referred to the Budget and Finance Committee.

NO. 17-392 - RIKI HOKAMA, COUNCILMEMBER,
(dated September 28, 2017)

Relating to an independent audit of the Finance Director's accounts, pursuant to Section 9-13 of the Charter of the County of Maui.

The recommended action is that County Communication No. 17-392 be referred to the Budget and Finance Committee.

NO. 17-393 - MIKE WHITE, COUNCIL CHAIR,
(dated September 28, 2017)

Transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR AN INDEPENDENT AUDIT OF THE DIRECTOR OF FINANCE'S ACCOUNTS".

The recommended action is that County Communication No. 17-393 be referred to the Budget and Finance Committee.

NO. 17-394 - DON S. GUZMAN, COUNCILMEMBER,
(dated September 21, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08, MAUI COUNTY CODE, RELATING TO SOIL EROSION AND SEDIMENT CONTROL".

The recommended action is that County Communication No. 17-394 be referred to the Infrastructure and Environmental Management Committee.

(COUNTY COMMUNICATION NO. 17-394 WAS LATER REFERRED TO THE LAND USE COMMITTEE. See pages 39 through 42.)

NO. 17-395 - ALIKA ATAY, COUNCILMEMBER,
(dated September 28, 2017)

Relating to powers, duties, and functions of the Department of Environmental Management.

The recommended action is that County Communication No. 17-395 be referred to the Infrastructure and Environmental Management Committee.

NO. 17-396 - DON S. GUZMAN, COUNCILMEMBER,
(dated September 21, 2017)

Transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE RELATING TO RESOURCE EXTRACTION OR PROCESSING".

The recommended action is that County Communication No. 17-396 be referred to the Land Use Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 17-396 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-140. COUNTY COMMUNICATION NO. 17-396 WAS THEN FILED. See pages 42 through 52 for discussion.)

NO. 17-397 - MIKE WHITE, COUNCIL CHAIR,
(dated September 28, 2017)

Relating to a District Boundary Amendment for property situated at 4356 Hana Highway, Hana.

The recommended action is that County Communication No. 17-397 be referred to the Land Use Committee.

NO. 17-398 - DON S. GUZMAN, COUNCILMEMBER,
(dated September 29, 2017)

Relating to the new Kahului Community Center Facility (TMK: (2) 3-8-007:101, Lot 12-A-1-F) under the Department of Parks and Recreation.

The recommended action is that County Communication No. 17-398 be referred to the Parks, Recreation, Energy, and Legal Affairs Committee.

NO. 17-399 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated September 18, 2017)

Transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF THE DONATION OF A 2005 FORD 350 ECONOLINE VAN FOR THE POI AND PALS PROGRAM ON MOLOKAI, FROM THE QUEEN LILIUOKALANI CHILDREN'S CENTER TO THE COUNTY OF MAUI, DEPARTMENT OF POLICE, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE".

The recommended action is that County Communication No. 17-399 be referred to the Policy, Economic Development, and Agriculture Committee.

NO. 17-400 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated September 21, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI THROUGH THE CHIEF OF POLICE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF THE ATTORNEY GENERAL".

The recommended action is that County Communication No. 17-400 be referred to the Policy, Economic Development, and Agriculture Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

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

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

DISCUSSION AND ACTION RELATING TO COUNTY COMMUNICATION NO. 17-394

COUNCILMEMBER GUZMAN: Just a clarification for the County Communication 17-394, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08, RELATING TO SOIL EROSION AND SEDIMENT CONTROL". Is that, which Committee is that being referred to?

CHAIR WHITE: That's going to the IEM Committee.

COUNCILMEMBER GUZMAN: Okay. I, as a personal privilege would like to ask Councilmember Cochran if she would accept that into her Committee. I, I know that it, this is just the beginning. It's not the silver bullet. It's in response to the recent court decision and trying to head in the right direction to solve some of these issues. It could be worked out in a plan with the moratorium in regards to the, the next item that I'm going to be asking for.

But, I had three issues with that moratorium, and those were legal issues: the undeveloped definition and development; 2) was the waiver standards of the Director; and 3) was the reasonable timeframe. And, a reasonable timeframe was actually, you need a foundation that's in existence. So these two bills, one of them I'm speaking about right now, is the foundation that actually will hook into what is reasonable in the timeframe definition. So, it could be used in the moratorium as part of the standard for the timeframe. So, it's not necessarily what has been perceived as something that is blocking, but something that is a component thereof.

So, as a personal privilege, would like to also apologize to Chair Cochran if she perceived my, my, my position as being something that blocked. But I actually wanted to do some, use my skills to point out that there are legal flaws that can be corrected. There are things in legislation that we need to correct prior to it being passed out

somewhat like the GMO bills that were legally flawed. So, I'd rather that we take the time to try to address those.

And these bills that I'm presenting is basically one step in addressing, or at least following the guidance of Judge Cardoza. It's not the silver bullet, but it can be amended. It's the subject matter.

So, I'd like to ask Ms. Cochran if she would be willing to accept that item into her Committee.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: And, thank you for the explanation, Member Guzman. So, I, I do have comments on this item, Chair, if I may at this time?

CHAIR WHITE: Sure.

COUNCILMEMBER COCHRAN: So, I'm, so this is my justification as to why I would rather see it in another Committee, but it's not to not work on it. So, this proposal, so this County Communication 17-394 is proposing to amend Chapter 20.08, Maui County Code, which relates to soil erosion and sediment control.

Resolution No. 17-5, Draft 1, enlists, entitled "ESTABLISHING THE STANDING COMMITTEES OF THE COUNCIL, DEFINING THEIR DUTIES, AND APPOINTING THEIR MEMBERS", establishes the jurisdiction of each of these standing Committees for this current term. And IEM Committee has jurisdiction over these matters: a. County facilities construction and maintenance like road, drainage, waste management systems, except for water supply and energy; b. Traffic safety; c. Issues relating to protection, preservation, enhancement of the environment, except for energy issues, but including recycling; and d. Operations of DEM and Public Works as, and the operational oversight of any grants they administer.

So, in reference to Mr. Guzman's proposal, which is the purpose of it is to preserve and protect sensitive historic, cultural, archaeological sites, and unmarked burial, human burial sites by clarifying the grading and grubbing permit process. This amendment's action clarifies the grading and grubbing permit process given to Director of Public Works and Director of Planning, and any State or County agency with authority relevant to the work being conducted, the ability to enter the property to ensure compliance with their permits.

So, as I read what the IEM standing Committee deals with, it's the operations of Public Works and its also operations of the Planning Department *[sic]* in particular. So, for me, the grading and grubbing permit process could also be considered a Land Use Committee issue. And since Land Use has jurisdiction over these following matters, which are: Project-specific amendments of State land use district boundaries, the General Plan, the community plans, and zoning ordinances; b. Other land use approvals requiring Council review and approvals such as variances and conditional permits; c. Expedited approvals of housing projects pursuant to 201H, or any successor statute; and d. Land use ordinances not specific to a project.

So, Chair, comparing and contrasting these two Committees and what they stand for, I believe this referral item can fit into one or more, two or more, or I guess at least a couple of these Committees. So, typically those, I believe go to PEA, Policy, Economic Development, Ag. And thereby why I am suggesting that it does go into PEA. Because to me, it transcends two different Committees and not so much mine.

So, I feel that if, if it is Member Guzman's goal to expedite the matter, then it really shouldn't be unjustifiably sent to IEM. I have 49 pressing items on my master, and the likelihood of us being able to prioritize all of them is slim at this time, especially since I do intend to schedule, which it's not on the agenda, but the sand moratorium on every single agenda that I have coming up.

So, that's kind of where I'm at, and my reasoning too, Chair, at this time. If we want to expedite this, I'd prefer it to go into PEA, which I think it fits.

CHAIR WHITE: Well we, in referring it to your Committee, we followed the, the guidelines that we normally utilize. And, Mr. Garneau, if you'd like to provide the explanation of why we referred it to IEM. But, it may make some sense for us to send it to Land Use, cause it is somewhat tied to Land Use issues. But, that's up to the, up to the Committee. You know, we made a referral that we felt was consistent with the guidelines that we've established.

COUNCILMEMBER GUZMAN: Chair.

COUNCILMEMBER COCHRAN: I understand.

COUNCILMEMBER GUZMAN: Yea, I would respect Ms. Cochran's opinion at this point. However, I just want to point out that one of my, one of the three legal issues that I had with the moratorium was the reasonableness of the timeframe in which it was supposed to be, the duration and Corporation Counsel was trying to tell us that it, the two years could trigger legal challenges. So, there must be some type of foundation or what I would call a hook to, to indicate what is actually, what do we base the timeframe on.

And since this process is going to take a while for, at least, my second resolution, or my proposal through the Planning Commission, we could then have a timeframe, five months, six months indicated that would, that would be a component of the sand moratorium. That's why I was getting at.

But, that's fine. If there's no opportunity to hear this item in IEM, I'm willing to yield it to Planning Committee, if Mr., Land Use, sorry, Land Use, if Mr. Carroll would accept that.

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: Well, it, Mr. Carroll.

VICE-CHAIR CARROLL: Yes, I have no problem with that. Thank you, Chair.

CHAIR WHITE: Thank you. So, without objection, Members, we'll refer this item to Land Use.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. Thank you. Thank you, Ms. Cochran, and Mr. Guzman.

DISCUSSION AND ACTION RELATING TO COUNTY COMMUNICATION NO. 17-396

COUNCILMEMBER GUZMAN: Chair, in reference, I guess we're going along that line.

IN REFERENCE TO 17-396, I WOULD MOVE TO WAIVE THE REQUIREMENTS OF THE COMMITTEE REFERRAL AND REPORT PURSUANT TO RULE 7-11 OF THE RULES OF THE COUNCIL.

This is in referen, I did state the communication number, but let me state for the record the title, "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE RELATING TO THE RESOURCE EXTRACTION OR PROCESSING".

CHAIR WHITE: Would, would you like to provide, before you, before we get a second on your, your motion, would you like to provide a little more background so that we understand the, the reason for moving, moving this today as opposed to--

COUNCILMEMBER GUZMAN: Okay. Well, Chair, it's very basic, it's, it's a time-sensitive issue. And as you know for that past several meetings, your Infrastructure and Environmental Management Committee has been discussing this matter of a possible moratorium on sand mining. And there's been discussions with the concerns with many of the public as well as on both sides of how we were to proceed. In fact, there is an immediate need to take some action to protect the remaining valuable natural resources that issue and support expediting solutions. And, this is merely in conjunction, this bill is drafted in conjunction with trying to set up, at least follow the guidance or the opine of Judge Cardoza that we do need to take action.

We can't wait. We have to put out some type of legislation to remedy the situations. This, this bill is not the silver bullet. But as our process is somewhat delayed in, in how we go through ordinances, we usually refer bills to the Committee and then take public testimony, gets vetted out, and then it gets transferred to the Planning Commissions for their input. And then after that input, it comes back to that Committee for further vetting. I'm just trying to get this started much earlier by sending it to the Commission first, the Planning Commissions first to get their input on this bill, and then it get referred to the proper Committee for vetting of the public, as well as the Committee.

So, instead of going through the red tape as we usually do by doing the process twice, my intention is to try to get it to the Commission for their review and input first, and then get it transferred to the Committee for any other amendments. And it could be changed quite a bit. But, it's just to make sure that this is a vehicle that will get us through it, because under our, our Charter, any amendments in Chapter 19 has to go through the Planning Commission for input. It doesn't mean that that's a final version of a bill. It just means input. It's just like, you know, it's another red tape that we need to go through. And this, by expediting it first to the Commissions, I think it would be a lot faster to, to get it vet, or at least get a proper legislation in accordance with what Judge Cardoza is asking us to do. And that's my reason.

CHAIR WHITE: We have a motion from Mr. Guzman. Do we have a second?

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a second from Ms. Crivello.

Any further discussion on the--

COUNCILMEMBER KING: I--

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: I have a question, Chair, yea, on this process of, so if we, if we bypass the Committee, then that, I mean, I'm assuming that the reason why it goes to Committee first is so that the Committee puts eyes on it and makes amendments before sending to the Planning Commission. So, if we bypass that, then it's going to, the first eyes on it will be the Planning Commission, and then it will come back?

COUNCILMEMBER GUZMAN: Yes.

COUNCILMEMBER KING: Okay.

COUNCILMEMBER GUZMAN: Then, I'm sorry.

COUNCILMEMBER KING: Yea, no, I just, it's hard to, without actually seeing the, because the legislation is not attached, it's hard to, to make a decision on whether to pass this through like this because I'm not sure what the legislation says. Or, you know, a lot of what, what happens at the Planning Commission gets, gets recommended to this body whether or not the, I mean, they're not always in, in agreement with even the Planning Director.

So, that would, that's my, one of my concerns is, you know, maybe it needs to go through Committee first, and then that recommendation goes to the Planning Commission, instead of having a, sort of blank slate sent to them without, without the Committees has it's, having had its eyes on it. So, not sure, I'm not sure how I feel about that, in the discharging directly to the Planning Commission.

CHAIR WHITE: Thank you, Ms. King.

Any further discussion, Members?

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: I appreciate Councilmember King's concerns. And, if I can just say that it's a, it's a bill right now that has been reviewed, at least I feel is, is a steppingstone or at least a first, first move to try to address some of the concerns that were, were presented in the court case. And, accordingly, Judge Cardoza is, is basically in a sense saying, look, legislation do something now to try to address some of these concerns in the codes.

And so, this was just a vehicle to try to get it through to the Committee at, by at least shortening the process, you know. I understand Ms. King's concerns and, and I, it's not that I'm trying to bypass the Committee because it will go to the Committee after the Commission's input. And it can be substantially changed in the Committee, in the, whichever Committee it's referred to.

But, at the end result of all this, you Chair can, or at least I can motion for the subject matter to be referred to a specific Committee. So, when it does come back from the Commissions it goes directly to the assigned Committee, and therefore, it would not have to come back to Council for another referral to a specific Committee.

CHAIR WHITE: Thank you, Mr. Guzman. And I'll just mention that we have, this body has done it both ways in the past. So, it's not unusual for us to send something.

Any further discussion on the, on the waiver?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: On the waiver, yea. I guess, yea I get the thought process here, and trying to be expeditious. And that's kind of what I've been trying to do through IEM. And I always, I appreciate these two bills moving forward because it was a thought to go this route also, you know. So, not concurrently or, you know, simultaneously, because my, my office can only do so much. So, I appreciate Mr. Guzman's office picking up the ball on these two issues; with his bills he's presenting today.

But, I really believe that they ought to be vetted very, very thoroughly. And the expediting of sort should be the one that I am currently working on in IEM at this time. Thank you, Chair.

CHAIR WHITE: Thank you.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: If I'm to understand the process where Councilmember Guzman is trying to, I understand their, I'm not on the IEM Committee, but I've been trying to follow what's going on. But, I see this as another prong for us to try and expedite through the different layers. And like you said, we've done it before. So, I, I can appreciate that we will be able to have it vetted through the Commission. And it's

going to come back to us. And, and then we continue to vet through what their recommendation is, or, or no recommend, whatever it is that would come from the Planning Commission.

So, I, I don't see this in competition with one bill or the other. I, I see this as opportunities to try and resolve, especially what's coming down from the courts, and, and to respond to our testifiers, and people who have their concerns about the, the demographics and, and everything else that comes with this issue. So, thank you.

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Thank you.

COUNCILMEMBER GUZMAN: Can I just state one more thing? Is that, you know, it, the standard, or at least it's required that the Commission's review any bill under Chapter 19, and they're, they have up to 120 days. And a lot of times they take the full 120 days to review it.

So, I, I'm just trying to expedite that portion where we get it, their input in first, and then it gets referred to Committee so that we can do it all, at least in one meeting where we can do public meeting input. It can be substantially changed. The only requirement that I'm trying to get finished or completed is the review of the Commissions' input, I mean, the review and input. And like I said, that whole bill can be substantially changed at some point. Or if it is, completely substantially, but at least the subject matter is placed on notice to the Commissions.

CHAIR WHITE: Any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: I'm trying to understand this. I understand the request for being expeditious in trying to understand the role of the Planning Commission as, as being primarily and only advisory bodies, not decision-making bodies as it pertains to comprehensive zoning ordinances. And with that, the Planning Commissions also fall under the jurisdiction and scope of the Land Use Committee.

I, I'm in support of trying to speed things up and get this done. However, I'm also wanting to, how does this, how can we also speed up in getting an update on the sand study that was last done in 2006?

(Councilmember King was excused from the meeting at 10:38 a.m.)

COUNCILMEMBER ATAY: From the Hawaiian cultural perspective, if it, especially amongst, you know, for example, like in the Royal Order of Kamehameha, there's a position that they call Kahuna Kukui Pu'e One. And that is the, the position of the one that is enlightened to be able to see within the sand dunes. And so, what we've heard the last several weeks have been voices of the enlightened ones that have brought this forward, so far forward that now we have a judge involved. And the enlightenment of the judge is encouraging us, the legislative side, to make legislation, to stop the things that have been happening for over a decade.

You know, I set, sat here and listened to the judge's side. I'm going, so in other words, we believe the word of a maybe archaeologist. And because of that word, several subdivisions went forward, and was, and this, this pu'e one, or this sand dunes were not protected. We have an opportunity to make things right and pono. At the same time, we have to move quickly.

So, I would, I would support this move to, you know, get it to Planning Commissions so that we do follow the Charter, and then still have it come back to the rightful Committee.

CHAIR WHITE: Thank you, Mr. Atay. Any further discussion, Members? Seeing none, all those in favor of the waiver please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER COCHRAN.

EXCUSED: COUNCILMEMBER KING.

CHAIR WHITE: Measure passes with seven "ayes"; one "no", Ms. Cochran; and one "excused", Ms. King.

And we are back to Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO THE COUNTY COMMUNICATION 17-396,
THAT WOULD ALLOW THIS PROPOSED BILL TO BE

TRANSFERRED TO THE PLANNING COMMISSION FOR
REVIEW AND COMMENT; AND THE FILING OF THE
COMMUNICATION.

VICE-CHAIR CARROLL:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. As I will reiterate, this resolution, if it, if adopted will, with the proposed bill will need to go to the three planning commissions for review and comment under our Charter.

Once the Planning Commissions review and recommendations are complete, the proposed bill will be returned back to Council. And I would ask you, Chair, if I could transfer the subject matter to the appropriate Committee now so that it would go directly to that Committee, and still, and once it's in that Committee, have ample opportunity for amendments and receive testimony by the public and further deliberations to the merits of the bill.

Chair, the proposed amendments is in, is in Title 19, that are identified in the bill attached, and includes amended definitions of the resource extraction in order to better serve, protect, and regulate the use of the County's finite natural resources. The proposed bill is a direct result of the many hours of discussion during the Infrastructure and Environmental Management Committee meetings in which the moratorium on the sand mining was discussed. And because of the, of the numerous meetings, there was a, panels and discussions, as well as in conjunction with the court case. So, all of this was, was done after the decision was made by Judge Cardoza.

(Councilmember King returned to the meeting at 10:41 a.m.)

COUNCILMEMBER GUZMAN: Because this proposed bill involves amending Title 19, Sections 8-8.4 and 8-8.6 of the Revised Charter as stated, requires the proposed transmission to the Planning Commissions for further findings and recommendations before the Council can take any further actions. Therefore, I urge the Members to support this motion. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion?

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I will support this because the next meeting, as everyone knows, I hope, that we're going to Hana. And the next meeting after that is already, I would have to shift and change the schedule just to be able to hear this.

And since it has been pointed out that this is a court decision that is involved in this, and they expect us to expediate *[sic]* it, in this case I would have no objection to proceeding and okaying at this time. I think it's, I think it's justified and I think it's more importantly in the better interest of the public. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Is it, is it possible to send this simultaneously to the, to the Planning Commission and to Committee?

CHAIR WHITE: It, it essentially, well, Mr. Carroll.

VICE-CHAIR CARROLL: I, I'll defer to.

DEPUTY COUNTY CLERK: Mr. Chair, I believe in Councilmember Guzman's motion and discussion, he asked that transfer of the subject matter also be sent to Committee in addition to the adoption and filing of the communication.

CHAIR WHITE: Okay, so it's all, it would be in the Committee.

COUNCILMEMBER KING: So, its--

DEPUTY COUNTY CLERK: The subject matter is what Councilmember Guzman suggested.

COUNCILMEMBER KING: So, it could be scheduled, it could be, I mean, if it's going to take 180 days for the Planning Commission to get to it, or 120 days to get to it anyway, then it might be that we could get to it quicker through Committee.

CHAIR WHITE: Yea, the 120 days is the timeframe within which they have to respond.

COUNCILMEMBER KING: Right. No, that's, I understand that.

CHAIR WHITE: So, it could be shorter than that.

COUNCILMEMBER KING: It could be. But, my, you know, one of my concerns is we had, we had testifiers that, you know, wanted to see it in Committee. I believe because the Committee is either more accessible or, you know, tends to hear public testimony, and, and I want to say with deeper conviction. But, we've had some recommendations come to us where there've been many people in the community that have gone to a Planning Commission and testified against something, and yet it comes to us with a recommendation.

So, you know, I feel like putting it in Committee gives a better access to the public to be part of that discussion, rather than sending it to Planning Commission first. So, that, that's my biggest concern. You know, I appreciate the, the effort to expedite it. But, you know, if there's a chance that it can, we can do both simultaneously, perhaps that would be, that would be the best way to expedite it. And then, and then, you know, whatever Planning Commission sends over, the Council could consider at that time.

CHAIR WHITE: Okay, thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I understand what Mr. Guzman is proposing. And it's very doable, but there is only one official piece of legislation, okay. And we are referring that to the Planning Commissions, which means Council does not have jurisdiction of the vehicle. And we cannot schedule a vehicle that is not in our jurisdiction. It is only the subject in Committee, not the document itself, Chairman. There is only one original document.

CHAIR WHITE: Yea, and I'm sure that the Planning Department understands the, the need for addressing this in a timely fashion. So, I'm sure they'll take it up as, as quickly as they can.

Any further discussion?

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: I, I like what Councilmember King is saying. And, and I also understand where Mr. Hokama is in the legal analysis as well, which is, it is true; we only have one vehicle to push to, one legislation to transfer it to the Commissions. But, we've done in the past is take the subject matter and refer that subject matter to the Committee.

And, even at the subject matter, you can still have some type of discussions on a subject matter. And I have certain subject matters like the Kahului Community Center that was on today's agenda; is a subject matter with no legislation. But, I'm going to bring it forth in my Committee and have that discussion. So, we can have a discussion. It's just that it'll be difficult to make any amendments to it, but there can be that discussion.

CHAIR WHITE: Well the--

COUNCILMEMBER GUZMAN: In that Committee.

CHAIR WHITE: Yea, it's well within the purview for the Committee to have presentations or discussions.

COUNCILMEMBER GUZMAN: Right, right. I just wanted to have that--

CHAIR WHITE: --working on that specific bill. That's up to Mr. Carroll.

COUNCILMEMBER GUZMAN: Yes. Correct. Thank you, Chair.

CHAIR WHITE: Okay. All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

Actually, Members, let's take quick break. We've gone a bit beyond. We don't have too much to go, so please make it a five-minute break. Be back here at five to eleven.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:48 A.M., AND WAS RECONVENED AT 10:58 A.M., WITH ALL MEMBERS PRESENT.)

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

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

DEPUTY COUNTY CLERK: Relating to County Communication 17-396, that's RESOLUTION 17-140.

Mr. Chair, proceeding with county communications, you have before you, excuse me, General Communications.

GENERAL COMMUNICATION

NO. 17-11 - GRANT Y. M. CHUN, A&B PROPERTIES HAWAII, LLC,
(dated September 25, 2017)

Submitting the 2017 annual report in accordance with Condition No. 2 of Ordinance No. 4385, Wai`ale Project District South – Change in Zoning.

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO FILE GENERAL COMMUNICATION 17-11.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Submittal of this compliance report is a requirement of the Change in Zoning granted for Wai`ale Project District South.

The document is informational only and requires no Council action. Thank you, Chair.

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

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. I'm just, I did go through this, but I thought we typically get like the entire listing of conditions. Or is this one only have these two? I don't, am I thinking of another compliance report?

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: That's all, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes.

VICE-CHAIR CARROLL: Or Chair. That's all had, there is.

COUNCILMEMBER COCHRAN: For the, okay.

VICE-CHAIR CARROLL: That's all there is on here, the two.

CHAIR WHITE: Okay.

COUNCILMEMBER COCHRAN: Okay, okay. Thank you.

CHAIR WHITE: Any further discussion? All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

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

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 17-120 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 80 (2017), 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 HEALTH," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-351, from the Chief of Police, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: With no objections, Chairman, I would request the Clerk to bring up Committee Reports up to including 17-124.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

COMMITTEE REPORT

NO. 17-121 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 81 (2017), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES SECRET SERVICE (USSS) REGARDING PAYMENT OF EXPENSES FROM JOINT OPERATIONS BETWEEN USSS AND THE MAUI POLICE DEPARTMENT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-352, from the Chief of Police, be FILED.

COMMITTEE REPORT

NO. 17-122 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 82 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF HOUSING AND HUMAN CONCERNS (STRATEGIC PREVENTION FRAMEWORK PARTNERSHIPS FOR SUCCESS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 17-123 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 83 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF POLICE (VIOLENCE AGAINST WOMEN ACT (VAWA) – STATE ATTORNEY GENERAL)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 17-124 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 84 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF WATER SUPPLY, WAILUKU-KAHULUI COMMUNITY PLAN AREA, WATER SUPPLY, WAILUKU WATER COMPANY ACQUISITION; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 85 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF WATER SUPPLY, WAILUKU-KAHULUI COMMUNITY PLAN AREA, WAILUKU WATER COMPANY ACQUISITION," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. County Communication 17-313, from the Budget Director, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORTS 17-120 UP TO AND INCLUDING 17-124, ALONG WITH ITS RECOMMENDATIONS, BE ADOPTED, AND ALLOW THOSE FOR FIRST READING AND BE ORDERED TO PRINT, AND FILING OF ALL APPROPRIATE COMMUNICATIONS.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: I'm sorry, who was the second?

COUNCILMEMBER HOKAMA: Ms. Crivello.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, basically as the Clerk read, couple is for authorizing the Mayor to enter into intergovernmental agreements with the State of Hawaii and the United States Secret Service.

Second, the others are just housekeeping items regarding receiving grant monies.

And finally, one is to appropriate funds to do our due diligence regarding an appraisal of consideration regarding Wailuku Water Company assets. Thank you.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, relative to Committee Report 17-120 is BILL 80 (2017). Relative to Committee Report 17-121, BILL 81 (2017). Relative to Committee Report 17-122, BILL 82 (2017). Relative to Committee Report 17-123, BILL 83 (2017). Relative to Committee Report 17-124, BILLS 84 and 85 (2017), respectively.

COMMITTEE REPORT
NO. 17-125 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-25, from the Director of Finance, informing of the acquisition of Road Lot 1-A-2 of Land Court Application 1804, and Lot B-3 of the Kamaole Homesteads Subdivision, identified as Tax Map Key Number (2) 2-1-008:044 (Kilohana Drive), be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: And Chair, thank you. May I please request the Clerk also bring up Committee Report 17-126, 17-127, and 17-128?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR WHITE: So ordered.

Mr. Clerk.

COMMITTEE REPORT
NO. 17-126 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-26, from the Director of Finance, informing of the acquisition of Road Lots 1, 2, and 4 of the Kamaole Homesteads and Road Lots 17, 18, and 21 of the Kilohana Subdivision II Parts A and B, identified as Tax Map Key Numbers (2) 3-9-037:073 (Por) & 075, (2) 3-9-037:999, and (2) 3-9-038:049 (Por) & 050, be FILED.

COMMITTEE REPORT
NO. 17-127 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-27, from the Director of Finance, informing of the acquisition of West Kuiaha Road Widening Lot 25-C-4, Kuiaha-Kaupakalua Homesteads, identified as Tax Map Key Number (2) 2-7-012:078 (Por), be FILED.

COMMITTEE REPORT
NO. 17-128 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-87, from the Director of Finance, informing of the acquisition of Pauwela Road Widening Lot 5, Pauwela Road Subdivision, TMK: (2) 2-7-008:047 (Por), be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. So, Number 17-125 is, was considered at IEM meeting, oh sorry.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-125, 17-126, 17-127, AND 17-128.

COUNCILMEMBER KING:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Now, these, IEM Committee met on September 18, and it involved the acquisition of, by the County of two road lots, located in Kihei. And they were acquired for the purpose of providing public east to west access between Piilani Highway and South Kihei Road. Your Committee reviewed the Warranty Deed relating to this acquisition, and we reported no concerns. And no County funds were used to acquire these lots.

Number 17-26, 126, we also spoke about on September 18, 2017, this was an acquisition by the County for six road lots located in Kihei. And we acquired these for the purpose of providing internal street connections between different developments in order to provide better vehicular circulation. And we reviewed the Deed related to the acquisition, found no concerns. And no County funds were used here either.

Number 17-127, we spoke about again on September 18, meeting. This was acquisition of road widening lots in Haiku. And we acquired these lots, a portion of, widening a portion of West Kuiaha Road in order to service that area. And again, reviewed the Deed. Again, no concerns, and no County funds used.

17-128 was discussed on that same meeting, on the 18th. And, we acquired road widening lot in Haiku, once again, for widening of a portion of Pauwela Road, bless you, Chair, in order to better serve the area. Your Committee reviewed the Deed here, and no County funds were utilized once again.

So, pretty much housekeeping type items here. And I respectfully ask for my Members support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

COMMITTEE REPORT

NO. 17-129 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending the following:

1. That Resolution 17-141, entitled "AUTHORIZING THE ISSUANCE OF A PERMIT WITH GREATER DURATION THAN FIVE CONSECUTIVE DAYS FOR THE 2017 ALOHA CLASSIC WINDSURFING TOURNAMENT, PURSUANT TO SECTION 13.04A.100, MAUI COUNTY CODE," be ADOPTED; and
2. That County Communication 17-366, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE
REPORT 17-129.

COUNCILMEMBER KING:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on September 19, 2017, to consider a revised proposed resolution to authorize the issuance of the special events permits for the durations greater than five consecutive days for the next five annual Aloha Classic Surfing Tournaments at Hookipa Beach Park, pursuant to Section 13.04A.100 of the Maui County Code.

The organizers of the event are International Windsurfing Tour, and the US Windsurfing Association.

As noted by your Committee, the organizers are required to have a parking plan, insurance for the event, and to indemnify, to have an indemnification agreement in favor of the County. They are also to provide their own water patrol.

Your Committee decided it would prefer for the organizers to establish a track record of good performance and timely submittal before considering authorizing the issuance of a special permit for multiple years.

However, your Committee recognized the merits of the Aloha Classic, and recommending authorizing, authorization of the issuance of the permit for this event for this year.

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

CHAIR WHITE: Thank you, Mr. Guzman.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-141.

COMMITTEE REPORT
NO. 17-130 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-142, entitled "AUTHORIZING SETTLEMENT OF HARRY DONENFELD V. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

THE, MOVE TO ADOPT THE COMMITTEE REPORT IN 17-130.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on September 19, 2017, to consider two proposed resolutions from the Department of Corporation Counsel relating to the aforesaid case.

The first resolution would authorize increase in compensation by 75,000 for special counsel, as well as the second resolution would provide the Department with settlement authority in this case.

The relevant Complaint alleges Harry Donenfeld was terminated as the Hawaii, as the Maui County Film Commissioner in violation of his due process rights under the United States and Hawaii Constitutions, breach of contract, defamation, and violation of statutory privacy interest, among others. Mr. Donenfeld seeks damages including punitive damages.

Following an executive meeting, your Committee voted to recommend adoption of the proposed resolution to authorize settlement. And we then deferred the action on the resolution authorizing an increase in compensation for special counsel. Respectfully request support of this Committee's recommendations. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-142.

COMMITTEE REPORT
NO. 17-131 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-143, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 301545971280001 BY KAA NAPALI GOLF COURSES," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN:

CHAIR, MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 17-131.

COUNCILMEMBER KING:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on September 5, 2017, and September 19, 2017, to consider a proposed resolution authorizing settlement of the claim by Kaanapali Golf Course for \$35,918.16.

The claim arose from the damage to the golf course property that occurred when a County sewer line backed up and the sewage overflowed into the golf course clubhouse on June 25, 2015, and July 27, 2015.

The sewage overflow occurred due, due to the technical difficulties the Department of Environmental Management had while repairing and, and upgrading the sewage system in the area.

Renovations are complete, and no similar problems are anticipated.

Your Committee voted 5-0 to recommend the proposed resolution to be adopted. Respectfully request support of your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-143.

COMMITTEE REPORT

NO. 17-132 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-144, entitled "AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI'S CLAIM NO. II038632 AGAINST ISLAND INSURANCE COMPANY, LIMITED," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-132.

COUNCILMEMBER KING:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on September 5, 2017, and September 19, 2017, to consider a proposed resolution authorizing settlement of the County's claim against Island Insurance Company, Limited, for \$183,767.84.

The claim arose from damages caused to the Department of Finance, Division of the Motor Vehicles & Licensing Facility at the Maui Mall, at Kahului, Hawaii, on February 16, 2016, and March 8, 2016.

The damages were caused by the flood incidents that occurred when large amounts of rain poured into the facility while the roof was being repaired.

Damages include construction repair costs, cleaning costs, rental costs at One Main Plaza, employee overtime, and items damaged in the floods.

Your Committee voted 5-0 to recommend adoption of the proposed resolution. I respectfully request the support of your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-144.

COMMITTEE REPORT
NO. 17-133 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE
COMMITTEE:

Recommending the following:

1. That Resolution 17-145, entitled "URGING THE MAYOR TO EXPLORE ADDITIONAL DEFERRED COMPENSATION PLAN ALTERNATIVES FOR COUNTY EMPLOYEES," be ADOPTED; and
2. That County Communication 17-295, from Councilmember Stacy Crivello, be FILED.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-133.

COUNCILMEMBER COCHRAN:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, and Agriculture Committee, we met twice, August 8, as well as September 18, 2017, to consider a proposed resolution to urge the Mayor to provide for an additional deferred compensation plan for County employees.

And your Committee subsequently received a separate proposed resolution authorizing the Mayor to terminate the agreement with the State Island Savings Plan, and procure for a new deferred compensation plan for the County of Maui through the appropriate, appropriate request for proposals process.

Although the Mayor has the authority to terminate the current contract with at least 60 days notice, your Committee advised against terminate, terminating the agreement until the Mayor completes the RFP process to explore other alternatives.

Your Committee revised the proposed resolution to urge the Mayor to explore other deferred compensation plan alternatives, and require the Mayor to meet with the Council on his findings before terminating the current plan.

Your Committee voted 6-0 to recommend adoption of the revised proposed resolution and filing of the communication. I respectfully ask for the full Council's support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-145.

COMMITTEE REPORT

NO. 17-134 - WATER RESOURCES COMMITTEE:

Recommending that County Communication 17-370, from Councilmember Alika Atay, relating to the Consent Decree in The Coalition to Protect East Maui Water Resources, et al. v. The Board of Water Supply, County of Maui, et al., Civil 03-1-0008(3), be FILED.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY:

MR. CHAIR, I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-134.

COUNCILMEMBER COCHRAN:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Atay.

COUNCILMEMBER ATAY: Mr. Chair, this matter was considered at the Water Resources Committee meeting of September 20, 2017.

According to the Deputy Corporation Counsel, 25 years ago, the Department of Water Supply developed a plan to furnish additional water from East Maui to Central Maui, known as the East Maui Water Development Plan. The Coalition to Protect East Maui Water Resources, et al. challenged the final environmental impact statement for the East Maui Water Development Plan.

As a result, the County prepared a Final Supplemental Environmental Impact Statement for the Plan, which was also challenged by the Coalition to protect East Maui Water Resources et al. This was settled by the parties through Consent Decree.

A Deputy Corporation Counsel asked to convene an executive meeting because the matter involves ongoing litigation. Based on information received in the executive meeting, your Committee recommended the communication be filed. I respectfully ask for the Members support of this motion.

CHAIR WHITE: Thank you, Mr. Atay.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

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

ORDINANCES

ORDINANCE NO. _____
BILL NO. 79 (2017)

A BILL FOR AN ORDINANCE GRANTING JEANA IWALANI NALUAI
A CONDITIONAL PERMIT TO CONDUCT CLASSES IN HAWAIIAN CULTURAL
AND MEDICINAL PRACTICES, AND OPERATE THE HO`OMANA SPA AND
BATHHOUSE, ON PROPERTY IDENTIFIED AS TAX MAP KEY (2) 2-4-013:142,
MAKAWAO, MAUI, HAWAII

CHAIR WHITE: Mr. Carroll

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 79 (2017) ON SECOND AND FINAL
READING.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Bill 79 would grant Jeana Iwalani Naluai a ten-year Conditional Permit to conduct these classes in Hawaiian cultural and medicinal practices, and operate the Ho`omana Spa and Bathhouse at 1550 Piipolo Road, Makawao. I ask for the Council's support of Bill 79.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak in support of, of the motion this morning. My only concern, Chairman, is I have brought up in several Committee meetings regarding this type of permits. I still am trying to understand the Department's approach on initial terms of approval. We go from one-year to five-years to ten-years. Where is the consistency in initial applications and reasonable time to allow the applicant to meet compliance?

It still disturbs me that we don't treat applications in a more consistent manner. And I state my reservations with how we are currently operating this type of permits. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

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

UNFINISHED BUSINESS
ORDINANCES

ORDINANCE NO. _____
BILL NO. 77 (2017)

A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC
A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL
WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED
AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY
NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII

DEPUTY COUNTY CLERK: Mr. Chair, currently pending before the Council is a motion by Councilmember Crivello, and seconded by Councilmember Sugimura, to pass Bill No. 77 (2017) on second and final reading.

CHAIR WHITE: Thank you, Mr. Clerk.

My recollection is that we were going to go to Ms. Cochran who had a, an, had it, made it known that she would like to have a motion to amend.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes. Yea, thank you for this opportunity, Chair. And, there's been some paperwork passed out to everyone so it should be in front of us on our desks.

CHAIR, AT THIS TIME, I, I DO MOVE TO AMEND CONDITION 2
OF THIS BILL 77 (2017), AND IT'S STRIKING THE
SEMI-COLON AND ALL LANGUAGE AFTER THE WORD
"ORDINANCE" AND INSERTING A PERIOD IN ITS PLACE.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER KING:

SECOND, SECOND THE MOTION.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair and Ms. King. So, if you look at the Amendment Summary Form that's been distributed, the form shows my proposed change in the Ramseyered version format.

And my reasoning is Section 19.40.090(C), Maui County Code, authorize Planning Director to approve an application for time extension when the criteria identified in that section are met. Initially, I had intended to propose that Condition 2 be amended to require that any extension be approved by Council, by the Council by ordinance. Since then, the Department of Corporation Counsel has informally opined that, if the extension is allowed at all, the Council cannot require the application to be approved by Council if the applicant meets the criteria set forth in the Section 9.40.090(C) *[sic]*. So, however, under Section 19.40.09A *[sic]*, Maui County Code, the Council, if the Council does not explicitly provide for an extension of the Conditional Permit when it is initially issued, then no time extension is authorized, and the applicant will need to process request for time extension in the same manner as the original application. So, this would be the vehicle to ensure that this request to operate the transient vacation rental beyond the one-year period is to return to this Council for an evaluation.

So, that's my reasoning. And looking for Members support on this.

CHAIR WHITE: Okay. Any further discussion?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Yes, I support this amendment. When we first, when we went to the first reading in Council, I remember asking for verification that this would come back to Council after one-year, and I was told yes. And then looking through the bill, I saw that that was not true after it had already been passed. So, I think this satisfies that condition that it does have to come back to Council.

In the meantime, I know that we will be dealing with the community plan amendment that is addressing short-term rentals in that Haiku area. So, hopefully we'll have some kind of background to, to measure the, the, whether or not we re-approve this, this permit.

CHAIR WHITE: Any further discussion?

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I was, I recognize Ms. Cochran's concern and Ms. King's concern. However, from the conditions over here, if you'll be patient with me, I'm going to start, I'm going to read three of them; 5, 8, and 10.

That prior to the TVR home operation, including any advertising, and with the submittal of any renewal request, 355 Haiku Road LLC shall submit the Department of Planning a detailed report addressing compliance with the conditions of the Conditional Permit. The compliance report shall be reviewed and approved by the Department of Planning prior to the start of operations and prior to any renewal of the Conditional Permit. The report shall be in a format where the conditions is listed following by a response from 5355 [sic] Haiku Road LLC. A copy of the original approval shall also be submitted with the report. Evidence of compliance with the permit conditions shall be included with the compliance report where applicable. That is number 5.

Number 8, that 355 Haiku Road LLC shall develop and use the property in substantial compliance with the representations made to the Maui Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to so develop and use the property as represented may result in revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

Condition 10, that a manager shall be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, and be physically present at the property within one hour following a request by TVR guest, a neighbor, or County agency.

Chair, the reason that we have, that it can't come back to Council is because it is not appropriate. We have the situation to where we have addressed the specific concerns that the community brought forward and Councilmembers brought forward to go to the Planning Commission. To have any applicant have to redo, or twice come back and redo the whole thing again, it is not proper, it is not appropriate. That's why the law, existing law reads as we have it.

Some people might get confused with Land Use when we put conditions on zoning. Yes, conditions on zoning, they come back and report to us. However, it's just a report, it does not affect the application itself. It just lets us know what was happening.

We're all concerned with enforcement. But, we need to let the people that we have designated to do this enforcement do what they're supposed to do. If we don't, what is this Council going to do, take over the Planning Department? I mean, that's what you're looking at. We're taking over the Planning Department and taking over their duties. It is not appropriate. Don't go down that road.

If we have concerns that the Planning Department is deficient, we need to go over there and address that; not go over there and put an applicant to go through a whole process twice because we want to hear what's going on.

And as for Ms. King's comment about future, we cannot make decisions on what might happen in the future. We don't know. To make a decision over here, to make an applicant go through completely again when we don't know what, if it even would have any effect on them is also not appropriate. That should be done when it went through Committee if there was any concerns brought up.

But, to have them go through the process twice, no, let the Planning Commission do what they're supposed to do. That Planning Commission report, when it comes back, is a public document. Ms. Cochran or Ms. King, or anybody else, can pick up that document if they see something over there that . . . the attention, they can go over there and proceed from there and bring it to the Committee or Council, or whatever they . . . appropriate.

But, I will not support this. And I would hope that even the makers of the motion would not support it, because it truly is not appropriate. And imagine how people out there feel that are coming inside for permits. Wow, you mean we got to come inside and we get this okayed and then we got to do it again? No, it's not good.

I hope we can do the right thing here. We still need to work on all of our departments as far as enforcement, we know that. But this is not the way or the place to do it. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. I do think this is appropriate. I'm sorry that Mr. Carroll does not agree, but we've actually violated the Community Plan by approving this short-term rental, because the Community Plan says no short-term rentals in that area. So, this is a way of allowing it for a year, reconsidering it. After we get to, after we try to reconcile the Community Plan with an ordinance that previous Council has passed, which was in, also in direct violation with the Community Plan for that area, which says no short-term rentals. We got an ordinance that said that there is a cap of 88.

And I know that's going to be, that was a recommendation was made by the Planning Commission. It's going to be coming to the Council to try to change the Community Plan to amend it. In the meantime, we've done something that is, is, I believe violates the Community Plan by even passing this in the first place.

And so, it is, I think it's wholly appropriate for us to take a look at it in a year, and decide if it's working for the neighbors. That's a way of getting that review in front of the public as well, and giving the public the chance to comment, because otherwise we don't, it, the Council doesn't, doesn't do our job of representing the public in that area.

So, I support the amendment. I think this is, is very appropriate, especially in this instance. And we've got a, a little mess to clean up in the Haiku-Paia area with the reconciling the ordinance with the Community Plan. So, let's not just keep approving these and then letting them go on and on without trying to figure out what it is that is appropriate for that community. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Any further discussion, Members?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I think earlier I heard let's have consistency in what, in what we're doing. And I, I believe Mr. Carroll tries to point out on, on how we dealt with the, this passage of allowing this. You know, several months ago, we just dealt with a Hale Akua Garden with 9 structures, 18 bedrooms, and 14 baths, with a five, and five-years. I did not support that passage because of somewhat 9 structures, 18 bedrooms, 14 baths, and, and the five years condition.

So, I compare, I'm not a great fan of TVR, but I'm just looking at fairness. If I look at this particular dwelling or building, it's one building that has so many bedrooms that sort of fits in with a TVR. I don't see us renting it for long-term rental; that's, that's not going to ever happen. It's pretty much isolated. And I think neighbors and concerned residents always have opportunities to file their concerns or complaint, and we can address it at that time.

So, to, to have the applicant, it took, I don't know how long it took for it to finally meet some passage, and then to say, oh, got to reapply and got to go through all this with, within just so many months, and again, how long. So, we're, we're the policymakers, so I can see, I can understand where this amendment is coming from.

But I really hope we can be consistent, and just carry fairness, whether we pass it or not. I mean, just, just look at the one that we just approved; five years, okay. So, and look at this other one; five years. And look at how many structures on that property. But, our Members approved it. So, I, I'm just looking for fairness for the applicant. You know, we can run him through the mill, but run them all through the mill then, and not just pick out one on a condition that we just give it the permit and, okay, hana hou, come back in again right away, you know. I, whether I, I support the TVR methods, I, I don't, we have a lot of issues on where I come from. But, just be fair.

And if it's the Planning Department's responsibilities, let's hold them to handling their responsibilities. And how costly is it for us to have to constantly, every so many months, review again. So, I think we look at cost also from, from the Department's side, as well as from the applicant and the time involved. I, I move aside who it is. I'm just looking at fairness, that what is fair. Thank you.

CHAIR WHITE: Thank you. And, it's Chair's understanding, Mr. Carroll, that the, the requirement at the end of this year is that the, the applicant will again have to go through a public notice process that I believe was expanded to 1,000 feet from the property. Is that correct?

VICE-CHAIR CARROLL: Yes.

CHAIR WHITE: Okay, thank you. So, there will be a public review process.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I, I want to also say that I appreciate Mr. Carroll going through the conditions and, and reading it. Because, I think all of us went through a huge process of asking the applicant to do a, you know, to do many things, and we did hear from the community.

I also want to say that we do have the Planning Department, with staff there, that we pay and we budget for, or the County has staff to take care of the things and be the eyes for us, and the residents. And that, I cannot support this amendment. So, I just wanted to speak on that behalf. Thank you.

CHAIR WHITE: Thank you. And I appreciate Ms. Crivello bringing up the comparison, because I, it's my, I don't know if it's true, but this came to us with a one-year permit limitation. I believe that that was probably done because of the, the request for activities, not because of the request for the, the TVR.

So, it might have been appropriate in Committee to have changed it back to a five-year to be consistent with one that we approved previously, once the activity element was removed as a, as a possibility for the applicant. So, I think you all make good points.

I, I can't support the, the amendment, because I, I just don't feel that it's fair to make an applicant go back through the entire process from, from the very beginning.

So, any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, I can hear the pleas of consistency, being consistent in application of permits. But I also look at consistency as what is law. What part of the law supersedes what part of the law?

You have your Community Plan, your Island General Plan. And in one of these meetings, I realized that previous Council created ordinances that is in direct conflict of the Community Plan, and the Island Plan, and the General Plan. If, if the Paia-Haiku area people, before, in making their plan, said no. But yet, going forward there's another Council, previous Council, that created an ordinance that allowed vacation rentals or, or short-term rentals.

So, I'm confused of this consistency, when if we want to be consistent, let's go back to the law that supersedes all and should be no, and let the community decide. The community did decide, and yet, Council went beyond it, and being inconsistent with that plan.

CHAIR WHITE: Thank you, Mr. Atay.

Any further discussion?

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: I don't have a statement. I just had some questions. On the, on the extension, when, after the one-year, and maybe Mr. Carroll could enlighten me. Under that Section 19.40, does the, after, after the, a compliance report has been conducted and a notice to the, to the residents within 1,000 feet has been sent out, the public hearing is before the Planning Commission?

And then, my second question is, can they extend it again, or do they only have one extension? Can, can the Department only extend it one time, or can they continuously extend, extend the period? Do you understand what I'm saying? So, so if they, if they are able to be granted and they were in full compliance after the one year, and there was a public hearing and there was no opposition, and it was extended, the extension is for one more year. But can they keep extending it after that year, like, another year after that, or another year after that? How does that work?

VICE-CHAIR CARROLL: Chair.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Yes, they can extend it, and they can extend it for different periods of time. Usually you go with a one-year extension, then after that, they would look at the behavior. If there was still some concerns, they just might make it another year, or they can make it two or three years. It depends on what the report comes back and how they have complied with all of the, the things that were required of them.

If they have a perfect record and everything was good, then the extension would probably be for two or three years, the next one. It's dependent on that. Or if there were concerns about future use in that area, or some other, other matter that might affect a longer extension, they might then go back to only one year. But it goes on, well, until either they change ownership or it's void or they give up. Thank you, Chair.

COUNCILMEMBER GUZMAN: Okay, thank you. And, I guess one more question just to follow that one. If, when they do the public hearing after they send the notice out, 1,000 yards or what's it under, feet, yea, 1,000 feet and then they have the public notice, does the Commission take into account what the people are saying, and do, does the Commission then advise the Director? Or does the Commission have the authority to deny it over the Director?

VICE-CHAIR CARROLL: Well, when the, you have a, excuse me, Chair.

CHAIR WHITE: Yea, Mr., Mr. Spence is here too, if you'd like--

COUNCILMEMBER GUZMAN: Oh, yes, Mr. Spence. Yes, that would be, I'm, I apologize, Mr. Carroll.

Chair, is, I have questions and I'm not comfortable with the amendments right now without having some of these questions answered.

CHAIR WHITE: Members, if, without objection, I'll have Mr. Spence come down.

MEMBERS VOICED NO OBJECTION.

PLANNING DIRECTOR WILL SPENCE: Good morning, Mr. Chairman, Members.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Oh yes, Mr. Spence, were you present during the time I had questioned Mr. Carroll?

PLANNING DIRECTOR: Yes. You had questions about who has authority to grant or deny permits. This particular--

COUNCILMEMBER GUZMAN: Extension, excuse me.

PLANNING DIRECTOR: Yea, okay, extension. Okay, the way, you have two permits involved with this, one is the, the Land Use Commission's Special Use Permit that is approved or denied, or approved with conditions by the Planning Commission; and then what's before you is the Conditional Permit. So, the applicant needs both permits in order to operate.

So, with the, and just, just so briefly, it's the Planning Commission that approves or denies a time extension on this. I would have to look at the specific way that the, the condition is written, but I don't, I believe it's the Planning Commission that will deal with any time extensions.

COUNCILMEMBER GUZMAN: Okay.

PLANNING DIRECTOR: For, for the Conditional Permit, the way that the Code is written, proper notice is given, a request for a time extension is, is presented to my Department. We go ahead and process that. I can administratively approve it and grant time extensions unless those four different criteria are, if one of those criteria are not met, okay. And so, all, in this case, all it would take would be, since we are concerned with the public's input, all it would take would be one protest letter, a single protest letter from someone within 1,000 feet, a very long distance, from a very large parcel already. And then it would go--

COUNCILMEMBER GUZMAN: To the Commission.

PLANNING DIRECTOR: That would trigger it, that would change it from an administrative approval to approval by Council. And then, we would engage the entire process again

of going to the Planning Commission, and then ultimately back up to the Council for review. So, a single protest could trigger that whole process.

COUNCILMEMBER GUZMAN: Okay, okay, thank you. Now I, I, can I, correct me if I'm wrong. Okay, this is my understanding now that you've clarified it; that on the extension, it not only has to go through compliance report conditions and also the notice of the extension to the residents within the perimeter of 1,000 feet. Now, if there's one objection letter received, it triggers now the review to the Planning Commission, so it then goes, the extension goes to the Planning Commission for approval. Is that correct?

PLANNING DIRECTOR: It goes, it goes to the Planning Commission for review.

COUNCILMEMBER GUZMAN: For a review.

PLANNING DIRECTOR: And their recommendation to the County Council.

COUNCILMEMBER GUZMAN: And then that goes to the County Council for recommendation of the extension.

PLANNING DIRECTOR: Correct.

COUNCILMEMBER GUZMAN: Okay. Thank you, Chair.

PLANNING DIRECTOR: And then ultimately approval or denial by the Council.

COUNCILMEMBER GUZMAN: Yes. I, you know, after knowing that there's a lot of safeguards and provisions in this, it's built in. And, I at this point feel that there's enough provisions that allow the public input. And like I said, if there's one letter after the one year that's an objection, it triggers now review of the Commission, review, Commission, the Planning Commissions review it and then sends to the Council for the approval of the extension. There's enough safeguards, I believe, that are set in place. So, I'm going to put it on the record, I don't think I can support this amendment. Thank you.

CHAIR WHITE: Thank you.

COUNCILMEMBER KING: Chair, I have a question for the Department.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you for being here. So, if there isn't a, well, you know say there's complaints before that period, before the year period, does that trigger anything to happen at the Commission? Or do you just play out the year and then see if there's any complaints at the end of the year? So, what happens if there's a complaint within that year? Is there a review process?

PLANNING DIRECTOR: When, okay, Mr. Chairman. Okay. The, when we receive a request for a time extension, the applicant must notify everybody, in this case, within 1,000 feet.

COUNCILMEMBER KING: Right. No, no, I heard all that.

PLANNING DIRECTOR: Okay.

COUNCILMEMBER KING: But, I'm saying before that time extension. If there's--

PLANNING DIRECTOR: We would, okay--

COUNCILMEMBER KING: How do you deal with complaints if there--

PLANNING DIRECTOR: If, if we get complaints, if we get RFS's, we would investigate the way we would any RFS. And more than likely what we would do is we would make sure that person is informed when we get a request for a time extension.

COUNCILMEMBER KING: Okay, and that's--

PLANNING DIRECTOR: We make sure that they're, they know that this is happening.

COUNCILMEMBER KING: Okay. But if it's a complaint based on the fact that it violates the Community Plan, because there hasn't been an amendment made, you're not going, that doesn't, that's not considered a complaint?

PLANNING DIRECTOR: That's, that's a Council decision.

COUNCILMEMBER KING: Okay, that's my point, Chair, is if this is a Council decision as far as how it, how it pertains to the Community Plan amendment process. You know, just as we're going through the Molokai Plan, once we get done with the Molokai Plan, we want to uphold that plan and anything that's, that's required in that plan or not, or, or banned from that plan, we would hope to uphold. That's my problem with this, with this, with this issue is that we're not doing that in this instance. The very least we could do is say well we'll review it again in a year after we've determined if we're going to make that Community Plan amendment.

And so, that's, that's why I support this strongly. If, if not, I, I don't think I would support this because it's a violation of the Community Plan as it sits right now.

CHAIR WHITE: Thank you.

Members, the Clerk has requested a brief recess. So, we're going to take a brief recess at the call of the Chair. Please don't leave the room.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:50 A.M., AND WAS RECONVENED AT 11:54 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER GUZMAN EXCUSED.)

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

Okay, Members, Mr. Spence wanted to point out that the amendment to the, well, I'll let you explain it, Mr. Spence. The amendment was to Section B, regarding the notice of 1,000 feet. And if I'm understanding him correctly, that, the, the protest portion of the Code limits the protest area to within 500 feet. So, he just wanted to make clear that that was the, that was the case.

So, the notice is going out to 1,000 feet, but the protests are only allowed to those folks within 500 feet. Did I appropriately characterize that, Mr. Spence.?

(Councilmember Guzman returned to the meeting at 11:55 a.m.)

PLANNING DIRECTOR: That's correct, Mr. Chairman.

CHAIR WHITE: Thank you.

So, any further discussion, Members? I think we've had a pretty good discussion about this. So, all those in favor of the amendment to, to restrict the, well, the amendment is to have the process start all over. So, the Chair is not in favor of the motion either. But, I'm going to call for the vote. All those in favor of the motion, please signify by saying "aye".

COUNCILMEMBER KING: Aye.

COUNCILMEMBER COCHRAN: Aye.

CHAIR WHITE: Those opposed say "no".

VICE-CHAIR CARROLL: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR WHITE: Okay, roll call vote, Mr. Clerk.

DEPUTY COUNTY CLERK: Councilmember Alika Atay.

COUNCILMEMBER ATAY: AYE.

DEPUTY COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

DEPUTY COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

DEPUTY COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

DEPUTY COUNTY CLERK: Councilmember Don S. Guzman.

COUNCILMEMBER GUZMAN: NO.

DEPUTY COUNTY CLERK: Councilmember Kelly T. King.

COUNCILMEMBER KING: AYE.

DEPUTY COUNTY CLERK: Presiding Officer Pro Temp Stacy Crivello.

COUNCILMEMBER CRIVELLO: NO.

DEPUTY COUNTY CLERK: Vice-Chair Robert Carroll.

VICE-CHAIR CARROLL: NO.

DEPUTY COUNTY CLERK: Chair Mike White.

CHAIR WHITE: NO.

AYES: COUNCILMEMBERS ATAY, COCHRAN, AND KING.

NOES: COUNCILMEMBERS CRIVELLO, GUZMAN, HOKAMA,
SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

DEPUTY COUNTY CLERK: Mr. Chair, there are three "ayes," six "noes"; motion fails.

CHAIR WHITE: Thank you. We're back to the main motion. Any further discussion on the main motion, Members?

COUNCILMEMBER KING: Chair, is there any liability if we're violating the community, the Community Plan? Maybe Corp. Counsel can speak to that, since it says in 2.80B that that has the force and effect of law. The Community Plan says no TVR's, and we are approving them.

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL PATRICK WONG: Chair, typically when we want to discuss the rights and liabilities of the County, I prefer to have that type of discussion in executive session. Given the question pending, I'm also concerned whether or not it's a proper item for discussion given our current agenda.

CHAIR WHITE: Thank you. And, and Ms. King that, the item is coming back or coming to us shortly. And we will be able to have that discussion.

So, if there's, Mr. Guzman.

COUNCILMEMBER GUZMAN: I, I have a question. On the, once the Community Plan is adopted, and after the one-year has expired and we're in the extension decision whether we're going to extend it or not, can one of the objections be because it's now in contradiction of, of the future amended Community Plans? Cause then it would, any objection triggers to the Commission, right? And then goes to the Council.

CHAIR WHITE: Mr. Wong.

COUNCILMEMBER GUZMAN: So, it's any objection. Right? That's my understanding.

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. In a deposition setting, I would object to your question as an incomplete hypothetical.

COUNCILMEMBER GUZMAN: It's hypothetical. But, I, I know without having to enter into executive session, that's my interpretation. And that could just be a form of, of a statement. You don't have to answer it if we have to go into executive session.

But, I would assume that after the one-year, during the extension period of deciding that, if there was an objection and it was based off of, it, it not being in compliance with the newly amended Community Plan, and then fashioned, fashioned with a nexus to another complaint within that, all of that would, actually that one letter would go to the Commission, and then that Commission would then transfer it to the Council. So, it would be before us again. So, I, I am actually answered my own question. Thank you.

CHAIR WHITE: Thank you very much.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No, Chairman, I was just going to bring up a point of order. The motion before the body is very narrow. The discussion is important, but that's not pertinent to the motion before the body.

CHAIR WHITE: Thank you, Mr. Hokama.

I think we've had enough discussion on this, so the Chair is going to call for the vote. All those in favor of the main motion, please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBERS COCHRAN, KING, AND
HOKAMA.

CHAIR WHITE: I think I heard three "noes".

COUNCILMEMBER ATAY: What was the main motion again?

CHAIR WHITE: Mr. Atay, I mean, I'm sorry, Mr. Atay was a "yes". Ms. Cochran, Ms. King, and Mr. Hokama.

COUNCILMEMBER SUGIMURA: What is the main motion that we're voting on, sorry.

CHAIR WHITE: That was on the main motion. So, the motion passes with six "ayes", three "noes".

COUNCILMEMBER KING: Can we, can we do a roll call?

COUNCILMEMBER SUGIMURA: Oh, that's, wait. That was for the amendment I thought.

COUNCILMEMBER ATAY: Can we get clarification?

COUNCILMEMBER KING: Can we do a roll call?

COUNCILMEMBER SUGIMURA: That was the amendment we just voted on?

COUNCILMEMBER HOKAMA: No, that was the main motion.

CHAIR WHITE: No, that was the main motion.

COUNCILMEMBER SUGIMURA: The amendment failed, so the main motion is, can you repeat that?

COUNCILMEMBER ATAY: Chair, can I have the Clerk read.

CHAIR WHITE: Read what?

COUNCILMEMBER ATAY: Read what we're voting on. Or are we--

CHAIR WHITE: We're back on the main motion to approve the Conditional Use Permit for 33, or 355 Haiku Road. So, the amendment was defeated, so we're back to the main motion for approval.

So, the measure passes with six "ayes", and three--

COUNCILMEMBER KING: Can we, can we have a voice vote? A roll call vote, Chair?

CHAIR WHITE: We've identified the votes. So, the Chair is, the Chair's call is six, measure passes with six "ayes", and three "noes".

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: My vote was "no", Chairman.

CHAIR WHITE: Yes, I know.

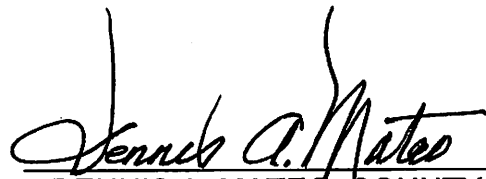
Okay, with that, Mr. Clerk.

DEPUTY COUNTY CLERK: There's no further business before the Council.

CHAIR WHITE: Thank you very much. We are adjourned.

ADJOURNMENT

The regular meeting of October 6, 2017 was adjourned by the Chair at 12:02 p.m.



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

Fwd: Aloha Chair and Maui County Council Members,

RECEIVED

BB

2017 OCT -6 AM 7:49

Reply all |
Today, 7:31 AM

OFFICE OF THE
COUNTY CLERK

...

Aloha Chair and Maui County Council Members,

In reference to CC 17-396 and CC 17-394

Thank you for this opportunity to testify on this important matter, sand mining and the desecration of ancient burial sites at Maui Lani.

First, I am wondering about the behavior that most all of the Council Members have shown the public, the taxpayers who pay your salary, regarding a Sand Moratorium the past several weeks.

For instance, the boycott of Ms. Cochran's IEM meeting a few weeks ago so there wouldn't be a quorum. You were all there in the morning. If you don't show up to work for the people of Maui, you shouldn't be paid.

Do we need a report card showing your attendance to make sure you are earning the salaries you are being paid?

Many people who came to testify did so for free because sand mining and desecration of ancient burial grounds and disrespect for the Iwi Kupuna is unacceptable. It is cultural genocide. Some people took time off work to testify so they actually lost money that day.

Mr. Atay and later Mr. Guzman were the only council members that bothered to attend. Why?

Last week Mr. Guzman and Ms. Sigimura stonewalled the process again. Why? Who are you working for? The citizens who are desperately trying to protect this precious resource and protect the Culturally significant burial sites and the Iwi Kupuna at Maui Lani or the Corporations you are hoping to receive campaign donations from? If the County of Maui had been doing their job the last decade and enforcing the law, we would not be having this conversation or the irreparable desecration that has taken place.

Mr. Guzman's behavior towards Ms. Cochran was out of character for a Council Member. Just because you are both running for Mayor in the next election is no reason to disrespect Ms. Cochran in any way. You are still working for the people. Please remember that!
I'd like to see a public apology not only to her but to all of us who were in the Chambers that day.

We've seen our Mayor throw a fit in these Council Chambers so please don't follow in his footsteps and think that is acceptable. This behavior is not PONO and cannot be accepted.

Why didn't any other Council Members second Mr. Atay's motion for the moratorium? It was thoroughly reviewed and could have been continued to be fine tuned and would have provided immediate protection for the Iwi Kupuna.

Judge Cardoza has specifically stated that the County of Maui must do its job and enforce the law.

This meeting today is not what it appears to be.

Where are the three most important items from Ms. Cochran's IEM meeting last week that addressed Judge Cordoza's very real concerns regarding the irreparable harm being done by the sand mining to the Iwi Kupuna, addressing the need for SHPD to have more stringent oversight or a failsafe method for developers to follow AMP's and updating the Sand Study to determine how much sand is actually left.

Neither of these bills do anything to mitigate what is happening RIGHT NOW, NOR address the need to update our Sand study and find out how much sand is really left to us and what the timeline of its possible disappearance looks like.

The Director of Public Works should NOT be the only one making final determinations (especially since our current Director has no working knowledge of his department's SOP: Standards of Procedure/Protocol), especially if the development/project calls within the endangered areas.

a. Further, given that there has been little to no enforcement so far, thus necessitating a lawsuit against the developer (and possibly making the County Council and/or individual members), the Director has shown that he needs assistance and oversight when it comes to approving grading/grubbing permits that could be construed as resource extraction.

Neither of these bills do anything to mitigate what is happening RIGHT NOW, NOR address the need to update our Sand study and find out how much sand is really left to us and what the timeline of its possible disappearance looks like.

Today's Bills need to be referred to the Appropriate Standing Committees that deal with their subject matter and not the IEM Committee.

We need an immediate Moratorium on Sand extraction at Maui Lani. Neither of these Bills address that issue.

Amendments to Title 19 in the Maui County Code, which is the ZONING section of the Maui County Code.

Resolution No. 17-5 (Draft 1), entitled "ESTABLISHING THE STANDING COMMITTEES OF THE COUNCIL, DEFINING THEIR DUTIES, AND APPOINTING THEIR MEMBERS", establishes the jurisdictions of each of the standing committees for this current term.: The Land Use Committee has jurisdiction over the following matters:

a. Project-specific amendments of State land use district boundaries, the General Plan, community plans, and zoning ordinances.

b. Other land use approvals requiring Council review and approval such as variances and conditional permits.

c. Expedited approvals of housing projects pursuant to Chapter 201H, Hawaii Revised Statutes, or any successor statute.

d. Land use ordinances not specific to a project."

The Infrastructure and Environmental Management Committee has jurisdiction over the following matters:

County facilities construction and maintenance (including road, drainage, and waste management systems), except for water supply and energy issues.

b. Traffic Safety.

Issues relating to the protection, preservation, and enhancement of the environment, except for energy issues, but including recycling.

d. Operations of the Department of Environmental Management and the Department of Public Works and the operational oversight of any grants they administer.” Clearly, this bill fit squarely in the Land Use Committee.

The second bill deals with amending 20.08 Maui County Code, relating to SOIL EROSION AND SEDIMENT CONTROL.

Section 1. of the proposed bill states: “The purpose of this ordinance is to preserve and protect sensitive historic, cultural, and archaeological sites, and unmarked human burial sites by clarifying the grading and grubbing permit process.”

The action that is occurring with this amendment, is clarification to the grading and grubbing permit process, by giving the Director of Public Works, the Director of Planning, and any state or county agency with authority relevant to the work being conducted, to enter the property to ensure compliance with their permits.

IEM standing committee deals with the operations of Public Works.

Planning Committee deals with the operations of the Planning Department.

The grading and grubbing permitting process could also be considered a Land Use Committee issue.

Whenever there are referral items that could fit in more than one committee, they are supposed to be automatically sent to the Policy, Economic Development and Agriculture Committee.

The Policy, Economic Development and Agriculture Committee has jurisdiction over: “Issues involving the responsibilities of two or more standing committees.”

**Mahalo,
Ms. Barbara Barry
Ha’iku**

10/6/17 Columbia Property
Army Hales

WAILUKU-KAHULUI COMMUNITY PLAN (2002)

MAUI COUNTY COUNCIL

EXHIBIT "1"

6. Support programs for the protection and preservation of historic and archaeological resources and foster an awareness of the diversity and importance of the region's ethnic, cultural, historic, and archaeological resources.
7. Encourage community stewardship of historic buildings and cultural resources and educate private property owners about financial benefits of historic preservation in Maui County.
8. Preserve and restore historic roads, paths, and water systems as cultural resources, and support public access.
9. Recognize and respect family ancestral ties to certain sites including burial sites, and establish cultural and educational programs to perpetuate Hawaiian and other ethnic heritages.

Implementing Actions

1. The Cultural Resources Commission shall update, and the Council shall adopt, the County Cultural Resources Management Plan to further identify specific and significant cultural resources in the region and provide strategies for preservation and enhancement.
2. Require development projects to identify all cultural resources located within or adjacent to the project area and consult with individuals knowledgeable about such cultural resources prior to application as part of the County development review process. Further, require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources including site avoidance, adequate buffer areas, and interpretation. Particular attention should be directed toward dune areas, known and probable pre-contact habitation areas, and other sites and areas listed in No. 5 below, with review by the Cultural Resources Commission, where appropriate.
3. Implement a historic and cultural overlay ordinance to provide protection for areas with significant archaeological, historical, and cultural resources.
4. Establish recognition of culturally sensitive areas such as Nanihoa Bridge, Waiale Bridge, and burial and habitation sites along Lower Main Street and Kahului Beach Road.
5. Significant Wailuku-Kahului region sites and areas include the following:

Wahi Pana (Significant Traditional Places)
 - a. Na Wai Eha (Waihe'e, Waiehu, Wailuku, Waikapu).
 - b. Waihe'e Dunes Archaeological Complex.
 - c. Waihe'e Church.

- d. Waihe'e Sugar Mill site.
- e. Haleki'i-Pihanakalani heiau.
- f. Waihe'e Dune complex.
- g. Taro lo'i in 'Iao Valley.
- h. Traditional surfing sites.
- i. Kanaha Pond.
- j. Habitation and burial sites along Lower Main Street corridor.
- k. Waiale Bridge.
- l. Wailuku Civic Center Historic District.
- m. Kama Ditch, Spreckels Ditch, and Waihe'e Ditch.
- n. Ka'ahumanu Church.
- o. Hale Ho'ike'ike (Bailey House Museum).
- p. Alexander House (next to Ka'ahumanu Church).
- q. Waikapu Stone Church Site.
- r. Wailuku School.
- s. Pu'unene School.
- t. Pu'u One Sand Dune Formation from Kahului Harbor to Waikapu.
- u. Coastal sand dunes from Kahului Airport to Baldwin Park.
- v. Kahului Railroad System sites (i.e., Roundhouse, Makaweli Rock Crusher Mill Foundation, etc.).
- w. Chee Kung Tong Society Hall site.
- x. Maui Jinsha Mission.
- y. Naval Air Station Kahului Airport (NASKA).
- z. Pu'unene Mill/Village.
- aa. Kahului Railroad Building and Old Kahului Store.
- bb. Buildings designed by C. W. Dickey-Wailuku Library, the Territorial Building in Wailuku, and the Baldwin Bank (Bank of Hawaii in Kahului).
- cc. Wailuku Union Church.
- dd. Church of the Good Shepherd.
- ee. 'Iao Theatre.
- ff. Plantation Manager's Residence in Wailuku.
- gg. St. Anthony's School.
- hh. Market Street from Main Street through Happy Valley.
- ii. Vineyard Street from Market Street to end.
- jj. 'Iao Stream.

The above list is not comprehensive. It represents some of the well-known sites currently listed in the State inventory of Historic Places and on file with the State and National Registers of Historic Places. Many more sites have not yet been surveyed for historic, archaeological, and cultural significance.

The Department of Planning has (or will obtain from the State Historic Preservation Division) maps indicating the general location of these sites. Planning Department staff will obtain, maintain, and update all pertinent maps, which will be consulted prior to development proposals affecting the above-mentioned areas.

10/6/17 Coemil mtg
Army Hales



MAUI INLAND SAND RESOURCE QUANTIFICATION STUDY

MAUI, HAWAII

February, 2006

Prepared for:

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS &
ENVIRONMENTAL MANAGEMENT

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TABLE OF CONTENTS

- 1. Purpose**
 - 2. Maui Inland Dune Sand - Description**
 - 3. Maui Inland Dune Sand - Locations**
 - 4. History of Sand Usage**
 - 5. The Sand Alternative**
 - 6. Exporting Sand to Oahu**
 - 7. Other Uses of Sand**
 - 8. Conversion Factors and Comparisons**
 - 9. Current Usage**
 - 10. Available Inventory**
 - 11. External Factors**
 - 12. Sand for Beach Replenishment**
 - 13. General Conclusion**
- Map Exhibits
- Photo Exhibits
- References
- Acknowledgements

1. PURPOSE

This study was commissioned by the County of Maui, Department of Public Works and Environmental Management, for the purpose of better understanding the extent of the inland sand supply that is available for excavation on the island of Maui. Sand is an essential component of Hawaii's two main industries – tourism through its beaches, and construction with its concrete and fill requirements. As the amount of sand available for excavation is limited by the physical extent of inland sand dunes, burial complexes, and existing and proposed land use, the Department is seeking a quantification of the available supply of inland sand in order to better manage this resource.

2. MAUI INLAND DUNE SAND - DESCRIPTION

The "Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii", 1972, published by the United States Department of Agriculture, Soil Conservation Service, describes two types of soil in the central valley of Maui which consists of calcareous sand. Calcareous sand is composed mainly of calcium carbonate derived from shells or the skeletal remains of marine organisms.

One type found often along narrow strips of beaches, is called Jaucas sand, 0 to 15 percent slopes. It is described as single grained sand, pale brown to very pale brown in color, and more than 60 inches deep. The water erosion hazard is slight, but wind erosion is a severe hazard where vegetation has been removed. It is generally found in elevations from sea level to 100 feet.

The other type is called Puuone sand, 7 to 30 percent slopes. This soil is very similar to the Jaucas sand as both are derived from coral and seashells. However this type of sand is found at elevations from 50 feet to 350 feet which is higher in elevation than the Jaucas sand locations. The Puuone sand is the type that comprises most of the Central Maui inland dunes.

These sand deposits were built up over thousands of years when the central valley was covered by the ocean and also through conveyance by the winds. The sand granules in the inland dunes are finer in gradation than generally found in the sand on most beaches. This is due to the wind blown nature of these deposits, since the lighter particles are the ones that are most likely to be picked up and carried by the winds.

Most of the sand deposits are generally sitting on hard pan composed of clay or they may be on a rocky substrata. In most cases, the surface of the dunes has a thin layer of organic material consisting of decomposed vegetation that has grown over the years. Once the organic material is removed, the sand under the surface is generally fairly clean.

Companies that use the sand as a component for concrete screen the sand to remove larger particles such as sand stones, and roots. Sand which is unsuitable for concrete because of high organic content is used for backfill material and is generally not screened

3. MAUI INLAND DUNE SAND - LOCATION

The inland sand deposits start downwind of the mouth of Waihee Stream, parallels along the Waiehu coastline, and fans out towards Maalaea generally between Kahekili Highway and Honoapiilani Highway on the west side, and Kuihelani Highway on the east. Waiko Road demarcates the generally southerly boundary of the dunes, though there is a sand layer under the more or less level lands towards Maalaea. (See Location Maps, Figures 1, 2, and 3).

In general, the largest sand deposits are visible along Waihee and Waiehu, and in Wailuku. These larger dunes may exceed one hundred feet (100') in depth. The Waihee dune runs along lands that are owned by the Maui Coastal Land Trust, along the Waiehu Golf Course, and into the Leisure Estates Subdivision. The Waiehu Heights Subdivision also sits on top of a substantial sand dune.

The largest dune in Wailuku runs immediately south of Lower Main Street and east of Waiale Drive. The area is appropriately called "Sand Hills". There is another very large dune in the area upon which Mahalani Street and the Maui Memorial Medical Center are located.

The dunes located south of the Mahalani Street dune in the area of Maui Lani are generally lower in height when compared to the larger dunes to the north. The sand deposits from Maui Lani to the south towards Maalaea do, however, cover a large area.

4. HISTORY OF SAND USAGE

Sand was a very easily attainable commodity on Maui prior and immediately after World War II. There were many large, undeveloped parcels at that time containing a great supply of sand.

An August, 1954 report by Doak Cox (Reference No. 2), entitled "The Spreckelsville Beach Problem", states that the use of sand for road resurfacing and concrete, averaged about 8,500 cy, or 10,600 tons per year for the five years prior to his report. Mr. Cox also estimated that 3,500 cy, or 4,400 tons per annum was utilized in lime manufacture.

For a number of years before and after the writing of Mr. Cox's report, Hawaiian Commercial and Sugar Co. operated a lime kiln in Paia which utilized the sand from off the beach. The company also hauled the sand from off the site for principally cane haul road resurfacing, but also for the manufacture of concrete. The lime kiln shut down approximately 30 years ago.

Prior to WWII, Portland cement concrete was not very commonly used in construction in Maui. However during the early 1940's, the Navy Seabees started a quarry and set up a rock crushing plant at Camp 10, Puunene, which was located above the Haleakala Highway and Hana Highway junction. The Seabees also setup concrete batching and asphalt paving plants which were used to provide materials to construct the Puunene military airport, bunkers, and camps to house the thousands of military men that were based on Maui during the war.

After the war, a private company called Concrete Industries, Inc. (CII) bought the equipment and went into business at the same location. The concrete business was relatively slow back then, with an average volume not exceeding 2,000 cubic yards per month. Each cubic yard of concrete used about 0.3 tons of sand. Thus, the volume of sand usage in concrete during the period from 1950 to 1970 probably averaged less than 8,000 tons per year.

After 1970, the pace of development started to increase along with the demand for concrete. In 1972, the Kaahumanu Shopping Center was constructed, as well as the first condominium in Kihei (the Mana Kai). Wailea Resort also started construction of its first golf course, and the first hotels in Wailea were built soon after.

At about the same time, the allure of Maui was being discovered by visitors from the mainland USA and Canada, and many of those who came to visit Maui, decided to purchase condominium units. The idea of condominium ownership started becoming very popular. Between 1972 through 1982, many condominium projects were built along the Kihei coast, as well as from Lahaina to Napili in West Maui. In addition, the Wailea and Kaanapali Resorts had a number of hotels constructed in that period of time.

Government also had to keep up with infrastructure, and the County built its 9 story office building in Wailuku in 1972. A new wastewater treatment plant was built in Kahului in the early 70's as well as construction of wastewater plants in Lahaina and in Kihei a little later.

The ramp up of construction in the 70's required a much greater amount of concrete and its components including sand. There were two concrete supply companies in the market during that decade. These were Ameron HC&D, which had purchased CII, and Maui Concrete and Aggregates (MCA). The latter was subsequently taken over by Hawaiian Cement. Between the two companies, average concrete production during that decade was probably in the neighborhood of 160,000 cubic yards, which required 48,000 tons of sand.

5. THE SAND ALTERNATIVE

In the 1970's and early 1980's, the concrete companies in Honolulu were using a product called Mansand (short for manufactured sand) to provide the fines in their concrete. Mansand was being used because the natural sand supply on Oahu was very limited in availability. Mansand was produced by crushing basaltic rock to meet the requirements of the applicable aggregate and concrete specifications.

However Mansand due to the type of base material used and also due to the crushing process, produced concrete that was not fluid or very workable. In addition, more cement had to be used in the mixes to attain similar compressive strengths when compared with the Maui mix designs.

Portland cement is a fine powder made by heating and mixing various minerals. When mixed with water, the cement becomes the binding agent in concrete. Portland cement is shipped into Honolulu from various out of state sources, and is stored and distributed by Hawaiian Cement. It is the most expensive ingredient in concrete. The cement is shipped from Honolulu to Maui so the cost of cement on Maui is higher than it is in Honolulu.

However in the early 1980's, the Honolulu concrete batching plants had to use significantly more cement than the Maui plants used for similar mixes. Thus the cost of concrete at the plants was more in Honolulu than on Maui despite cement being cheaper in Honolulu. During that period of time, the Honolulu plants were using Mansand, and the Maui plants were utilizing Maui inland sand in their concrete mixes.

The differences between the concrete produced on Maui and that on Oahu was looked at closer by the test labs. A sample of Maui inland dune sand was sent to Honolulu by Ameron to be tested in concrete made with the basaltic rock that was mined there. It was found that similar savings in cement usage was attainable in the concrete mixes on Oahu if natural sand could also be used.

A closer analysis of Mansand and Maui inland sand revealed the reason for the improved quality of concrete with the Maui sand. The Mansand individual particles were very angular, more cubicle than round in shape. Natural sand particles are very smooth and act like little ball bearings in the concrete mixes which increases the fluidity of concrete so that it may be easily finished, and which will also allow the concrete to flow much easier into wall forms.

It was found that the trucking and barging costs of bringing sand from Maui to Honolulu were largely offset by the savings in cement. In addition, the quality of concrete was vastly improved and the increased workability greatly aided the contractors in the construction of their projects.

Another alternative to natural sand which may have been explored would have been the use of crushed recycled glass. Recycled glass is currently required for some government projects in asphalt concrete pavements, or in trench backfill. This has never been fully looked into because the available quantities of recycled glass are much smaller than the required amounts of the fines used in the concrete market. In addition there may be the same quality problems found in crushing basaltic rock, in that angular edges of fine aggregate produces a non-fluid, and hard to finish concrete mix.

6. EXPORTING OF SAND TO OAHU

Around 1985 the Leisure Estates Subdivision was constructed in Waiehu. It was located just south of the Waiehu Golf Course, and it was built upon a large sand dune. Though the project was not designed to maximize the amount of sand that would be removed during construction, a considerable quantity of sand was excavated due to the cutting of the roadways, and the shaping and leveling of the individual lots. The excess sand was trucked and stockpiled on an adjoining property to the north on which the Waiehu Kou Subdivision was later built upon. Ameron made a decision to purchase the sand to barge it to Honolulu. The first barge load of sand to Honolulu was in 1985 and it has continued since. At current rates of export,

approximately one barge load of sand each week leaves from Maui to Honolulu.

The use of sand or an alternative equivalent in concrete in Honolulu will probably need to continue even if sand will not be available for export from Maui in the future. The contractors and other users of concrete on Oahu will demand that the quality of concrete be maintained as it has been for the last 20 years. Other possible sources of sand outside of the State are starting to be looked at, as well as the use of new technologies, to replace sand in order to maintain consistent concrete quality and production.

The demand and production of concrete in Honolulu is in the order of about four times that of Maui. In Honolulu however, the companies try to economize on the amount of sand in their concrete to keep the cost as low as possible, while still producing a quality mix. They traditionally use a little less sand than the Maui companies use in their concrete. Thus, the export of concrete quality sand to Honolulu is not an exact correlation to the ratio of concrete demand on both islands.

Significant quantities of sand have been excavated in several sites in the Waihee area and Central Maui. These include the sand from Leisure Estates, the mauka side of the Waiehu Heights Subdivision, several properties along Piihana Road, an area adjacent to Waiale Road, and in parts of Maui Lani.

7. OTHER USES OF SAND

The discussion thus far, has dealt with the quality sand that is used by the concrete companies in their mixes. The sand used in concrete can be categorized as grade "A" in quality as it has to be relatively clean, and meet a certain minimum standard set by the concrete companies' testing labs.

However, sand is also used for other purposes in construction. It is used quite commonly as backfill material in utility trenches. While select onsite or offsite materials such as select granular materials, can be used in most cases for trench cushion and backfill, contractors most often prefer sand since it can be very quickly placed and water tamped to attain the proper compaction. Thus, even though it might cost more to truck the product into the project site, sand is the preferred backfill material for most contractors. However, the trench backfill sand does not need to be of the same quality used by the concrete companies. The sand could have some silt in it, and still be utilized for the purpose intended. This grade "B" sand is not exported to Honolulu.

Some projects in the 1970's and 1980's may have also used sand for general fill requirements in raising the elevation of a site. The Kaonoulu Subdivision in Kihei that was constructed around 1988, used many thousands of yards of inland dune sand to fill that site.

Clean sand has been too valuable over the last 15 years to be used for general fill purposes. It is cheaper to find organic soil and rock borrow sites, or to purchase crusher run from the quarries than to use sand for fill.

Maui inland grade "A" dune sand has also been used for beach replenishment or nourishment purposes. The quantities used for beach replenishment have been relatively small thus far compared to that used by the construction industry.

The Kana'i A Nalu condominium in Ma'alaea and the Sugar Cove condominium in Spreckelsville were two projects in recent years which trucked in and placed sand upon their adjacent beaches. It has been estimated by Zoe Norcross-Nu'u, Coastal Processes Extension Agent, of the University of Hawaii Sea Grant College Program, that a total of 43,000 cubic yards of inland sand have been used for beach replenishment projects to date.

For purposes of this report, the sand inventories described further in this report are clean grade "A" sand suitable for concrete or for placement on a beach, and does not include grade "B" sand.

8. CONVERSION FACTORS AND COMPARISONS

To make it easier for the lay person to understand the following sections of this report, the following conversion factors and quantity comparisons are included for reference:

1 cubic yard of sand in volume can be contained in a box that is 3 feet wide on each side by 3 feet high.

1 cubic yard of sand weighs approximately 1.25 tons.

1 acre equals 43,560 square feet.

A football field between the goal lines is equivalent to 1.1 acres.

1 acre of sand that is one foot deep equals 43,560 cubic feet or 1,600 cubic yards.

1 acre of sand one foot deep is also equivalent to 2,000 tons.

Kaanapali Beach had approximately 566,000 cubic yards, or 700,000 tons of sand in 1997 based upon research by Eversole and Fletcher of the University of Hawaii (Reference No. 3).

A typical barge load of sand is equivalent to 4,000 tons.

A standard tandem dump truck holds 15 cubic yards or 19 tons of sand.

A semi-trailer end dump holds 24 cubic yards or 30 tons of sand.

A 4,000 ton barge load is equivalent to 133 semi-trailer end dump loads.

9. CURRENT USAGE

The two main producers of concrete on Maui and also in Honolulu are Ameron Hawaii and Hawaiian Cement. They have an interesting relationship in that Ameron is a customer of Hawaiian Cement for the purchase of Portland cement, however they are competitors in the concrete and aggregates market. Their market share has historically been about even on Maui, but Ameron normally has had a greater market share of the concrete business on Oahu.

Hawaiian Cement is currently using about 44,000 tons of sand per annum on Maui, and exporting about 144,000 tons per annum to Honolulu. Ameron currently is using sand at the rate of about 30,000 tons annum on Maui, and exporting about 100,000 tons per annum to Honolulu.

Between the two companies a total of approximately 244,000 tons of sand per annum is currently being barged to Honolulu for use in ready mix concrete, while an additional 74,000 tons are used locally on Maui.

Usage within past ten year periods would have the following approximate totals, based upon concrete production:

HISTORICAL CONCRETE SAND USAGE (tons)

	<u>Used on Maui</u>	<u>To Honolulu</u>	<u>TOTAL</u>
1956 to 1965	100,000	0	100,000
1966 to 1975	170,000	0	170,000

1976 to 1985	400,000	50,000	450,000
1986 to 1995	700,000	1,800,000	2,500,000
1996 to 2005	800,000	2,200,000	3,000,000

PROJECTED CONCRETE SAND USAGE FROM 2006 (tons)

Per annum	74,000*	244,000**	318,000
10 Year Period	740,000	2,400,000	3,200,000

* Maui Use: Ameron 30,000 tons, Hawaiian Cement 44,000 tons.

** Oahu Use: Ameron 100,000 tons, Hawaiian Cement 144,000 tons.

The 10 year projections are based upon current consumption levels of concrete sand requirements only.

10. AVAILABLE INVENTORY

Most of the inland sand dune areas are no longer available for excavation. Some sites such as the properties along Piihana Road have been depleted of their inventory. The northern Waihee dune is protected from excavation or of any other type of disturbance to the land. It is owned by the Maui Coastal Land Trust and the land will be kept in perpetuity as a natural preserve.

Most of the other large dunes have been developed upon with residential housing projects. These include the Leisure Estates Subdivision, Waiehu Heights Subdivision, the dune above Lower Main Street, and the Sand Hills Subdivision. The Mahalani Street dune has also been extensively built upon with Maui Memorial Medical Center at the top, along with other medical facilities, as well as other governmental and non-profit agencies.

For the last 15 years, there have been sand excavation activities at various parcels in Maui Lani. Ameron is currently working on a Maui Lani site located at TMK (2) 3-8-007:131. This site will probably be the last area that Maui Lani Partners will allow sand to be excavated and removed offsite. Maui Lani feels that all of the other currently undeveloped areas that it owns will need to retain the excess material in order to fill and balance the low areas.

If this is the case, the last remaining available site with significant reserves is the 435 acre parcel that is owned by A&B in lower Waikapu located at (TMK (2) 3-8-007:101) aka as Lot 12-A. (See Location Map, Figure 1).

This site is bordered by Kuihelani Highway to its east, smaller individual parcels that are adjacent to Waiko Road along its southern boundary, and the old Waikapu landfill along a portion of its western boundary. Its northern property line borders several large parcels that are owned by Maui Lani Partners.

Hawaiian Cement is currently working in the western portion of this parcel. This area contains smaller dunes that are five feet to 30 feet in depth. However a good portion of that area has already had its sand removed or it did not contain much recoverable sand on it to begin with.

At this time, 22 acres of the dunes have been restricted from further excavation to protect burial sites. More than 50 individual burial sites have been located in the area. The burials consist of native Hawaiian skeletal remains (iwi). Most of the burials are protected by a minimum buffer zone of 50 feet. (There are two previously identified burial sites that have 100 foot buffers).

On the island of Maui, there is a high probability of iwi being buried in the sand dunes. HAWAIIAN CEMENT has been working diligently with the Department of Land and Natural Resources, State Historic Preservation Division, and the Island of Maui and Lanai Burial Council on the treatment of identified burials.

HAWAIIAN CEMENT has an archaeologist on site that monitors all ground disturbance and excavation activities. The archaeological monitoring plan that was submitted for this work was reviewed and approved by the State Historic Preservation Division and imposed as a condition of the grading permit.

They currently have an agreement with the land owner, A&B Properties, to excavate upon 188.8 acres, but it may possibly be increased by another 46 acres, for a total of 235 acres. (See Location Map, Figure 1).

Sand dunes on the site are clearly discernable by sight observations and through shade files derived from an aerial photo. However, these dunes are not as high or as deep as those located to the north of the site in the Maui Lani properties.

HAWAIIAN CEMENT INVENTORY ON LOT 12-A, ON 234.5 ACRES

Assumptions:

- * 32 acres have already had its sand removed. Of the 32 acres, half of the area was within and half outside of the main dune on the site.

- * 20% of the remaining area has little recoverable inventory.
- * The major dune on the site covers an area of 44 acres with an average recoverable depth of 6 feet.
- * Approximately 22 acres of the dune cannot be disturbed due to archaeological preservation restrictions.
- * The remaining area outside of the dune will have an average recoverable depth of sand of 4 feet.

One acre sand per foot of depth: $43,560 \times 1 / 27 \times 1.25 = 2017$ tons

Sand Dune	44 x 6 x 2017	= 532,000 tons
Less Restricted Area	(22/44 x 532,000)	= - 266,000 tons
Quantity of Sand Within Dune		= 266,000 tons

Area Outside of Dune	$(0.8 \times (235 - 44) \times 4 \times 2017)$	= 1,234,000 tons
Total Sand Prior to Excavation		1,500,000 tons

Less Sand Excavated To Date
 $(16/22) \times 532,000 + (16/152.8) \times 1,234,000 = 516,000$ tons

Remaining Sand Inventory 984,000 tons

Hawaiian Cement uses about 3,600 tons per month on Maui, and barges 12,000 tons to Honolulu. Thus, they use a total of 15,600 tons per month, or 188,000 tons per year. Thus the remaining sand inventory would compute to a 5.3 year supply at the current usage rate.

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

AMERON HAWAII INVENTORY

MAUI RESERVES

Ameron has stockpiled a 5 year supply at their Puunene plant or about 120,000 tons of sand at current sand usage rates for Maui ready mix concrete use. They have recently started to reduce the amount of sand in their mixes to make the inventory last longer. To build this inventory, Ameron had entered into an agreement with Maui Lani

Partners to excavate the sand from their southwestern most parcel which is located just north of the old Waikapu landfill.

This site contains reserves that are much deeper than the Hawaiian Cement sand excavation site. In addition, it does not have the large concentration of burials that Hawaiian Cement has on its site. The parcel that Ameron is on has had two sites identified which contained a total of four individual burials.

The sand from this site was excavated, trucked, and stockpiled at Ameron's Camp 10, Puunene, baseyard, to create this 5 year inventory.

HONOLULU RESERVES

Ameron will also be removing sand from the same parcel for storage and barging to Honolulu. The storage requirement is necessary since Maui Lani has stipulated that the available sand on the site be removed within the next one year period; thus they will be storing the sand on a vacant area that is owned by A&B Properties, which is located adjacent to the Maui Lani parcel.

They will be able to remove and store about 600,000 tons of sand which is equivalent to a six year supply for their company's use in the Honolulu ready mix concrete market.

OTHER POTENTIAL RESERVES

In addition, Ameron has entered into an agreement with A&B to remove the sand from the eastern half of the same large parcel that Hawaiian Cement is currently excavating the sand from. This 200 acre area is fairly flat without any significant sand dunes. A portion of the site was also cleared and leveled in the past. (See Location Map, Figure 1).

AMERON HAWAII INVENTORY ON LOT 12-A, ON 200.0 ACRES

Assumptions:

- * 40% of the site does not contain recoverable sand.
- * The recoverable sand on the remainder of the site will be 4 feet deep.

One acre sand per foot of depth: $43,560 \times 1/27 \times 1.25 = 2017$ tons

Available Sand on Lot 12-A $0.60 \times 200 \times 4 \times 2017 = 970,000$ tons

Total Ameron sand usage per annum 130,000 tons per year

Time of Use of Sand on Lot 12-A $970,000 / 130,000 = 7.5$ years

However, there may be several factors that will preclude the use of sand from this portion of Lot 12-A. First of all, Ameron will have an available 6 year inventory of sand from the Maui Lani site that they are currently working upon; thus, they will have a reasonable supply of sand to take care of their needs for the immediate future.

However, A&B may not be able to wait an extended period of time for Ameron to remove the sand. They have other plans for the property which will limit the time available for removal of the sand.

Also, since the land in the area is fairly flat and the grade is at the approximate elevation of Kuihelani Highway, any material excavated will have to be replaced by another type of fill to keep the surface of the property at the existing grade. In addition, the top one or two feet of material will need to be grubbed off and will be unusable for concrete sand purposes. There will also be the cost of archaeological monitoring for any work on this property.

Thus the cost of removal of this relatively shallow layer of sand will be very high. Recovery of the sand for long term storage will probably not justify the cost of grubbing, archaeological monitoring, import of fill, and restoration of the surface.

For all intents and purposes, Ameron's stockpile of sand stored at their Puunene plant site, along with the remaining quantity left at their Maui Lani sand excavation site will be their last available sand resources. This inventory will take care of their needs for the next five to six years.

11. EXTERNAL FACTORS

There are other factors that will affect the use of sand in concrete. Some of these are apparent such as the strength of the construction industry, and the costs involved in excavating and hauling of sand. Other factors may not be so apparent.

One potentially looming impact on the use of sand in Honolulu is a potential restriction by the State Department of Transportation on the sand barge from berthing in Honolulu Harbor. The DOT is currently looking at creating space for the Super Ferry in Honolulu Harbor. As available harbor space is restricted, other uses are being consolidated or will be transferred to Kalaeloa Harbor on the west side of Oahu. The berthing and unloading of the sand barge may be required to be performed out of Kalaeloa within a year or two.

If this happens, the cost of concrete sand to the batch plants on Oahu will greatly increase. Not only will there will additional barging costs due to the greater distance for the tugboats, but the cost of trucking from the product from Kalaeloa Harbor back to Honolulu and to other plants such as in Kailua will be greatly increased.

While most of these expenses will probably be passed on to the consumers, it will not help the concrete producers to compete for future projects against other construction materials such as steel, wood, and asphalt. Increasing their prices may have a longer term negative effect on their unit sales in the future.

Another development which could affect the use of sand is a new technology which possibly could reduce or eliminate the use of natural concrete sand in the future. This is a liquid additive which will impart a negative charge on the finer particles within a concrete mix allowing the mix to be more fluid and workable. Research is currently being conducted to see if this may be a possible solution to eliminate the use of natural sand in concrete in the coming years.

12. SAND FOR BEACH REPLENISHMENT

The "Beach Management plan for Maui", December, 1997, (Reference No. 8), defines beach replenishment, aka nourishment, as "a technique used to restore an eroding or lost beach or to create a new sandy shoreline, involves the placement of sand fill with or without supporting structures along the shoreline to widen the beach". It further goes on to state that it is "the only management tool which serves the dual purpose of protecting coastal lands and preserving beach resources".

The quantities of sand required for beach replenishment so far have been relatively small compared to the quantities required for use by the concrete industry. As previously stated, it has been estimated that 43,000 tons of inland sand has been used for beach replenishment purposes, as compared to 3,000,000 tons for use in concrete.

However, the demand and need for beach replenishment will most probably increase in the near future. The tedious and costly permitting process for beach replenishment projects has been recently streamlined. Zoe Norcross Nu'u of the University of Hawaii Sea Grant Program, also provided the following information on the change in permitting procedures and its effect on future projects:

“Prior to 2005, the permit process for beach replenishment was lengthy and complicated to a point where only the most dedicated applicants were able to see it through. This was compounded by the fact that one of the state agencies involved in the permit process was not supportive of beach replenishment due to their concern about potential negative environmental impacts. The two projects that were successful in obtaining permits were Sugar Cove in Spreckelsville and Kanai A Nalu in Maalaea. With the development of the new streamlined beach replenishment permit application process in 2005 that has combined all the necessary state and federal permits into a single application, it is expected that the number of applicants for beach replenishment will increase. The average rate of shoreline retreat for the island of Maui is 1 foot/year, so erosion issues are becoming increasingly apparent and severe. Currently the only means of shore protection on sandy shorelines that is encouraged by state, county and federal agencies is beach replenishment, and beach replenishment is increasingly being used as a condition of other development permits.

“The new streamlined permit allows for projects of less than 10,000 cubic yards to take place provided that no negative impacts are anticipated. There are two categories, one for projects of less than 500 cubic yards (Category I) and one for projects of up to 10,000 cubic yards (Category II) under which applicants may apply. While it is difficult to predict how much sand will be needed for a given project and how frequently the sand placement will need to take place, it should be noted that in the vast majority of cases, beach replenishment needs to be repeated every year or every few years. Thus, most groups that undertake beach replenishment understand that they are making a long-term commitment to regular sand placement. As such, as new projects come online, the total volume of sand required annually for beach replenishment will most likely increase.”

Ms. Norcross-Nu`u projects that in the near future there may be an annual demand of 10,000 cubic yards, or 12,500 tons of sand for beach replenishment. This need will also increase over time.

So where will the sand for beach replenishment come from once the concrete companies stop using Maui inland dune sand in their products? One option is to look for construction projects that may have a surplus of material from which the contractor or property owner may be willing to sell. However the timing of material availability will have to be right in order for this scenario to be feasible.

Another option is to deal with the owner of a property to excavate the sand from it. There are individual properties along Lower Main Street,

Piihaha, Maui Lani, and Waikapu which contain sand. These are properties with quantities of sand which are too small to interest the concrete companies but which may be sufficient for the needs of an individual beach project.

The negative aspect of this option is that besides the obvious expenses of purchasing and trucking the sand for placement on a beach, the buyer will have to be willing to coordinate and to pay the expenses of testing the sand, to provide for an archaeological survey and monitoring, to obtain a grading permit, and to restore the site. The unit costs could become prohibitive for an individual beach replenishment project.

The large scale operation of the concrete companies ironically helps to reduce the cost of beach replenishment projects. The cost of opening, operating, testing, monitoring, and restoring a site is amortized over a large quantity which reduces the unit cost of the product for sale to beach replenishment projects. Once the companies close down their sand removal operations, the cost of sand on the island will probably greatly increase as there will not be a company with an ongoing sand processing operation that one could call upon.

A third possible option would be to work with the concrete companies while they are still excavating Maui inland sand, and have them designate a stockpiled supply of sand for beach restoration purposes only. There will probably be a need to provide funding to cover the expenses of purchasing, trucking, and storage for a period of time until the sand could be sold for various beach replenishment projects. However as previously mentioned sand for beach replenishment will be much cheaper to purchase when the companies are processing sand, rather than later when they are no longer in the sand business.

A fourth option is to utilize surplus sand from governmental projects for future use in beach projects. The surplus sand could come from the dredging of harbors, and from parks construction or other governmental construction projects. The sand could be stored at a secure site and designated for the sole purpose of beach replenishment.

A fifth option would be to consider allowing removal of sand from designated County owned properties which contain sand dunes. These properties are typically County park related facilities such as the Kahului Community Center Park, Keopuolani Park, and the Waiehu Golf Course.

Individual projects will need to purchase the sand from the County at a market rate. Even so, this would be attractive because the sand source would be established, and the purchaser will not need to absorb the other expenses involved with grading a new area. The profits from the sale of this sand could be earmarked for use in other coastal environmental projects.

There is also a sixth option which would require more research and would potentially involve an extensive permitting process before it could be implemented on any beach. This would be to mine offshore sand deposits for placement upon adjacent beaches. The "Beach Management Plan for Maui" states that offshore sources include shallow water sand fields, medium depth sand channels, and deeper water sand banks. It goes on to say that "Maui should build its capacity to tap offshore sand resources. Potential offshore borrow sites should be identified, mapped and sampled".

To date, offshore dredging of sand deposits has not been utilized on Maui. There are no dredges based on the island that could be utilized for this purpose. Ms. Norcross-Nu`u states that, "limited surveys have been done to explore the quality of offshore sand for beach replenishment. Much of the sand offshore is fine and silty and not suitable for beach replenishment. More research is necessary to locate deposits suitable in quality and volume for beach replenishment."

The State Department of Land and Natural Resources has a proposed project to restore a portion of Waikiki Beach by taking sand from the waters off the beach with the use of a suction hose. This would be the first project of its kind in Hawaii and could be considered at this time to be more of an experimental study than the start of a new trend.

13. GENERAL CONCLUSION

Much of the great Maui inland sand resources that were available 30 years ago are no longer available, due to development on, or preservation of the larger dunes. The last remaining areas in which substantial quantities of sand can be removed are currently being worked upon by the concrete companies.

Clean sand is required not only for concrete but for beach replenishment purposes. The total amount of sand used for beach replenishment in recent years has been about 43,000 tons. The quantities of sand required for this purpose is small compared to that

required for concrete. Over the last ten years, 3,000,000 tons of sand has been used in concrete.

The smaller quantities required for a single beach replenishment project of say 4,000 tons, can probably be excavated from smaller sites which the concrete companies will not even consider because of their much greater needs. Possible alternative solutions could also include the use of sand from harbor dredging as well as allowing sand to be removed from governmental lands.

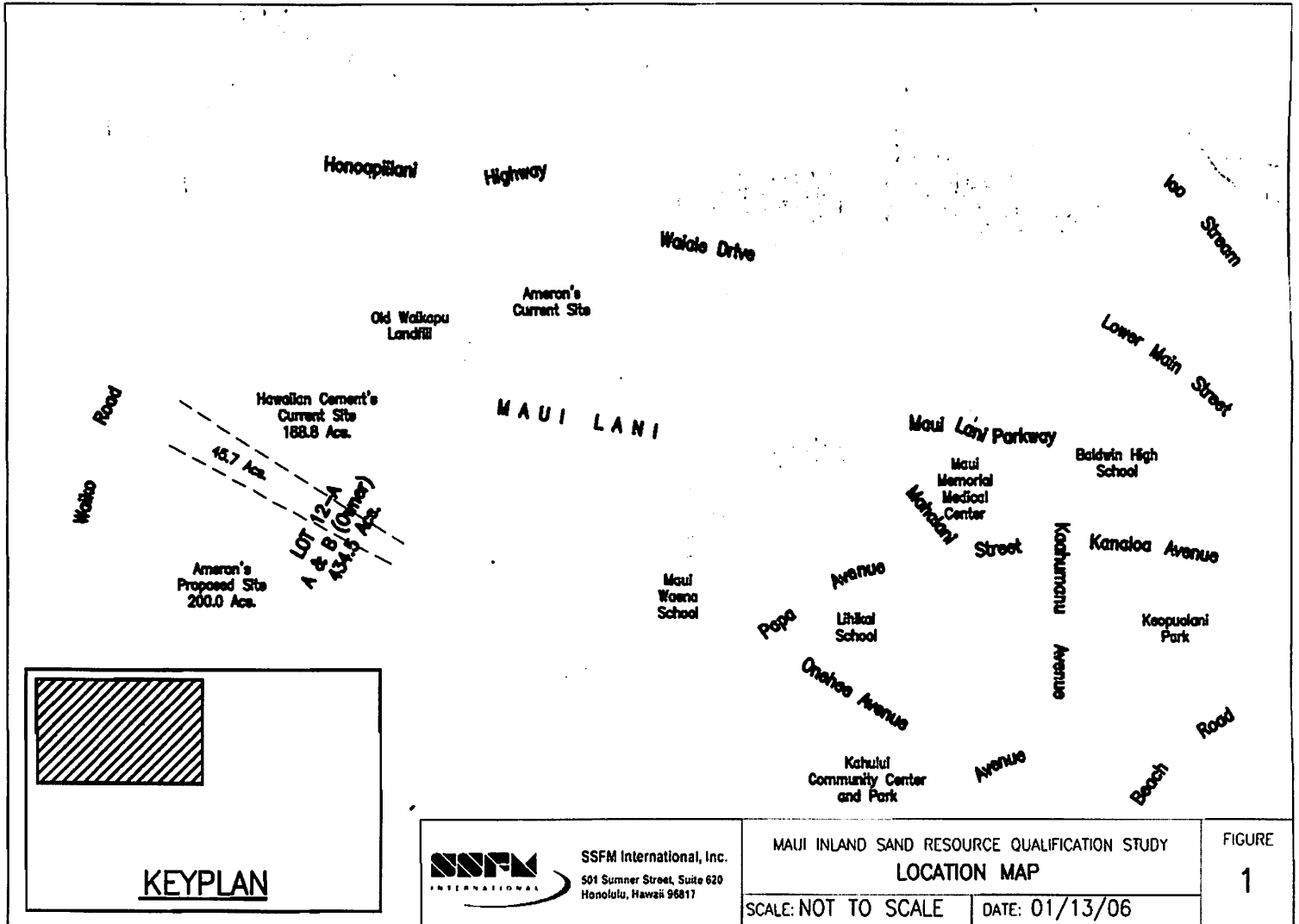
There is also a possibility that dredging offshore sand deposits may be another alternative solution for beach replenishment. However more research on offshore resources will need to take place in order to locate suitable deposits of quality sand.

As described within, the available concrete sand resources on Maui have been identified and are limited to the areas that are currently being worked upon. There may be other properties in the future from which sand may become available, but they will not have the quantities required to have the concrete companies excavate and make it worth their while.

The two concrete companies on Maui which depend upon sand as a critical ingredient in their product realize that the remaining supply is limited. Both companies have available inventories that may last for another five or six years based upon current usage rates. As the remaining inland sand inventory gets lower, the companies have started and will be making further efforts to reduce the use of inland sand. Ameron, for example, is adjusting their concrete mixes to use less sand per cubic yard without significantly affecting their strength and workability.

Both companies are also looking at alternative solutions including importing from sand sources outside of the state, and possibly the use of new technologies which could reduce or eliminate the need for sand in concrete. They both realize that the remaining life of easily available sand is getting short, and that they need to plan for the end of this supply.

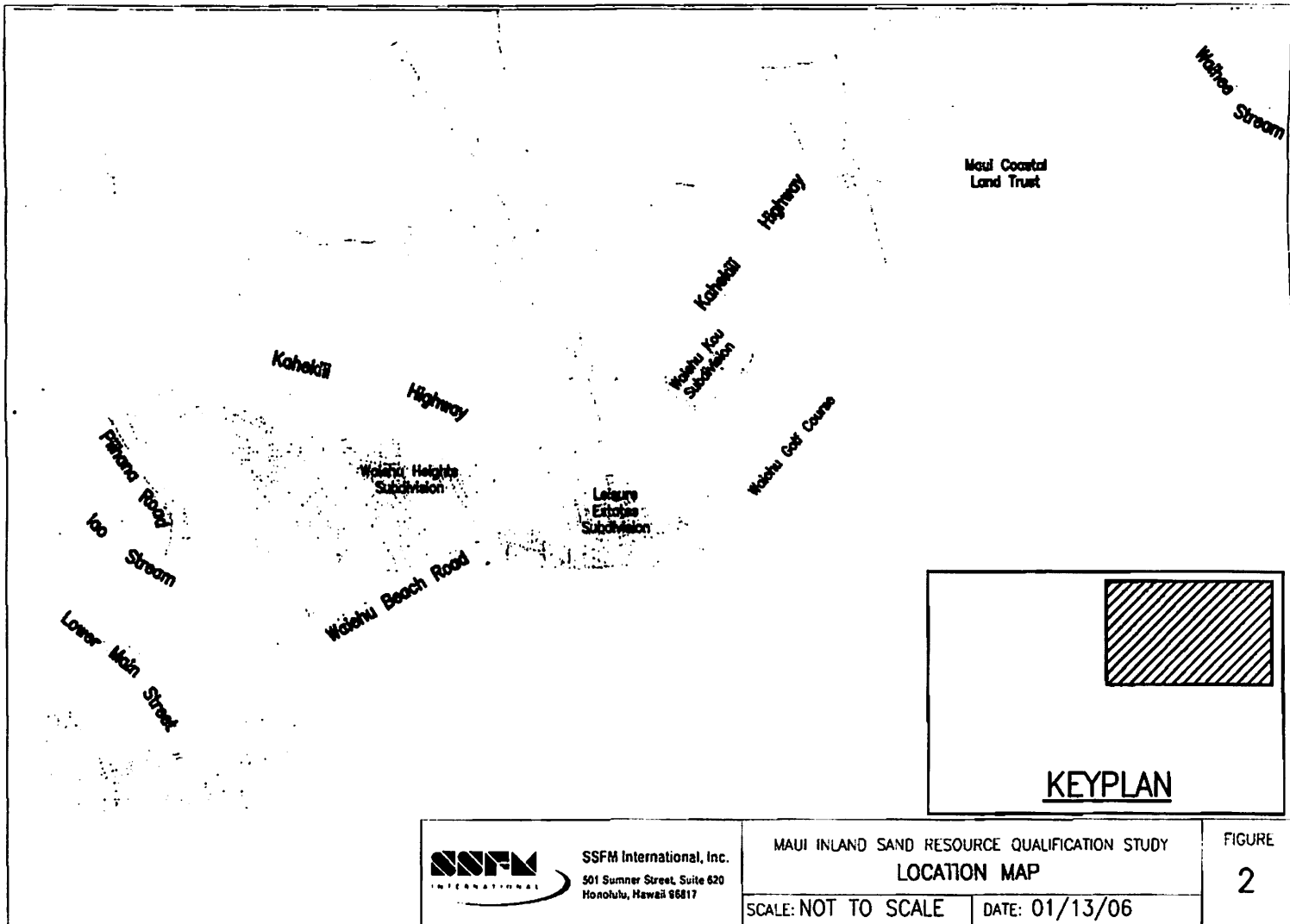
MAP EXHIBITS




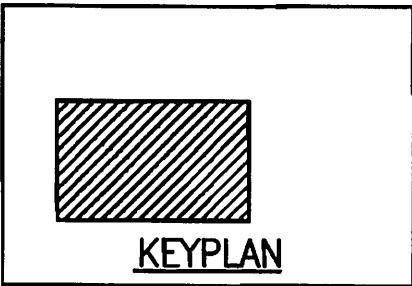
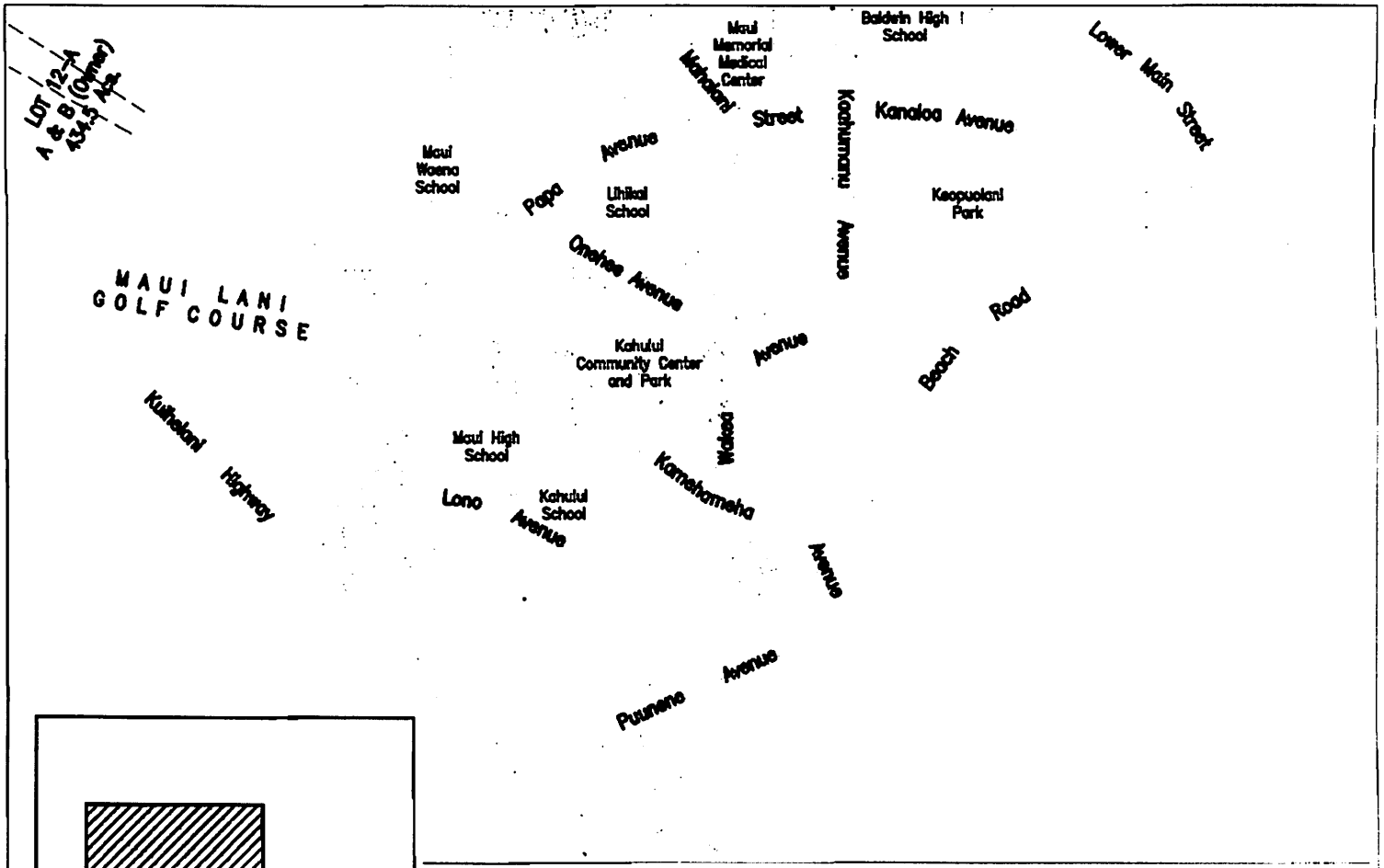

SSFM International, Inc.
 501 Sumner Street, Suite 620
 Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY
LOCATION MAP
 SCALE: NOT TO SCALE | DATE: 01/13/06

FIGURE
1



 SSFM <small>INTERNATIONAL</small> SSFM International, Inc. 501 Sumner Street, Suite 620 Honolulu, Hawaii 96817	MAUI INLAND SAND RESOURCE QUALIFICATION STUDY LOCATION MAP		FIGURE 2
	SCALE: NOT TO SCALE	DATE: 01/13/06	



SSFM International, Inc.
 501 Summer Street, Suite 620
 Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY
LOCATION MAP

SCALE: NOT TO SCALE | DATE: 01/13/06

FIGURE
3

PHOTO EXHIBITS



SSFM International, Inc.
501 Sumner Street, Suite 620
Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY

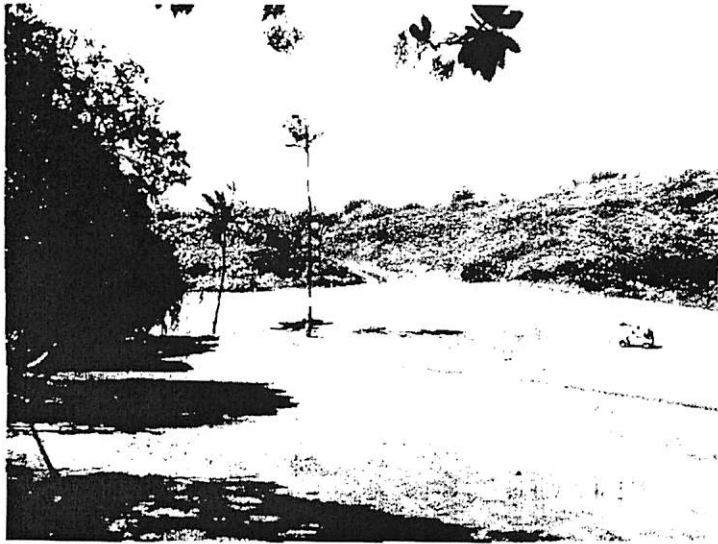
SAND DUNES OVERLOOKING
A & B's LOT 12-A NEAR MAUI LANI

SCALE: NOT TO SCALE

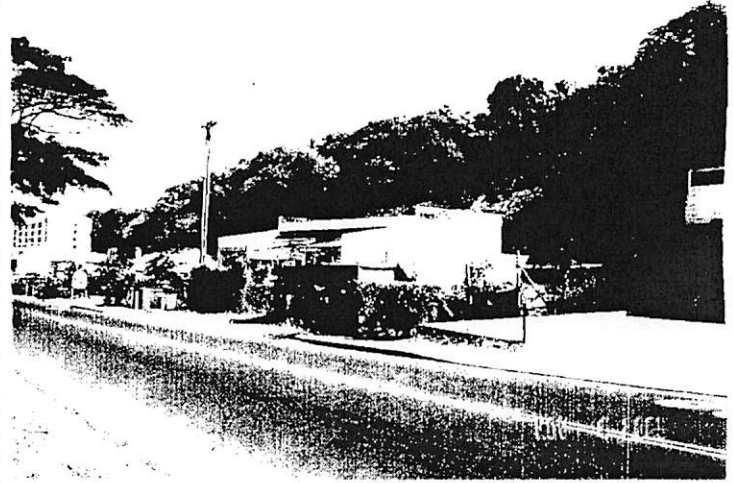
DATE: 01/17/06

FIGURE

P-1



DUNE AT WAIEHU GOLF COURSE



DUNE ADJACENT TO MAIN STREET



SSFM International, Inc.
501 Sumner Street, Suite 620
Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY

SCALE: NOT TO SCALE

DATE: 01/17/06

FIGURE

P-2



PROTECTED WAIHEE DUNE
OWNED BY THE COASTAL LAND TRUST



WAIHEHU HEIGHTS SUBDMISION



SSFM International, Inc.
501 Sumner Street, Suite 620
Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY

SCALE: NOT TO SCALE

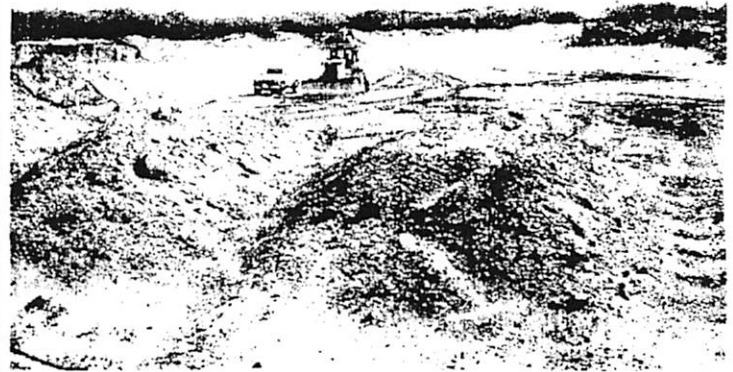
DATE: 01/17/06

FIGURE

P-3



AMERON SAND EXCAVATION SITE AT MAUI LANI



HAWAIIAN CEMENT SAND EXCAVATION SITE
ON A & B's LOT 12-A



SSFM International, Inc.
501 Sumner Street, Suite 620
Honolulu, Hawaii 96817

MAUI INLAND SAND RESOURCE QUALIFICATION STUDY

SCALE: NOT TO SCALE

DATE: 01/17/06

FIGURE

P-4

REFERENCES

1. U.S. Department of Agriculture, Soil Conservation Service, "Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii", Washington, D.C., August, 1972.
2. Doak C. Cox, "The Spreckelsville Beach Problem", August, 1954.
3. Dolan Eversole and Charles H. Fletcher, "Longshore Sediment Transport Rates on a Reef-Fronted Beach: Field Data and Empirical Models, Kaanapali Beach, Maui", 2003
4. Hawaiian Government Survey Map of Maui, 1885.
5. TMK Parcel Maps, County of Maui 2004.
6. 1977 USGS Advanced Sheet Aerial Photos.
7. DigitalGlobe Inc. 2005 Images (All Rights Reserved).
8. University of Hawaii Sea Grant Extension Service and the County of Maui Planning Department, "Beach Management Plan for Maui", December, 1997.

ACKNOWLEDGEMENTS

- A. County of Maui, Mayor's Office, (Rob Parsons).
- B. University of Hawaii Sea Grant College Program (Zoe Norcross-Nu`u).
- C. County of Maui, Department of Management, GIS Division (Walle Landenberger, and Bill Medeiros).
- D. County of Maui, Department of Planning, (Robyn Loudermilk, Thorne Abbott).
- E. County of Maui, Department of Public Works and Environmental Management.
- F. Chris Hart & Associates, (Rory Frampton and Robb Cole).
- G. Ameron Hawaii Maui (Eric Yoshizawa).
- H. Hawaiian Cement (Bill Horneman).

- I. Maui Lani Partners (Leiane Paci).
- J. A&B Properties, Inc. (Mercer Vicens).
- K. State of Hawaii, Office of State Planning.
- L. State of Hawaii, Department of Transportation, Harbors Division.

TO: MAUI COUNTY COUNCIL
FROM: JOYCLYNN COSTA
DATE: OCTOBER 6, 2017
SUBJECT: IEM-33 NOT LIMITED TO

I CAN APPRECIATE WHAT MEMBER GUZMAN WAS ATTEMPTING TO DO FOR CHAPTER 19 AND 20. HOWEVER, THE PROCESS HE WAS AMENDING FOR CHAPTER 19 MAY BE REDUNDANT. STATE HISTORICAL PRESERVATION DIVISION IN IT'S NAME DESCRIBES THERE EXISTANCE. THE PROCESS ALLOWS FOR A COMMENTARY PERIOD 30-45 DAYS DEPENDING ON THE SUBJECT MATTER. THIS PERIOD WILL EXPOSE THE CONCERNS AND ISSUES THAT MAY BE OCCURING OR BEING VIOLATED. SHPD WOULD THEN HAVE THE OPPORTUNITY TO DENY THE SUBMITTAL AND LIST THE CORRECTION OR GIVE THE APPLICANT THE OPPORTUNITY TO EXPLAIN. SHPD HAS DONE THE CONTRARY TO WHAT THE PROCESS CALLS FOR, ESPECIALLY WITH THE COMMENTARY PERIOD TO HELP ADDRESS PARTICULAR ISSUE OR DELINQUENCIES. LACK OF EXERCISING AND ASSERTING THE AUTHORITY BY SHPD ALLOWED THIS SITUATION WE ARE NOW FACED WITH. ALSO AS A SAFETY NET THERE IS ANOTHER PROCESS WHICH IS PERMIT. NO PROJECT CAN BE PASSED IF THE CRITERIA FOR A PERMIT WITH MAUI COUNTY, WHICH IS EXTENSIVE IN IT'S CHECK LIST WILL BE APPROVED UNLESS COMPLETED. THEREFORE, IF THERE IS A DELINQUENT DOCUMENT, IT CAN BE CAUGHT IN THE PERMITTING PROCESS.

BOTH STATE HISTORIC PERSERVATION DIVISION AND MAUI COUNTY HAS EQUALLY FAILED THIER FIDUCIARY RESPONSIBILITY. NIETHER GOVERNMENTAL BODY HAS EVEN DONE THE MOST BASIC PROCEDURE. WITHIN THE CHECK LIST

DOCUMENTS WERE NOT VERIFIED AND VALIDATED. IT APPEARS THE STATUS QUO HAS BEEN TO OPERATE ON ASSUMPTIONS AND FINGER POINTING.

ON THE LAST MEETING THERE WAS CONCERNS OF "BY WHAT STANDARDS" IS THE MORATORIUM GOING TO BE MET, YET WE ARE HERE BECAUSE NOT EVEN THE MOST "BASIC STANDARDS" WERE EVER FOLLOWED TO BEGIN WITH. ANOTHER COMMENT WAS "WHAT IS RATIONAL" WHICH DIRECTED THE POSSIBLE IMPACT **BUSINESSES, THOSE "ALREADY WITH ENTITLMENTS" MAY INCUR. THEN WE SPEAK OF CULTURAL RESPECT WHILE TONS UPON TONS UPON TONS OF RESOURCES AND DESCECRATION, IRREPAIRBLE HARM AND INJURY IS ACCEPTABLE AND RATIONALIZED IN MAUI COUNTY'S OPINION. ONE MIGHT ARGUE THAT THAT WAS NOT THE INTENT OF THE COUNTY YET AS DELIBERATION CARRIED ON OUR SAND AND KUPUNA WERE BEING CARRIED AWAY. NONE OF THE PARTIES, DEPARTMENTS, STAFF BUT NOT LIMITED TO SHOULD BE EXEMPT FROM RESPONSIBILITY OF LIABILITY. THE FINE DETAILS AND LITIGATION CONCERNS FOGS THE MOST CRITICAL AND BASIC FUNDIMENTAL INTENT THIS COUNCIL SHOULD UPHOLD WHICH IS TO PROTECT MAUI. INSTEAD YOU HAVE MADE MAUI VULNERABLE AND VICTIM TO ANY ENTITY THAT WOULD CARE TO PLANT THEMSELVES HERE EVEN IF IT BE ON OUR ANCESTRAL RESTING PLACE. MAKING A PERFECT LAW DOES NOT COMPEL ONE TO COMPLY AS PROVEN. HOW MUCH INFORMATION WOULD YOU REQUIRE TO BECOME BETTER EQUIPPED AND FUNCTION ACCORDINGLY. I WOULD POINT OUT YOU HAVE A NUMBER OF LEGAL ADVISORS TO ASSIST UNLIKE THE EVERY DAY PUBLIC. WE THE PUBLIC HAVE DONE THE WORK AND ADVISED YOU WITH NO RESULT OR REMEDY. I WILL PRAY FOR ALL OF YOU.**

Sand mining

Tulsi Greenlee <tulsigreenlee@icloud.com>

Thu 10/5/2017 10:33 PM

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

RECEIVED

2017 OCT -6 AM 7: 49

OFFICE OF THE
COUNTY CLERK

Aloha,

First off: these bills should be better through Land Use Cmte rather than IEM Cmte and then. Neither of these bills appear to address the concerns brought up by Judge Cardoza regarding "immediate irreparable harm", nor addresses the need for SHPD to have more stringent oversight or a method for ensuring developers follow AMPs. The Director of Public Works should not be the only one making final determinations (especially if the development/project falls within the endangered areas. Further, given that there has been little to no enforcement so far, thus necessitating a lawsuit against the developer, the Director has shown that he needs assistance and oversight when it comes to approving grading/grubbing permits that could be construed as resource extraction.

Thank you,
Tulsi Greenlee

Sent from my iPhone

Maui Sand Mining Bills proposed by Council member Guzman

RECEIVED

2017 OCT -6 AM 7: 50

Robin Knox <robin.s.knox@gmail.com>

Fri 10/6/2017 4:53 AM

OFFICE OF THE
COUNTY CLERK

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

- 1) Neither of these bills appear to address the concerns brought up by Judge Cardoza regarding "immediate irreparable harm", nor addresses the need for SHPD to have more stringent oversight or a method for ensuring developers follow archeological monitoring plan.
- 2) The Director of Public Works should not be the only one making determinations about compliance where protection of iwi or public trust resources is at stake. County officials with knowledge of environmental and historic preservation law should be involved.

These two bills should be referred to their APPROPRIATE STANDING COMMITTEES which deal with their subject matters.

One of his bills deals with amendments to Title 19 in the Maui County Code, which is the ZONING section of the Maui County Code.

Resolution No. 17-5 (Draft 1), entitled "ESTABLISHING THE STANDING COMMITTEES OF THE COUNCIL, DEFINING THEIR DUTIES, AND APPOINTING THEIR MEMBERS", establishes the jurisdictions of each of the standing committees for this current term.: The Land Use Committee has jurisdiction over the following matters:

- a. Project-specific amendments of State land use district boundaries, the General Plan, community plans, and zoning ordinances.
- b. Other land use approvals requiring Council review and approval such as variances and conditional permits.
- c. Expedited approvals of housing projects pursuant to Chapter 201H, Hawaii Revised Statutes, or any successor statute.
- d. Land use ordinances not specific to a project."

The second bill deals with amending 20.08 Maui County Code, relating to SOIL EROSION AND SEDIMENT CONTROL.

Section 1. of Guzman's proposed bill states: "The purpose of this ordinance is to preserve and protect sensitive historic, cultural, and archaeological sites, and unmarked human burial sites by clarifying the grading and grubbing permit process."

The action that is occurring with this amendment, is clarification to the grading and grubbing permit process, by giving the Director of Public Works, the Director of Planning, and any state or county agency with authority relevant to the work being conducted, to enter the property to ensure compliance with their permits.

IEM standing committee deals with the operations of Public Works.
Planning Committee deals with the operations of the Planning Department.

The grading and grubbing permitting process could also be considered a Land Use Committee issue.

Whenever there are referral items that could fit in more than one committee, they are supposed to be automatically sent to the Policy, Economic Development and Agriculture Committee.

The Policy, Economic Development and Agriculture Committee has jurisdiction over:
"Issues involving the responsibilities of two or more standing committees."

OFFICE OF THE
COUNTY CLERK

CC 17-396 & CC 17-394

Tamara Paltin <tampaltin@gmail.com>

Thu 10/5/2017 9:04 PM

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

RECEIVED

2017 OCT -6 AM 7: 50

OFFICE OF THE
COUNTY CLERK

Aloha Council members,

I believe that we are all very concerned about the disturbing of iwi kupuna. No one wants to see the resting place of kupuna disturbed, hence the sayings: Rest in Peace or Rest in Love. I thank Council member Don Guzman for introducing these bills out of concern for what is going on at Maui Lani. However, I am concerned that neither of the bills address the concerns brought up by the Honorable Judge Joseph Cardoza regarding immediate and irreparable harm to iwi kupuna nor does it address the need to have State Historic Preservation Division have more stringent oversight or a method for making sure that developers follow archaeological management practices. An immediate moratorium on sand mining needs to be enacted until the court case is resolved. There is also an urgent need to UPDATE the February 2006 Maui inland sand quantification study.

I think these are good bills, even though they do not address the immediate and irreparable harm to iwi kupuna that Judge Cardoza was concerned about. I think if the council can all work together and refer these two bills to the council Land Use committee they can be worked on concurrently with the Moratorium bill in the IEM committee.

The reason I feel the bills should be sent to Land use committee is because one bill deals with amendments to Title 19 in the Maui County Code which is the zoning section. Resolution 17-5 establishes the jurisdiction of each of the standing committees for this current term and the Land use committee has jurisdiction over: Project-specific amendments of State land use district boundaries, the general plan, community plans and zoning ordinances. Other land use approvals requiring Council review and approval such as variances and conditional permits. Expedited approvals of housing projects pursuant to Chapter 201 H, HRS or any successor statute. Land use ordinances not specific to a project.

Whereas IEM committee has jurisdiction over: County facilities, construction and maintenance (including drainage and waste management but not water supply and energy), Traffic safety issues relating to the protection, preservation and enhancement of the environment, including recycling but not energy. Operation of Dept of Environmental management and Public works and the operational oversight of any grants they administer.

So as you can see the first bill is a good fit for the Land Use Committee.

The second bill which seeks to amend Maui County Code 20.08 relating to soil erosion and sediment control, it seeks to preserve and protect wahi pana by clarifying the grading and grubbing permit process and this could also be considered a land use committee issue. The IEM committee deals with Public Works operations and the Planning committee deals with the operations of the Planning department.

This leads me to believe the second bill could technically fit in any of the three committees and as we know when an item can fit in more than one committee they are supposed to be automatically referred to the Policy, Economic Development and Agriculture committee as this committee has jurisdiction over issues involving the responsibilities of two or more standing committees.

Thank you for reading my testimony and taking the care of our iwi kupuna seriously, this is a very heavy subject and it has not been handled in a transparent, clear and accountable manner in the past. Moving forward I hope that we can all come together to do the right thing with respect to the people who were here before us and show future generations how to take care of our precious resources as well as our ancestors.

Mahalo

Tamara Paltin

RECEIVED
OCT 8 AM 1:20
OFFICE OF THE
COUNTY CLERK