

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

May 1, 2017

THE SPECIAL 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 MONDAY, MAY 1, 2017, BEGINNING AT 9:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

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

Mr. Clerk, please call the roll.

ROLL CALL

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

EXCUSED: COUNCILMEMBERS ELEANORA COCHRAN, S. STACY CRIVELLO, AND DONALD S. GUZMAN.

(Councilmembers Cochran and Crivello were not present when the roll was called; however, they arrived at 9:04 a.m.)

(Councilmember Donald S. Guzman was not present when the roll was called; however, he arrived at 9:38 a.m.)

COUNTY CLERK DENNIS A. MATEO: Six Members present, Mr. Chair, and three excused.

CHAIR WHITE: Thank you. Those Members are running a little behind because of some weather challenges as we're all aware. Oh, there's, the Chair will recognize the presence of Ms. Crivello and Ms. Cochran. Good morning.

(Councilmembers Cochran and Crivello arrived at the meeting at 9:04 a.m.)

CHAIR WHITE: And, if you all would please silence your telephones. We will proceed with public testimony.

Mr. Clerk.

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

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

And when testifying, please state your name and the name of any organization you may represent.

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

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

COUNTY CLERK: Thank you.

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

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

COUNTY CLERK: Thank you.

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

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

COUNTY CLERK: Thank you.

Mr. Chair, we have five individuals who have signed up to provide testimony in the Council chamber.

The first person to provide testimony this morning is David Dorn, testifying on Bill 46, concessions, on behalf of Action Sports Maui. To be followed by Mike Moran.

CHAIR WHITE: Good morning.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. DAVID DORN, [testifying on Bill No. 46 (2017)]:

Good morning. Aloha Council Chair, and Chair, Councilpersons. My name is David Dorn. I'm representing Action Sports Maui, a loyal CORA participant for over 20 years. And I submitted testimony via email. Three different ones; one on the budget, and two on the concessions. And, they're all interlinked, but I'll just address concessions with this one. I gave you a printed copy of a five-page testimony, which you may have had a chance to review. But, I'm going to read you the one that I didn't have a chance to print out today.

So, the reasons why CORA should not be included in the parks concessions. So, we're basically appealing to you to put in language to amend this Bill 46 to specifically exclude CORA. Why we shouldn't be included is we're a vital service to the community. CORA is needed to provide water safety and prevent accidents. CORA is not commercially using the parks. CORA have permits that basically allow us to cross the parks and use the ocean. CORA permit is a right of entry permit. CORA fees go into a special fund that doesn't affect the budget. CORA fees pay for more than their cost of administration. CORA permits do not trigger the need for an environmental assessment. CORA is a vibrant vital industry, community and entity. CORA is made up of dozens of schools. CORA employs, employs hundreds of people. We provide a network of ocean recreation schools. We provide ocean education and guiding.

And this is basically a recap of all of the testimony we heard over the years, and more recently at all these previous meetings. And, you've heard testimony from other CORA operators, the community, the Chamber of Commerce, lifeguards, visitors. You've received petitions and stuff like that. So, this should be nothing really new in here for you.

CORA is a good employer and creates many good local jobs. We reinvest money into the local economy. We are established businesses with roots in the local community. And, we have invested for decades in our respective industries. We are supporters of Maui's outdoor recreation industry, which is a big industry on Maui.

CORA provide a vital service to the locals and visitors that lifeguards cannot provide. Okay, we live on an island surrounded by ocean. We have to reconcile the fact that the ocean, beach is a primary attraction for many visitors, and the main area of recreation for residents of population of County, of the County of Maui.

Now just my bullet points. Maui spends \$4.5 million annually to bring in more tourists, but spends zero dollars annually creating new beach parks. Sadly, I don't think we had a new beach park since 1960. But, we do have five times the population on Maui.

Maui's ocean safety resources are severely limited. Maui lifeguards are only present on one CORA beach. CORA instructors are the de facto water safety resource in other places. And--

CHAIR WHITE: You'll have to provide a concluding sentence.

MR. DORN: Finally, in conclusion, don't throw out the baby with the bathwater. CORA is your only water safety solution currently in place that does not trigger the need for an EA. Creating a concession for CORA is, will create the trigger for an EA, and that will really gum up the works, and you'll have nothing. So, do not replace CORA with concessions. Please keep us going. And, don't put us out of business. Don't take us out of the water safety loop. Thank you.

CHAIR WHITE: Thank you, Mr. Dorn.

Members, any need for clarification?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you for being here. I have a question. What parks do you have your CORA permit?

MR. DORN: Me personally?

COUNCILMEMBER SUGIMURA: Yes.

MR. DORN: Well, Kanaha Beach is the main one. But, it's reducing every year, the number of beach parks. The idea was to have originally, the \$50 permit was to have, to ensure one thing; that the people operating in the County parks had insurance, and they indemnified the County against, against liability.

But unfortunately, that, what happened is, that was for every beach park, so I use to have every beach park. But, now it's being whittled down over the years. And the

upshot is that the permit system now only allows me to go in certain beach parks at certain times. So, Kanaha would be probably the main one.

And then we have secondary beach parks for safety, that we rarely use. But, they're there for safety. So, what's going to happen is we're going to lose more and more beach parks, and our ability to provide safe instructions. So--

COUNCILMEMBER SUGIMURA: So, your--

MR. DORN: --does that kind of?

COUNCILMEMBER SUGIMURA: So, your answer is Kanaha Beach Park, period.

MR. DORN: Yea, that's--

COUNCILMEMBER SUGIMURA: Is that what you're saying?

MR. DORN: --that's the main one, yes.

COUNCILMEMBER SUGIMURA: Thank you.

MR. DORN: Kanaha Beach Park, so, you know, but it's getting less every year. We lose days. We lose areas. We lose times.

COUNCILMEMBER SUGIMURA: Thank you.

MR. DORN: Okay.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, good morning, Mr. Dorn. Thank you for being here. You mentioned that lifeguards only oversee one CORA permitted park?

MR. DORN: Yep, I could be wrong, but to the best of my knowledge.

COUNCILMEMBER COCHRAN: Is that, what is?

MR. DORN: Kanaha Beach.

COUNCILMEMBER COCHRAN: Okay. So, that is your, alright. I just wanted to know.

MR. DORN: So, there's a lot of beach parks that are used for ocean recreation that's not CORA. See, I think there's a misconception of what is CORA and what isn't. People just look in the ocean and say wow, look at all that CORA going on. It's not, there's, you probably won't even see us, we're there in the mornings early, and we're out at the beach parks. We're only in a limited number of beach parks. So, there's other recreational activities going on. In fact, the vast majority is unpermitted CORA type activities.

COUNCILMEMBER COCHRAN: Alright. Thank you very much.

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: What do you mean by your statement that your, the, your primary park is Kanaha--

MR. DORN: Yea.

COUNCILMEMBER ATAY: --but, you're saying the space is getting smaller?

MR. DORN: Right. Parks has the ability to create restrictions within the CORA permit system. So, we're only allowed between certain points on the beach, at certain times, with a certain number of people, on certain days. So, it's actually whittled down.

So for instance, at Kanaha Beach where I can teach windsurfing and kiteboarding, these activities that we've taught for 20 years, they are separate areas on the same beach. So, it's not like one CORA activity can go wherever they want. They're actually very highly restricted and regulated. We are the most regulated of any industry according to our 42-pages of guidelines that we have to follow. And that's okay.

We don't have a problem with the CORA permit system. It's the administration of the system that, you know, we think is problematic.

COUNCILMEMBER ATAY: Thank you.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, another question. How many permits do you have?

MR. DORN: I have one permit, because when I applied for my original permit 20 years ago, it's one permit. There's been divisions within that permit, but I'm only allowed to have one permit. I can't have two permits for the same activity at same beach park.

My permit reflects the need that I have multiple activities in multiple locations. It's still one permit, one permit application fee per year. It's just, there's an administrative way where they've been able to subdivide it and charge individual fees within my one permit. I can only have one permit.

COUNCILMEMBER SUGIMURA: Even if you do two different activities?

MR. DORN: Yes. Because it's park activity subsections of the same permit. It's one application process.

COUNCILMEMBER SUGIMURA: So, one fee?

MR. DORN: It's, it's one fee calculated on a per park activity basis. One application every year.

COUNCILMEMBER SUGIMURA: This is CORA?

MR. DORN: So, I consider it one permit, and it allows me to do several different activities cause that's what I have on my one permit application. And, like I have one insurance policy, whatever, I pay one application fee; it's one permit. It's just kind of, there's a different way of looking at it when it comes to calculating how much I have to pay according to the way it's being administered. So, yes, fragmented permit; one permit.

COUNCILMEMBER SUGIMURA: So, you don't pay, could I ask one more question?

MR. DORN: I do pay a per park.

COUNCILMEMBER SUGIMURA: So you don't pay per beach per activity? You just pay one permit at Kanaha, and you do all your different activities at Kanaha? Is that what you're saying.

MR. DORN: No, no. Actually, what I'm saying is, to clarify, I have one permit application per year. And that application has several activities at several locations, so it's Kanaha and my secondary location. And then, my fee is calculated based on that. And the current way that the fee is calculated, this is more of a budget question than a concession question, because you have to be in business to pay a fee, and that is you get \$1,000 fee for up to two parks, one permit fee. And, an additional charge for additional beach park activities of \$500 per beach park activity.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR WHITE: Any further need for clarification?

Ms. King.

COUNCILMEMBER KING: Yes. Thank you, Chair. So you have, you, you're saying you have one permit, but you have all these different divisions? And you have, you're paying permit fees on other locations that you aren't using?

MR. DORN: Well, I do use seldomly, yes. So, I pay a, I pay a fee. I don't know how long I'll be able to maintain that. So, you know, I have lifejackets I'm not using too, but I have them.

COUNCILMEMBER KING: But I mean if you give back those, those permits then you don't have to pay for them, right, because if you're, if you're not using them in the other locations?

MR. DORN: Oh yes. And I can keep back stepping until I fall backwards off the Pali, yes. I can do that too. But the idea is I'm a safe operator, and there will come a point in time where I will not comprise my integrity and my, you know, commitment to safety. And that, you're asking me--

COUNCILMEMBER KING: Okay, no I'm just trying to understand why you keep these--

MR. DORN: I've been, I've been, yea, so we've given up, well, 300 permits have been relinquished and given back by CORA operators like myself. And one's being reissued in over 10 years. So, there's that.

COUNCILMEMBER KING: Alright. No, I understand that. I'm just trying to understand when you said you keep the other permits for safety.

MR. DORN: Yes.

COUNCILMEMBER KING: If you don't have activity there is that, is that because if it's unsafe in Kanaha then you want to be able to go to another location?

MR. DORN: Absolutely.

COUNCILMEMBER KING: Okay. That's, that's what, I was just trying to understand that.

MR. DORN: So, Kihei. Yea, so Kihei when the winds are kona, and you know how often that is; not too often. But, when they are, you can't even go to the North Shore, because you're going to get blown off-shore. So, I have that. So, it's not like I'm, could be using both at once. They're actually mutually exclusive. It's according to weather.

COUNCILMEMBER KING: You can only use one or the other?

MR. DORN: And we have testified in the past that even if you took away my secondary permit, it's not, you could, couldn't reissue in good faith and conscience to another operator, because it's unsafe 90 percent of the time. I know the difference, cause that's my job. That's what I, I get paid for is because I have the knowledge to know when and where to go safely, keep my patrons safe. And, so I'm not, you know, sitting on a valuable permit.

CHAIR WHITE: Okay, Mr. Dorn.

MR. DORN: It's a backup.

COUNCILMEMBER KING: Yea, I think I got my question answered. Thank you.

CHAIR WHITE: I'm going to, I'm going to ask you to stop there. You've, you've--

MR. DORN: Yea. Okay.

CHAIR WHITE: You've well answered the question.

COUNCILMEMBER KING: Thank you, Mr. Dorn.

CHAIR WHITE: Thank you.

Any further need for clarification, Members? Thank you very much for being here this morning.

MR. DORN: Thanks very much.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Mike Moran, President, Kihei Community Association, testifying on Committee Report 17-67 and Bill 46. To be followed by Patricia Cadiz.

MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION [testifying on Committee Report No. 17-67 and Bill No. 46 (2017)]:

Aloha, Chair White. And happy lei day, May Day, to everyone this morning. We should be very brief. Mike Moran for the Kihei Community Association.

On 17-67, first, we want to thank you when you were wearing Committee hats that you approved our Kihei gym unanimously. And we're asking you, we, I wore the appropriate shirt, to please just continue moving it forward one, two, and three. I don't think we have to go into any details, but just that our community is chomping at the bit to get this, this gym constructed.

And I'll just move on to the other one, Sir?

CHAIR WHITE: Sure.

MR. MORAN: And that only ties in, congenitally, Bill 46. And our only comment here is, we can certainly see the need for finding sources of money. Just going through the budget process, and we see \$20 million. I don't know maybe younger people are not flabbergasted by a number like that, but I sure am. So, you need sources of income, when you're looking at that.

So, we just ask that caution is used when we're going to name something, or this to come along later, and would say, okay, we're going to build a Kihei gym. Please, we don't want a Donald Trump gym or a Coca-Cola gym, you know, named after some unsavory product.

So, please just use prudence when, when that takes effect. You need to get money, but we ask you to, to make wise decisions. Thank you very much for the opportunity this morning.

CHAIR WHITE: Thank you, Mr. Moran.

Members, any need for clarification?

MR. MORAN: Thank you.

CHAIR WHITE: Seeing none, thanks for being here.

Mr. Clerk.

COUNTY CLERK: Next testifier is Patricia Cadiz, with HST Windsurfing and Kitesurfing School, testifying on Bill 46. To be followed by Mike Johnson.

MS. PATRICIA CADIZ [testifying on Bill No. 46 (2017)]:

Aloha, Chair.

CHAIR WHITE: Good morning.

MS. CADIZ: Aloha, Members. Thank you for hearing me again. My name is Patricia Cadiz. I'm the administrator at HST Windsurfing & Kitesurfing School. I'm here to talk about Bill 46.

During the Committee hearings, I think there was some questions about whether or not this would affect CORA. And, my feeling is that the definition of concessions in Bill 46 is referenced to, I think it's Chapter 3.4 *[sic]*, definition of concessions, which if you read that it includes services to the general public. So, what CORA provides is services to the general public, and therefore, CORA is, by nature, included in the concessions bill unless we are specifically excluded.

So once again, I'm here to ask that you entertain a motion to please exclude CORA services at CORA parks from the definition of concessions in Bill 46.

And you say, maybe, maybe you want to know why am I so concerned about this? Well, the reasons are many, and the hints have been coming for a long time. We were told in the Mayor's inauguration speech that he's going to put concessions in beach parks. So, we immediately tried to get a meeting with him and ask, does your, or your vision for concessions include CORA activities? We couldn't get a straight answer.

So, we tried to meet with the Parks Director. We knew that Ms. Savage was actually working on 13.04, so we tried to get a meeting with her. She sent Director instead, and he said CORA is flawed. It needs to be replaced. And you'll get your chance to comment at the public hearing. So, we didn't really get a good answer there either.

And then we've listened to the testimony. We've heard Mr., the Parks Director, I'm sorry, say that Kanaha, Kalama, Kamehameha Iki, and Ho'okipa would be good locations for concessions. We still don't know, does that include activity concessions? But, they seem to be all CORA parks. And they, he keeps referencing all the activity that's there, so it seems like he's thinking of activities.

So, we are asking for some assurance that we're not part of that plan. If you really want to save us, please exclude us today. I have been living with this uncertainty for three years in my business, so I'm having a hard time reinvesting in equipment. My instructors are telling me the, the boards are so heavy, it's bad for our backs, would you please get new boards. I'm like, I can't justify thousands of dollars of investment when I don't know if I'm going to be in business next month.

And to top it off, I see the language in the budget has gone from annual to monthly payments. So that adds to my concern. Yes, it's circumstantial. Call me Chicken Little, but I am afraid. Any questions?

CHAIR WHITE: Members, any need for clarification?

Thank you, Ms. Cadiz.

Mr. Clerk.

COUNTY CLERK: Next testifier is Mike Johnson, partner, Opelu Surf School, testifying on Bill 46. To be followed by Scott Kirby.

MR. MIKE JOHNSON [testifying on Bill No. 46 (2017)]:

Hi everyone. Thanks for having me today. I represent Opelu Surf School. We have one surf permit at Kamehameha Iki Park. And, I've just been a partner for a year and a half, so the one before me has a lot more knowledge. She's kept me up to date on what's been taking place.

And the part I picked up from her, especially, is we're in the same position. We're about to upgrade, make some investments, sign a long-term lease. And not knowing the direction of the business right now makes it a little bit difficult, especially for the landlords going forward.

So, I'd just like to take this opportunity to, kind of agree with the lady before me. And, the separation of CORA from concessions, from everything I've been brought up to speed, definitely make sense. So, I'm just here to show my support and hope you guys will consider. Thank you.

CHAIR WHITE: Thank you, Mr. Johnson.

MR. JOHNSON: You're welcome.

CHAIR WHITE: Members, any need for clarification? Seeing none, appreciate your coming today.

MR. JOHNSON: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Scott Kirby, owner, Outrageous Surf, testifying on Bill 46. To be followed by Kelson Kihe.

MR. SCOTT KIRBY [testifying on Bill No. 46 (2017)]:

Good morning, Council. Thank you for the opportunity to speak. My name is Scott Kirby. I run Outrageous Surf in Lahaina. I've been a partner for about three or four years, and it's the funnest job I've ever had, so I feel fortunate that I get to do this as a living.

I'm just learning about some of the things that are going on as well, and I'm in complete agreeance of removal of CORA from the concessions bill, just to protect us. We're family run businesses. My wife and I run our shop. She was a teacher for ten years. I left a prominent profession to come do it as well. So, any consideration that you can give to the family run businesses, we appreciate it. We try to be safe, maintain very good businesses for the County of Maui, and represent Maui in a good light. So, thank you very much for your time.

CHAIR WHITE: Thank you, Mr. Kirby.

Mr. Clerk.

COUNTY CLERK: Next testifier is Kelson Kihe, owner, manager, Club Maui Beach Service, Inc. testifying on Bill 46. To be followed by Alan Cadiz.

MR. KELSON KIHE [testifying on Bill No. 46 (2017)]:

Aloha kakahiaka. Good morning--

CHAIR WHITE: Aloha.

MR. KIHE: --to you all. My name is Kelson Kihe. I've, I've been surfing since I was a kid, since two years old. And, throughout the years I've been living on Maui, cause I'm originally from the Big Island. I got into the surfing industry, and been teaching for, I would say, 12, 15 years, around there.

But, I'm here on behalf of my employees of Maui Wave Riders Lahaina, and of course, Maui Wave Riders in Kihei. The Bill 46, I, I do not accept the CORA permit bill due to the, the structure that how it's, I don't know how it's going to go, because I just found this out last night. But I hope you guys don't go through it, because I have so many employees that I treat as family, as ohana, and I want them to stay where they're at.

So, if big companies come in and try to bid us out, that'll hurt us big time. And I'm having trouble now finding out about trying to get my lease going to see how I can operate. If I can stay there, or do I not stay there; yea, and I want to stay.

This sport was brought here by our kupunas to, to share with people, yea, and to have the right people teaching. I speak on behalf of these guys too; non-Hawaiians or Hawaiians. We teach people our sport, the way of life, how they did it back then. And I just want to be sure that, you know, I have a future with the surfing industry. So, please take away these CORA, please take away the Bill 46, and mahalo, yea.

CHAIR WHITE: Thank you, Mr. Kihe.

Members, any need for clarification?

I have a question for you. My recollection is that the CORA permittees are required to have a base of operations outside the parks. Is that correct?

MR. KIHE: Yes.

CHAIR WHITE: Yea. So you need to, even if you could just bring things from home, you need to have a, a base set up somewhere else.

MR. KIHE: Yea.

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

MR. KIHE: Mahalo.

CHAIR WHITE: Appreciate your mana`o.

Mr. Clerk.

COUNTY CLERK: Next testifier is Alan Cadiz, president, HST Inc., testifying on Bill 46. To be followed by Jeffrey King.

MR. ALAN CADIZ [testifying on Bill No. 46 (2017)]:

Good morning, Chair--

CHAIR WHITE: Good morning.

MR. CADIZ: --Councilmembers. Thank you for the opportunity to speak. My name is Alan Cadiz. I'm president of HST Inc.

In regarding to Bill 46, I have to say that I'm in fear of losing my business. You know, I, 31 years of service to the community. I lay awake at night and wonder, will the County force me to close my business?

Why am I in fear? I mean, I don't want to sound like Chicken Little, but I just see all these signs. And the first sign is the deletion of Section 7. In November of 2015, the deletion of Section 7 in Ordinance 3143 eliminated the need for the County self-imposed requirement for an EA. We were told that this was, they eliminated that, they would be able to issue CORA permits to new startup businesses. There's a lot of pressure from people that would like to have them.

Since then, there's been no new permits issued. But the, the elimination of the EA also allows for the County to move forward with the concession. No new permits have been issued, and the deletion, since the deletion. But, the concession bill seems to be on the fast track.

Second, when the Parks Director was asked in the last meeting if the, if this would affect CORA. And his response was "it doesn't affect CORA at this time".

So, third, my proposed permit fee increase in this year's budget is absurdly high. But, an additional concern is the renewal language is changing from annual to monthly. If your landlord told you that they were taking your annual permit to a monthly permit, that would be a red flag to you, wouldn't it?

I mean, I can go on, but I'm here today to appeal for your help. Allay my fear and the fear of all who work for me, as well as the people who work in and support of the CORA industry. I'm asking you to exclude CORA from this bill. Please, Chair, would you

entertain a motion, or you, any of you, entertain a motion to exclude CORA from concessions, from the definition of concessions in the CORA beach parks.

I believe there were 18 originally, and it's been whittled down for people giving up their permits. It's something less than 18 parks out of the 27 original parks.

I'm asking to seek the truth before you cast your vote. It's not just my businesses, but 30 plus businesses and their employees, and their dependents. Passing it now would be, passing it now without changing it would be an injustice to me and the residents we serve. It's been an honor and a pleasure to share the gift of Maui wind sports to people in this room and across the globe. It would be a sad day to see my small but valued business come to an end at the hands of government. Thank you.

CHAIR WHITE: Thank you for being here, Mr. Cadiz.

MR. CADIZ: I welcome any questions.

CHAIR WHITE: Members, any need for clarification?

Ms. Cochran, you look like you were--

COUNCILMEMBER COCHRAN: Yea, I am deep in thought here, and listening to all the testimonies. So, yea, and thank you Mr. Cadiz and Mrs. Cadiz for being here, and being a, you know, watchdogging this.

So, I'm just trying to jog my memory back in November, as stated in your testimony, the deletion of Section 7, which eliminated the need for self-imposed requirement of an EA. So, at the time, I believe, and correct me if I'm wrong, was that it was helping you folks to not have to go through the hurdle of doing EA's, because originally you did not have to. Is that safe to say?

MR. CADIZ: Yes. But I believe it was for any new permits issued by the County. See, there was a moratorium, I believe, from 2001 that no, no permits have been issued on, by the Parks Department. And the moratorium was because of the self-imposed restriction of the EA. But in order to issue permits, and I guess there's been a number of people who are, been trying to get them, I certainly don't need one, but there's people that have been wanting them. And I thought that the deletion of Section 7 would allow the parks to issue permits. But because there's been none issued, that's a concern. It also eliminates the need for an EA. Although, there, it is quite possible that there's a need, State on, a need for an EA for the State, for any concessions. But I'm not sure about that.

COUNCILMEMBER COCHRAN: Okay. No, well, thank you for that clarification.

And, Chair, and the annual to monthly that, so what you pay annually for permits will now be charged 12 times per year?

MR. CADIZ: On, it just says is the language if you, and this is the budget, so if I can speak on that. It says, the existing budget is, you pay annually for each park activity, each park, and each activity on. Then it was changed in the administrations to the same language, but the fee was increased substantially. And then I believe Councilmember Hokama's bill budget changes, the numbers are the same, but it takes out the word annual and puts month to month.

And I'm not sure why that would be, and there's been speculation that it was placed in there to allow businesses to make monthly payments instead of one annual payment. But, to me it seems like it would be easier, that's why I might be Chicken Little, but it might be easier to evict us from the park as soon as any concession language is finished.

COUNCILMEMBER COCHRAN: Well, Mr. Cadiz, thank you for being here, and your sharing your thoughts with us this morning. And we shall address this when it comes time. Thank you very much.

MR. CADIZ: Thank you.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR WHITE: Any other questions, Members? Seeing none, thank you very much for being here, Mr. Cadiz.

Mr. Clerk.

COUNTY CLERK: Next testifier is Jeffrey King, owner, operator, Big Kahuna Adventures, testifying on Bill 46. To be followed by Thomas Castleton.

MR. JEFFREY KING [testifying on Bill No. 46 (2017)]:

Aloha. Good morning, Chair, Council.

CHAIR WHITE: Good morning.

MR. KING: Thank you for letting me speak today. My name is Jeffrey King, and I'm owner and operator of Big Kahuna Adventures over in Kihei. And, just this bill concerns me cause even for the last two or three years I just, there's been such uncertainty that my dream job of having my family business like this is just dwindling away. It's scary to invest, and I'd love to be successful. I'd love to pass on a successful business to my son. But it's just worrying me each, each year just gets tougher on us.

I invite you guys to, to come down to the park and just see what we do. We, we all, we all work together and help the keiki. And, we keep people off the wet rocks. It's just amazing what we all do together, and it's fun to watch all that. And I'd invite you all to see that. And, I just really wish that we could exclude the CORA from this bill, cause that will definitely, it's going to put me out, you know. And, I've worked really hard for this.

And my wife is running the shop right now. My son's almost able to, to work. But it's just a dream job for me. And I've been working, I work seven days a week, and I just work really hard. And just every year we go through this, and I just love to be able to look forward to a year where I can grow. I maybe even love to get another permit in another spot, but that's out of the question.

And, I just beg each one of you to please reconsider this concessions bill. It just, it's going to, it's going to wipe out some great little family businesses. I wish you all could see us over there work together, it's a great thing.

And, happy lei day to you guys. Today is, I think, May 1, which is the day one of "Small Business Month" of 2017. So please consider. I invite you guys to please come down, and come visit my shop. I do have a base shop. And, and you know the expenses with that; it's crazy. So, please consider this, and have a great day. Aloha.

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

Members, any need for clarification? Seeing none--

(Councilmember Guzman arrived at the meeting at 9:38 a.m.)

MR. KING: Thank you.

CHAIR WHITE: --appreciate your sharing your thoughts with us this morning.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, the next testifier is Thomas Castleton, testifying on Bill 46, on behalf of Maui Waveriders.

MR. THOMAS CASTLETON [testifying on Bill No. 46 (2016)]:

Good morning, and thank you for having us today. Just really grateful that all these years we've been able to teach surfing and share the Hawaiian sport of surfing.

It would be, be super grateful if we could continue to do that, and take care of the aina and the ocean, and be good stewards. I have a lot of people depending on me to, to keep employed. If I lose my business, then all these people don't have jobs. We're just at the mercy of you guys. We really need your help.

It, it is scary because the power of the County over us, every year we don't know what you guys are going to do. And today, we are, we're fearful of our business. And I really plead with you guys, just, you know, just, let us be able to continue what we do. And we give such a good service to these visitors.

I mean, you should hear the testimonies of these people; we changed their lives. I mean, I've got people from 20 years coming back, and telling me how they changed their life. I mean, we are such an asset to the Hawaiian culture and to the tourists. I mean, we're a big part of this; this is huge. And we just really appreciate it if you can just let us continue. And I thank you very much. Thank you.

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

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

MR. KING: Thank you.

CHAIR WHITE: Mr. Clerk.

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

Hana Office, are there any additional testifiers?

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

COUNTY CLERK: Lanai Office, are there any additional testifiers?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

COUNTY CLERK: Molokai Office, are there any additional testifiers?

MS. ALCON: There's no one here on Molokai waiting to testify.

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

CHAIR WHITE: Thank you very much.

Members, we have received some written testimony. Without objection, we'll receive it into the record.

MEMBERS VOICED NO OBJECTION.

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

1. David Dorn;
2. Alan Cadiz;
3. Joe Baldwin;
4. Roger Simonot; and
5. Suzanne Dorn.

CHAIR WHITE: And, and if there are no objections, we will close public testimony for today.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk.

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

COUNTY COMMUNICATION

NO. 17-176 - RIKI HOKAMA, CHAIR, BUDGET AND FINANCE COMMITTEE,
(dated April 18, 2017)

Transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR
TO CONTRACT FOR A PERFORMANCE AND FISCAL AUDIT OF THE
DEPARTMENT OF FIRE AND PUBLIC SAFETY".

CHAIR WHITE: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, REGARDING COUNTY COMMUNICATION
17-176, I MOVE TO WAIVE THE RULES OF THE COUNCIL
FOR COMMITTEE REFERRAL AND COMMITTEE
RECOMMENDATION.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this is a part of the discussion we had in the
Budget Committee earlier, with the review of the Department of Fire and Public Safety.
We have made adjustments in the proposed budget and this, moving this audit forward
will be able to help make determinations on the next fiscal year's review.

We also have handed out the scope of the proposed audit for the Department, and
therefore Chairman, this motion is appropriate at this time.

CHAIR WHITE: Thank you.

Members, do you all have the scope that was handed out? Okay.

COUNCILMEMBER SUGIMURA: Yes.

CHAIR WHITE: Any discussion, Members? Do you need some time to read over the scope?

We'll take a short recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:43 A.M., AND WAS RECONVENED AT 9:44 A.M., WITH ALL MEMBERS PRESENT.)

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

Members, we're open for discussion on the waiver. Actually, the, sorry, we should have just gone through the waiver first. Any discussion on the waiver? 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. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO ADOPT THE PROPOSED BUDGET
ATTACHED TO COUNTY COMMUNICATION 17-176, AND
FILING OF SAID COMMUNICATION.

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, we've handed out the proposed, proposal scope for the audit. Again, we're just setting the recommendations that will be forwarded if this resolution does get adopted. And still needs to go through an RFP process, and the final agreement and document would be worked out through your Office as the Chief Administrator of the Council. Thank you.

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted to ask Mr. Hokama whether or not the Chief, the Chief of the Department was able to review the, the scope of the audit, and whether he had any input or any recommendations as to any further components that would be included or excluded? Was there any input asked from the Chief?

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, we just took whatever comments the Chief gave during the budget review process of his Department, comments from the Members during the review, and that's how we've proposed the parameters of the, proposed scope for the audit, Chairman.

Again, this is a proposal, the Council can adjust the parameters if they wish, regarding the areas of audit review and recommendations. But, these are the areas that was brought up, and basically the span of control, number of apparatus, their lifecycles and replacement program, and the need of the current Departmental structure. And so these will, might be assessed and should help us with next year's proposal and decision-making. Thank you.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I, I just would like to request that maybe some language, or not necessarily language itself, but maybe internally this would go out to the Chief for further recommendations if need be.

There could be other components that we are unaware of that could possibly need some type of investigation or audit to, maybe internally, internal affairs, things like that. I'm not sure. Since we're going to go ahead and do an audit, and it looks like it's more, more or less a performance audit, I would suggest just doing it all at once instead of breaking it up. So, I just wanted to make sure that all the loose ends were, were covered.

CHAIR WHITE: The, if this passes, the Chair will reach out to the Chief and ask for additional input before we craft the RFP.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Chair, I, I would like to, this is, Department is under PEA. And I did speak with Chief regarding the audit, and he's very open to it, and actually he was grateful that the, the Budget Committee proposed this as it would help them in terms of all of the requirements of the, the Department that were being looked at through the Budget process. So, thank you very much for proceeding with this. And I think that the Chief is open to seeing this happen.

CHAIR WHITE: Members, we need to take a brief recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:48 A.M., AND WAS RECONVENED AT 9:49 A.M., WITH ALL MEMBERS PRESENT.)

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

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO AMEND MY MOTION AT THIS TIME, AMEND THE MOTION TO INCLUDE DISCHARGE OF THE COMMITTEE OF THE SUBJECT MATTER, ADOPTION OF THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION 17-176, AND FILING OF COMMUNICATION.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: Okay, we have a amended motion from Mr. Hokama, and a second from Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, yea, thank you. One of the reasons that the proposed scope is of this nature, Chairman, is of course comments we had from the County Auditor about just audits in general. The more specific we make it, the faster and sooner the Auditor can focus in on exactly our parameters and then give us the recommendations in a timely manner. The broader we make it, the longer it will take for a response back to the Council for its review.

I would like the response back before next budget session. We're going to need to make some decisions on certain positions that we have supported through a limited term consideration. And hopefully by next year we can make that determination whether or not we want to make this a permanent consideration or not.

I think the audit will assist the Council and the Budget Committee in making that determination if we can receive it before we enter the next cycle. And that's my comments for the Members to please take into consideration; the timing that it will take to contract, the length of the Auditor to do an appropriate review, allow the Department to give its comments back on the Auditor's findings and recommendations, and then submit that to Council for its review and application to the budget. Thank you, Chairman.

CHAIR WHITE: Thank you.

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you. Just for clarification. So, this audit that we're, we're discussing today is outside the scope of the County Auditor? Is that why we're bringing it up to RFP, or is it just a timing issue?

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you for that. Both, it's both; both a timing issue and this is something the Council is asking for, to assist us in our requirements. We can only recommend to the Auditor to consider doing this audit. We cannot force the Auditor to do it. If he chooses not to, it won't happen. But I think with the

discussions we've had, we will like this assessment done, so that we can make that appropriate adjustments.

This is a major critical Department that is, has huge impact on General Funds; huge impact. And that's part of, of what took us very long in our recalculations this weekend is to, how to figure out the fringes, and all the adjustments. And one of the issue is the 9,000 series positions, okay. So, for us, Members, I think this is a reasonable request. I just ask you to think about it. But I, I believe it's the right thing to do to move this forward. Thank you, Chairman.

CHAIR WHITE: Any further discussion, Members?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, are we voting on the waiver at this point, and not so much on the?

CHAIR WHITE: No. This is on--

COUNCILMEMBER COCHRAN: Or is this time for discussion?

CHAIR WHITE: --this is on, the motion is to discharge it from BF-1 and to--

COUNCILMEMBER HOKAMA: Adopt.

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: --and to adopt.

COUNCILMEMBER COCHRAN: Okay, so we're full, full on talking about the whole? Okay, so my question then is, how is this different from the Fire and Public Safety Commissions duties and role in having oversight over the, this Department?

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER COCHRAN: It, I mean I see where the, the specifics here, but it seems, I don't know, maybe this is not the role of the commissioners. I, that's my question.

CHAIR WHITE: I, I think you could argue that this is the role of the commission. But it's also our responsibility to exercise the due diligence to evaluate the Departments to a greater degree if we feel it's appropriate.

Mr. Hokama, do you care to add anything?

COUNCILMEMBER COCHRAN: And, I agree--

COUNCILMEMBER HOKAMA: Chairman, let's, the Charter allows the Council, cause it's not, you know, very broad powers. But we can investigate, review, anything that has an appropriation; anything. And so, this is within the prerogative of the Council, within its authority that the Charter provides, especially in the area of oversight and accountability. This is part of the finance component of Budget and Finance Committee's responsibilities, Chairman; accounting for the money after it's spent. This audit will assist your Committee in doing its finance responsibilities to the Council and to the taxpayers. Thank you.

CHAIR WHITE: Thank you. And, I think if you look at the scope, it, it includes a number of the issues that always come up during Budget. And I think the Chief supports it primarily because if he gets a positive finding from the audit that, for example, the BC's are necessary and appropriate, then the, then that argument goes away.

And so, generally audits are, they're a major imposition on the Department, but they generally are appreciative of the, of the responses because it provides direction to them and how they can improve it. It provides direction to us that either our concerns are valid or our concerns are unfounded. So, I think it's a, it's a very healthy thing to do.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. To my recollection as a past member of the Public Safety Commission. Actually when it comes to appropriations, what they do is review the submitted appropriation, and then submit it with their approval to the Mayor. There's no auditing unless that does come up for some reason.

CHAIR WHITE: So, you, you don't recall the Commission ever initiating an audit?

COUNCILMEMBER CRIVELLO: No, no.

CHAIR WHITE: Thank you.

Any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. So, Chair, I think, and I had previously spoken to Department in reference to this proposal, and their thought was that, and I don't know if we can dictate this at all, but that the Auditor, or firm, or whatever is to be chosen understands Fire Department organization, and their different national standards of, and things of that nature. So, I think not just the numbers accountant type person needs to oversee this. I know it's cause we are, you know, it's our duty for budgetary things, but you know, there's a National Fire Protection Association. I mean, there's all sorts of specialized things that this particular auditor would need to know, especially in reference to this Department.

CHAIR WHITE: Right. Yea, as you recall with the Solid Waste audit, we brought people in from the mainland for that specific reason. We wanted people that knew the business and could provide the valuable perspectives.

COUNCILMEMBER COCHRAN: Right. Very good.

CHAIR WHITE: So, we will need to do that.

COUNCILMEMBER COCHRAN: Okay. No, very good. Just wanted to make sure that we're, we're thinking of that part, point.

CHAIR WHITE: And actually one of the big challenges that we had with the solid waste audit is that because, I think only one of them had done any work in the State, and they, it took forever to get them compliant with the tax clearances and the DLNR clearances as well.

Did you have anything else, Ms. Cochran?

COUNCILMEMBER COCHRAN: No. And I do recall Department very, looking forward to this actually, to assist them. So, thank you, Chair.

CHAIR WHITE: Thank you.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I can appreciate the request for this audit. I think the audit, first of all, we realize and know that it's to improve whenever there's an audit. And for this, as I read it, it's not only for the numbers, but it involves particularly specifics in regards to the actual kind of operations that, that they determine is necessary or not. So, I hope we can move forward with this.

CHAIR WHITE: Thank you, Ms. Crivello.

Any further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Ms., Ms. Sugimura, followed by Mr. Hokama.

COUNCILMEMBER SUGIMURA: Thank you, Chair. The, when speaking with the Department, during the budget process, they gave the Councilmembers two documents. One is about their certification process, and then just a general information with the National Fire Protection Association Standards. And they indicated that that, if that was given to the Auditor, that would help meet Budget Chair Hokama's requirement or request so that it could be, the audit could be ready for the next budget process, cause a lot of the details were already transmitted to us through those two documents.

And I concur, they, they are looking forward to, you know, getting this audit done. And I think that the description that Member, Budget Chair Hokama gave us, it does specify performance audit, time audit, financial audit. And those are the, you know, the important aspects of it, and with you checking back with, with Chief, you know, that would also address the concerns that Member Guzman had too. So, I support this audit also.

CHAIR WHITE: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, as we have recommended, the National Fire Protection Association Standards is to be used as the benchmarks for the audit in our proposal. So, we recognize the importance of doing it according to national standards. Thank you.

CHAIR WHITE: Thank you.

Any further discussion, Members?

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. It's not that I disagree with the intent. I, I do believe that we, there should be a performance audit and a fiscal audit. However, both require separate budgeting in terms of the, the length and intensity. A performance audit in itself can encompass the entire, the entirety and as well as a fiscal audit.

I'm reading the language in this scope, it's quite, you know, vague and general. So, if we, we are really determined to precision, you know, and to do a precision audit, we need to make sure that the language or the guidance is there. That's, that's one of the reasons why I did want to have further discussion with the, with the Department.

I wasn't quite clear as to why this needed to be passed out expeditiously as it is right now. And, it just gets my mind turning. And, and looking at the budget, how are we going to be budgeting this? What, what fund is it coming out of it? There's an additional 250,000 that is being proposed. So is that, is that pot of money going to be used specifically for this, cause I haven't seen that 250,000 placed in there in previous years. But there's an additional monies that are in there. So is there some type of, I guess, strategy to earmark that amount for this audit? And what is the amount that, are we looking at to encompass the entirety of both the performance audit and a fiscal audit?

CHAIR WHITE: Well, I believe the intention is to do both; to hire somebody that can do both at the same time. And, I have no, no idea what the cost will be. But as Mr. Hokama pointed out, we need to make the audit scope very clear. And so, in developing the RFP, we will be trying to craft it in such a way that it, it provides specific direction to the concern, the major concerns that we, we have.

And the Chair would be more than happy to have you assist us with that, that process.

COUNCILMEMBER GUZMAN: No, I, Chair, I just, in the past when I've seen Mr. Hokama's performance scopes or the, the scope of audits, they're at least five or six pages. And previous audits that, or at least the scope that Mr. Hokama has submitted to the Council in the past, and to see a one-pager, I was kind of set back and surprised. But, maybe it was because of the, I guess, the urgency of getting this passed through, and I still am unclear as to why we need to pass this immediately.

(Councilmember Atay was excused from the meeting at 10:03 a.m.)

CHAIR WHITE: Well, as I said, I would be more than happy to have, have you involved in the, in the process of crafting the RFP, because it's, it will be more detailed than this. And, and you know, we got nothing to hide. I don't think the Department has anything

to hide. And we do have adequate funds to cover it, because we have increased the, the line item that allows for a audit by a fairly significant amount.

Any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, as, what I recall is their accreditation this year, January 2017, had done such a thorough report, discussion, whatever, in reference to a lot of the items in this scope. So, did we actually receive notes, and reports, and answers from that to this body? So, and, and maybe we didn't and that is why this is here to push forward now?

CHAIR WHITE: I don't know. I think this is coming from the questions that we've had generated through the budget process, and not just this year but previous years. So, I think that's the, that's the majority of where this request for audit is coming from.

I don't know that we have received a specific report on their accreditation. My recollection is that they didn't pass the accreditation for a couple of reasons.

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: And I don't recall exactly what those were.

COUNCILMEMBER COCHRAN: Right. But there was a full-blown thorough detailed report. So perhaps that could assist us rather than have to set aside all this money, and time, and energy. I mean, that could answer perhaps a lot of the questions and doubts, whatever there is within this Department, cause I, you know.

CHAIR WHITE: We'll request the accreditation report. I think that's a good idea.

COUNCILMEMBER COCHRAN: Yea, see if something was done by an actual international company.

CHAIR WHITE: Right.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER GUZMAN.

EXCUSED: COUNCILMEMBER ATAY.

CHAIR WHITE: Okay, we have seven "ayes"; one "no", Mr. Guzman; and one "excused", Mr. Atay. Measure passes.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-78.

NO. 17-177 - LYNN ARAKI-REGAN, BUDGET DIRECTOR,
(dated April 19, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES - FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF FINANCE, GENERAL FUND, NON-BUSINESS LICENSES & PERMITS, SALES OF SPECIAL LICENSE PLATES: SPECIAL LICENSE PLATES".

CHAIR WHITE: Ms. Cochran. Or is that the wrong one?

Okay, Mr. Hokama.

COUNCILMEMBER HOKAMA: I'll give it to Ms. Cochran.

CHAIRMAN, I MOVE TO WAIVE THE RULES OF THE COUNCIL REGARDING COMMITTEE RECOMMENDATION AND DISCHARGE OF THE COMMITTEE OF THIS PROPOSED ORDINANCE ATTACHED TO COUNTY COMMUNICATION 17-177.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this is something that was proposed to us through the State. This is a timing issue, also, regarding the special license plates. This is so that residents can purchase either a national park license plate for Volcanoes National Park or Haleakala National Park of Maui.

(Councilmember Atay returned to the meeting at 10:08 a.m.)

COUNCILMEMBER HOKAMA: The fees and everything as recommended is being placed in Appendix B. And you know, the Members of the Council have been fully briefed in the Budget Committee regarding this request from the State. Thank you.

CHAIR WHITE: Thank you.

Members, any discussion on the waiver? 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. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT THE BILL FOR AN ORDINANCE
ATTACHED TO COMMUNICATION 17-177 BE PASSED ON
FIRST READING, BE ORDERED TO PRINT; AND FILING OF
SAID COMMUNICATION.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion, Chairman.

CHAIR WHITE: Any 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.

COUNTY CLERK: For the record, BILL 50 (2017).

The following communication is being recommended to be referred to the following Committee.

NO. 17-178 - LYNN ARAKI-REGAN, BUDGET DIRECTOR,
(dated April 21, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, WASTEWATER OPERATIONS PROGRAM – SEWER FUND, ENVIRONMENTAL PROTECTION AND SUSTAINABILITY PROGRAM – SOLID WASTE MANAGEMENT FUND; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)".

The recommended action is that County Communication No. 17-178 be referred to the Budget and Finance Committee.

CHAIR WHITE: Members, any objection to that referral as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

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

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 17-62 - BUDGET AND FINANCE COMMITTEE:

Recommending that County Communication 17-55, from the Vice-Chair, Salary Commission, informing the Council that the Salary Commission had approved 12-percent salary increases for the Mayor and the Directors and Deputy Directors of the following Departments: Management, Corporation Counsel, Environmental Management, Finance, Fire and Public Safety, Housing and Human Concerns, Liquor Control, Parks and Recreation, Personnel Services, Planning, Police, Prosecuting Attorney, Public Works, Transportation, and Water, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I'm going to ask the Members if they have no objections to have the Clerk bring up all committee reports, up to and including 17-68.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

COMMITTEE REPORT

NO. 17-63 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 17-79, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE OFFICE OF THE MAYOR, FISCAL YEAR 2017 BUDGET," be ADOPTED.

COMMITTEE REPORT

NO. 17-64 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 17-80, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, FISCAL YEAR 2017 BUDGET," be ADOPTED.

COMMITTEE REPORT

NO. 17-65 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 17-81, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF POLICE, FISCAL YEAR 2017 BUDGET," be ADOPTED.

COMMITTEE REPORT

NO. 17-66 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 51 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE OFFICE OF THE MAYOR, ECONOMIC DEVELOPMENT PROGRAM," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-148, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-67 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 52 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PARKS AND RECREATION, KIHAI-MAKENA COMMUNITY PLAN AREA, PARKS AND RECREATION, SOUTH MAUI COMMUNITY PARK RECREATION CENTER; 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 53 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4331, BILL NO. 59 (2016), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (SOUTH MAUI COMMUNITY PARK RECREATION CENTER)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill 54 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PARKS AND RECREATION, KIHAI-MAKENA COMMUNITY PLAN AREA, SOUTH MAUI COMMUNITY PARK RECREATION CENTER," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-164, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-68 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 55 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FIRE AND PUBLIC SAFETY; TOTAL OPERATING APPROPRIATIONS; AND TOTAL

APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"; and

2. That County Communication 17-116, from the Budget Director, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE THAT COMMITTEE REPORTS 17-62 THROUGH 17-68, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman. Each Committee Report is making a recommendation to Council to adjust the current year, Fiscal Year 2017 Budget, which has about 60 days left, okay.

We are assisting the Departments in adjusting their monies to be able to finish the year. Some of it is regarding just categorical changes. Some require ordinance.

But, I will tell you that even with the last one, 17-68, this is not the last you're going to see of Fire. They're coming again for additional financial requests that, for me, continues to justify how are we going to do this audit. We shouldn't be dealing with end of the year budgetary adjustments this late in the budget year, Chairman.

You know, things like this makes it difficult for us to wrap up the upcoming budget for the next year, because of adjusting balances by all of these adjustments that these actions this morning is going to impact us on.

So, I just share that with the Members. Every time we do a movement or an adjustment, it's more than one, just one item, you know. We shift a lot of lines, whether it be fringes, other benefits, retirement pay, it's, it's a long calculation, Chair.

But, your Committee has vetted this. This is what we are recommending for Council to approve, and we ask the Council to do so. Thank you.

Oh, one more, Chairman. It's taken about 20 years and I'm glad Mr. Moran was here to make a comment. But, you know, it's been about 20 years for people like me, and I'm glad to see that the South Maui Gym is going to be into construction. Thank you.

CHAIR WHITE: I think we're all excited to see that happen. And you certainly put a lot more time into it than anyone, or the rest of us.

Members, 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, measures pass with a vote of nine "ayes".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, relative to Committee Report 17-63, RESOLUTION 17-79. For Committee Report 17-64, RESOLUTION 17-80. For Committee Report 17-65, RESOLUTION 17-81. Committee Report 17-66, BILL 51 (2017). For Committee Report 17-67, BILL NOS. 52, 53, 54 (2017), respectively. And for Committee Report 17-68, BILL 55 (2017)

Mr. Chair, you have before you, for ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 46 (2017)

A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND
SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES

CHAIR WHITE: I believe that's Bill No. 46.

COUNTY CLERK: Excuse me, 46, Mr. Chair.

CHAIR WHITE: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILL NO. 46 PASS SECOND AND
FINAL READING.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee has vetted this. Last, last Council meeting we had discussion, and I believe as far as the CORA component, we are not touching that part of the Maui County Code. It has its own separate area in our Code that addresses them specifically. And this ordinance, in no way, does any changes to the CORA component currently. Thank you.

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

Members, any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, sorry. Chair, I'm looking to actually make an amendment this morning on this. And it is due to the outpouring of comments and concerns from this community, in particular the CORA demographic of the park system. And so, I'm looking to amend the term in the definition of concessions at this time. So, would you like? Okay, so, I--

CHAIR WHITE: If you, if you would like to make a motion please do so.

COUNCILMEMBER COCHRAN:

SO, I'M, I MOVE TO MAKE, AMEND CHAPTER 3.40, CONCESSIONS AWARD, AWARDS AND RENTAL OR LEASE OF COUNTY PROPERTY, SECTION 3.40.030, TO READ, "A. CONCESSION MEANS THE GRANT TO A PERSON OF THE PRIVILEGE TO CONDUCT OPERATIONS WHICH ARE ESSENTIALLY RETAIL IN NATURE, INVOLVING THE SALE OF GOODS, WARES, MERCHANDISE, OR SERVICES TO THE GENERAL PUBLIC, SUCH AS RESTAURANTS, COCKTAIL LOUNGES, SODA FOUNTAINS AND RETAIL STORES IN OR ON BUILDINGS UNDER THE JURISDICTION OF THE COUNTY", AND THIS PART, "EXCLUDING CORA ACTIVITIES AT CORA PARKS".

CHAIR WHITE: So, so your amendment is just to add the, the last.

COUNCILMEMBER COCHRAN: Excluding, right.

CHAIR WHITE: Just add, adding excluding.

COUNCILMEMBER COCHRAN:

ADDING "EXCLUDING CORA ACTIVITIES AT CORA PARKS".

CHAIR WHITE: Okay, is everyone clear on what the amendment is?

COUNCILMEMBER COCHRAN: Right. So, basically everything I read is already in the definition of concession. But that last portion of that final, the last five, I guess, like six words, "excluding CORA activities at CORA parks", is the change in this motion.

COUNCILMEMBER KING:

SECOND THE MOTION, CHAIR. SECOND THE MOTION.

CHAIR WHITE: Okay, so the motion is just to add those six words?

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: At the end of what's already in the bill.

COUNCILMEMBER COCHRAN: Right.

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

Further, further discussion? Ms. Cochran.

COUNCILMEMBER COCHRAN: And Chair, I recall in several budgets, it was always brought up, in particular, from Budget Chair, in regards to say the stadiums, War Memorial in particular, the sports that have concessions that go on. And do we see any revenue generated, and things of that nature. So, I've always been thinking along those type of lines in regards to more of our land base type parks per say, versus our ocean beach type areas.

So, I'm, that was kind of where that whole thought, for me, that this had come up, was in reference to, and it sort of morphed into a lot of different things. And as I'm hearing from the community, they're feeling it's kind of evolving into something that's not going to be beneficial to them either. So, I'd like to just err on the side of caution at this time to do this, this type of verbiage at this time. And then if we need to revisit, of course, this body can always do that. So, I just feel most comfortable to insert these words.

CHAIR WHITE: Thank you, Ms. Cochran.

Further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Could you repeat again where this is going to be in, included, the exclusion?

COUNCILMEMBER COCHRAN: Under the def, you have the bill?

COUNCILMEMBER SUGIMURA: Yes.

COUNCILMEMBER CRIVELLO: The bill. Okay, under the definitions of concession--

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: --which references 3.40.030. And if you read that definition, at the very end of that whole explanation, there'll be a, would that be a comma or the, words will be added at--

CHAIR WHITE: Let's, let's take a quick recess, so we can hand it, hand it out.

COUNCILMEMBER COCHRAN: Okay.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:22 A.M., AND WAS RECONVENED AT 10:33 A.M., WITH ALL MEMBERS PRESENT.)

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you, Committee, or Council, for that time.

AND SO, I'M GOING TO, CHAIR, AT THIS TIME, I THINK TO MAKE MY ADJUSTMENTS CLEAN, TO WITHDRAW MY ORIGINAL MOTION, AND TO RESTATE AT THIS TIME.

CHAIR WHITE: Please proceed.

COUNCILMEMBER COCHRAN: Thank you.

SO, CHAIR, I'M, I'M MOVING TO, I'M MOVING TO AMEND THE LANGUAGE IN, ON BILL, I'M LOOKING TO AMEND BILL 46, SECTION 2, TO ADD, UNDER THE DEFINITION OF CONCESSION, COMMA, EXCLUDING ACTIVITIES GOVERNED BY CORA CODE, AND THEN I'LL JUST HAVE TO HAVE THE NUMBERS INSERTED WHAT THAT CODE NUMBER IS.

CHAIR WHITE: And, do we have that code number, staff?

DIRECTOR OF COUNCIL SERVICES SANANDA BAZ: Mr. Chair, it might be better to include allowing the staff to make proposed changes to the language based on this recommendation.

COUNCILMEMBER COCHRAN: Okay.

COUNCILMEMBER KING:

SECOND THE MOTION.

CHAIR WHITE: So, the motion includes allowing the staff to make--

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: --technical non-substantive changes.

COUNCILMEMBER COCHRAN: Yea, they're actually, I guess, going to be substantive. But, so, yea, it's to add in at the end of the current concession definition to exclude activities governed by the CORA code. Staff will, and I'm allowing staff to make the appropriate changes that need to incorporate these suggested changes. So, yes.

CHAIR WHITE: Do we have a second?

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. And so, explaining earlier my reasoning and having, I guess, a couple ways to do this, this was the, the better option, which is to go straight to this Bill 46, Section 2, which describes the concession definition. And then just adding in this particular motion at this time to basically exclude the, hopefully, concerns of the testifiers that came here today, and have been reaching out to this body.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR WHITE: Any further discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: My question is with the existing bill that's up for us, does it, does it make a difference? I mean, does the existing what we're proposing here already basically CORA is, basically sort of, kind of excluded?

CHAIR WHITE: Are you asking? Would you like to ask that question of Corp. Counsel.

COUNCILMEMBER CRIVELLO: Yes, or somebody.

CHAIR WHITE: Corp. Counsel.

CORPORATION COUNSEL PATRICK WONG: Chair, thank you. To the extent that the CORA provisions are governed by a separate and distinct code section, and is not referenced in 13.04A.030, my answer is it's not applicable.

COUNCILMEMBER CRIVELLO: Okay. Thank you.

CHAIR WHITE: Any further questions?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, Chair, thank you. I think in, in our Committee meetings which I think we talked about this, and the CORA testifiers also came forward and testified, and the same answer was given to us by Corp. Counsel. So, I believe that there's a whole other section on CORA that, you know, the Committee can take up, and I think that's the more appropriate place. Because this is not about, this an enabling legislation and it's not about the CORA group or about trying to change the relationship, or anything.

So, I'm going to support Mr. Hokama, and keep this as is. But I just want to say that, and I, and whenever this comes up, they come forward, I hear them. But this is, this sounds like this is not the legislation, that this is just enabling legislation, not about CORA. So, I just want to state that, I think it should be talked about this in Committee.

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Thank you.

Any further discussion?

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Yes, I, I guess my concern is if we don't have something specifically excluding these activities, then under this Bill 46, would the Department still be allowed, still be able to put an RFP out for those types of services and activities separate from the CORA permittee group.

So that, that's--

CHAIR WHITE: Mr. Wong.

COUNCILMEMBER KING: I think that language would eliminate that possibility. But, is that possibility already eliminated under the original bill, proposal?

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. To the extent that the, as I stated earlier, the CORA provisions are a distinct and separate code provision. The Parks Department would need to comply with the, the Code as it relates to CORA. So, if there's a conflict, the conflict would be resolved in favor of the specific language in the Code as it relates to CORA, okay.

COUNCILMEMBER KING: So, the, well--

CORPORATION COUNSEL: So, he, he would, the Department would not be able to override one Code provision by the use of another.

COUNCILMEMBER KING: Okay, so CORA, the CORA Code, section, encompasses all services and activities relating to ocean activities or activities on the beach?

CORPORATION COUNSEL: Relative to CORA, yes.

COUNCILMEMBER KING: Right. That's what I'm, that, and that's the language that I think that I'm trying to clarify. So, if it's, if it's all ocean activities, or it's just relative to those who are permitted under there, are we looking at a situation where there could potentially be an RFP put out for some, you know, activities that might displace those folks, and be, and, and invite potential other bidders on that, on services that are similar?

You know, it's, it's, there's a, it's a language issue, so.

CORPORATION COUNSEL: Chair, if I may.

CHAIR WHITE: Please proceed.

CORPORATION COUNSEL: To the extent possible, you know, first of all, the agenda does not identify CORA as a topic for discussion today. That's the first thing.

Second thing is, as I stated earlier, any proposed RFP or anything of that nature would be governed by the CORA provisions relative to CORA. I cannot fathom a, in the world of possibilities that the Department would intentionally try to violate one provision by

the use of another. And certainly, our Department would not advise their Department, that that would be something consistent with the Code application.

In addition to that, you know, there are rules that they are supposed to be dealing with. This has been a topic of discussion and contention for a very long time. And the body should be, and is, you know, able to address all these CORA issues. Currently, what you have before this body is a concessions enabling legislation, and not legislation relative to the amendment, change, impact of the CORA Code whatsoever. Thank you.

CHAIR WHITE: Any further questions or discussion?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: And so, I really, really appreciate this conversation that we're having. And, this is part of the intent, to just get it all out there on record that this is, discussion is being had. And really, this is also to protect CORA and allay the fears that have been presented through the community in relation to CORA, because it had been stated within Budget Committee that 13.04 has prospects of being deleted. So, with that in their minds, they're worried. And I don't blame them.

And so, yea, I mean, we're not going to pit department against codes and what have you, but the point is this body can delete and take away things. And right now, they're sitting in limbo and worried, and confused, and frustrated. So, I'm trying to put a little bit of guarantee here. Nothing in life is guaranteed, but a little bit of something to help assist, and allay the fears that are within them, the unknown.

So, that is where this is also coming from, so I hope to have some support. And I see if it doesn't really matter or think, then what is, why the huge pushback or concern here? We can always, it's always been said, we can change and go back, and address and, and tweak, and whatever. So, this is where I'd like to put it in here, because there's a lot of fear and unknowns within people's lives at this moment. So, this is my help to them. Thank you.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. It has been an interesting discussion. I think it's been really clear that no matter what happens I don't think that the CORA people would be adversely affected. However, I don't want them to be misled either. Ms. Cochran is saying that this over here would be better because another section might be

removed. The Committee and, I think, the general public needs to know that anything can be removed or added in any ordinance at any time that's brought before this Council. That's not something that you can say, well, now we never have to worry about it. So, I don't want the public to be misled that by doing this that nothing can ever happen. We live on shifting sands.

However, there are concerns about it, that is their livelihood, and especially after this discussion and all of the meetings had and everything else, this does not do harm. And I think that's one of the main things that this Council looks for; not doing harm.

I have, I wasn't going to speak, because as Corporation Counsel said, this is not an agenda item on the agenda. And so, I will say no more. I support the motion on the floor. Thank you.

CHAIR WHITE: Thank you, Mr. Carroll.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I understand where my colleague is going with this, but I, it's not applicable. So, I, I think when we do this, we instill more fears into the group that comes before us. I believe it has to be dealt in accordance to when that becomes an agenda item.

So, I'm going to support at this time, I'm not going to support the motion that's on the floor to make any amendments at this time and it, because this has nothing to do with CORA. And so, we add to me more confusion to the issue. So, this is why, I think, sometimes we ourselves put fear into our constituents when we, we should, trying to clear the path so that there, they don't end up so confused. So, at this time, I cannot support this motion as well intended it's meant to be.

CHAIR WHITE: Thank you, Ms. Crivello.

Further discussion, Members?

Mr. Guzman, followed by Ms. King.

COUNCILMEMBER GUZMAN: Go ahead.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Okay, thank you. Yea, I think, you know, I agree with Mr. Carroll and Ms. Cochran that what we're trying to do here is alleviate confusion. And I

understand that things can change at any point, and you know, ordinances can be changed. But, I think the point of putting this into this line is to, as was said earlier, to alleviate the fears that this part of the, what we're doing today affects CORA in any way. And to allow these folks who came before us today to say, okay, this, this Council understands that CORA needs to be a separate section.

And you know, we may make changes to that section, but they can go ahead and understand that they can continue with their businesses, that we support those businesses. And if we're going to make changes to the CORA structural fees, that we'll do it in that other section, not with this, the idea of concessions.

So, I support the amendment because I think it's, as was said earlier, it does no harm. It helped, it might help folks feel more comfortable in their businesses today, and the, and understand that there is support for this type of industry on our island. And I fully understand the idea of not wanting to invest anything in your business if you don't have full support and, and, and comfort level that you're going to be able to continue running your business. So, thank you.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I, I do appreciate the testifiers, and the CORA advocates. And I, as I had met with them prior to Budget, and I had to explain to them that the two bills, I mean this legislation is very separate and distinct from Chapter 10, which specifically has about, I think 46 pages of legislation, distinct for CORA regulations. And that this legislation that we are, before us, has nothing to do with their legislation, or their code, or ordinances in that section.

I cannot support this motion, because via operation of law, this, this does not make sense. By putting it in, it does not affect anything, so it has no purpose whatsoever. There's, it's like putting fluff in legislation that shouldn't, I mean, we're appeasing, we're, we're changing language that means nothing.

And, my colleague is saying that, oh yea, by putting this language in here, and I have to correct her, it, that the ordinance by operation of law in the CORA section cannot abridge and affect the bill that we have before us and vice versa, by operation of law.

So, I cannot support this just because of the, to do so would have to, we would have to revisit every ordinance that we have to, to specifically distinguish other sections of the Code when it doesn't need to be by reference. It's by operation of law. So, just by that alone, I cannot.

I, I completely understand where they're coming from. It's premature. This is not, this is not where they should be having the battle. It's when the Committee or the Department brings up that section, Chapter 10, 10-102.

And if there's any type of motion or, or movement by the Department to repeal it or make amendments to that section of the Code, then that is their time to, to come out in full force and oppose it or make amendments as due fit.

But this is really premature. It's not ripe, the issues not ripe. I don't even know if they have standing to even talk about this, cause it's not even on the agenda. This is clearly distinguishable.

So, I, I, I just wanted, if it's about appeasing or making them feel comfortable that this will, this legislation will not affect them, then what is wrong with us just saying this is not going to affect you, your business as it stands until the, the CORA ordinances are addressed.

I am a little bit disappointed because of the fact that if this were to go in, it's going to need to go back to Committee. And this, cause it's a substantive change. And had it not been, if this was not final and second reading, or first reading, maybe I would just possibly consider it, because it wouldn't have to go back to the Committee.

But, we've, we've pushed this through and, and had many, many meetings. And the Members who are new to this Committee come on the, on the Council and yea, I was the same way, bring up the issues. But there has been, it's numerous substantial amount of work done on this, on this bill for at least, God, the last four or five years in drafting. How many Committees are those worth? I didn't see any CORA representatives during that time, because there was no need to be. It didn't involve CORA.

So, if this, so I just would plead to the Members that this is a bill that will help the Parks Department and the community as a whole. You know, it's one of those bills that's going to help generate revenue so that the Parks Department can at least hire more people, get more equipment. It's attached to a revolving fund that stays in the Parks Department.

And, and I don't want to show any disrespect for CORA advocates. I have a lot of respect for them. But, as again, I can't, I have to remind them at my meeting that I've had with them in the past, this does not affect CORA. So, can't get any clearer than that, Chair, unless you want me to roll through that one more time. Anyways, thank you. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further discussion?

COUNCILMEMBER CRIVELLO: Chair.

CHAIR WHITE: Mr. Carroll, followed by Ms. Crivello.

VICE-CHAIR CARROLL: Just one fast question from Corporation Counsel or staff. If this motion did pass, would it have to go back to Committee?

CHAIR WHITE: I think I can answer that. It wouldn't have to go back to Committee, but it would have to wait for another meeting for second reading.

VICE-CHAIR CARROLL: Right, it would go to another, it would go to the next Council meeting. Just wanted to clarify that, Chair. Thank you

COUNCILMEMBER CRIVELLO: You're asking for substantive.

CORPORATION COUNSEL: However, Chair, if I may.

CHAIR WHITE: Go ahead.

CORPORATION COUNSEL: It would be a substantive change, but according to your Rules, your Rules of the Council, you, this would not be the final act. It would have to be reset for a future Council meeting for it to be agendized again as second and final reading.

CHAIR WHITE: Right.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: You're calling?

CHAIR WHITE: Yes.

COUNCILMEMBER CRIVELLO: Okay. Thank you. So, I, I just want to thank my colleague, Mr. Guzman, for sharing his knowledge and his efforts that he's been working on this ordinance for some time. And, we recognize that it's dealing with concessions, so that we can move forward with the, the enterprise efforts to generate additional revenues to, for our parks and recreational facilities.

And, and then when we deal with CORA, at that time, then we can have the complete discussions or, or whatever concerns the CORA operators will have at the time. So, make sense. And so, if, so this motion that's on the floor now will actually slow down this process for another second and final reading. Thank you, Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Chair, as I recall, this bill was brought to Committee. We vetted this out in Committee, and in Committee it was clear to me that I, it was shared to me that CORA is not affected by this bill. And with that understanding that CORA is protected under their own codes, this bill dealing with concessions.

And I'm looking at this, it's dealing with allowing the Parks refreshment concessions, temporary refreshment concessions in the park, addressing sponsorships, naming rights of a County park, etcetera. And it talks about, you know, primarily looking at avenues for the parks, Parks Department to generate income through concessions, through naming rights, through donations.

And then I was also, you know, confirmed that separate from all this, CORA is not going to be affected, and be dealt with their own separate section of coding.

And so, with that, I was surprised to, you know, I mean, one is to hear and listen to the constituents, but it's another one to hear. And where is the proper place for placement? I, I, you know, but just for assurance that they want to hear assurance, oh, it's not going to affect you, it's all on record.

But, yea, I think we're here in second and final reading to move this forward so that we can get action for the Parks Department. I, I would have to explain this to the constituents to understand where we are, and affirm with them, just like what Councilmember Guzman has shared, that this is a separate entity in dealing.

CHAIR WHITE: Let me just share that after what the Legislature did to the hotels on Friday, I can really relate to how the CORA operators feel. Because, if you're talking about concessions, it's very easy to make the connection that maybe they're the target, or maybe there's something going on that they're not being told. After what happened to hotels on Friday, I have no trust in our Legislature; none. And I can understand why people may not have a lot of trust in us. Their livelihoods are at stake, and they're all small businesses. And when you run a business, it's not fun being at the mercy of government, whether it's the County Council or the State Legislature.

So, I won't be supporting this motion, but I, I agree with the sentiment that Ms. Cochran brings to her providing the motion, because I think it's appropriate for us to try to settle people's fears. But I agree that this, this is not where the CORA discussion needs to be, because it's not included. And I believe that if we're going to bring them comfort, it should be in reviewing and, and making whatever appropriate changes to the CORA language might be.

One of the other reasons I'm a little bit concerned about, even though I don't think they're included, if I were a CORA operator, if there was a park that I was operating in that had adequate space so that I wouldn't have to lease a property somewhere else, and I can actually have a place where I can store all my equipment and not have to haul it in and out of the park, and over, I mean, that's a lot of labor. So, if there was a way that we could offer the CORA operators some way of having a, a place to, I mean, they can't even accept cash in the parks. They can't do anything within the park.

To me, this concession idea is a very valid one, because it allows the County to provide services in our parks and generate some revenue. In my view, it makes some sense to allow the CORA operators a place out of which they can operate. And instead of paying rent to someone off-site, they pay rent to the County. So, I'm just throwing that out, because I, I totally support the, the passion that Ms. Cochran is bringing to the motion.

But I don't, I don't think this is where the discussion needs to be. It needs to be in CORA, and if we want to add something into CORA that allows them to have a base of operation in parks that can accommodate the place, or such a structure, then, then that's where the discussion should be.

Ms. Cochran.

COUNCILMEMBER COCHRAN: And, thank you very much, Chair. And so, the reason why, and it's all, and it's not illegal to talk about CORA right now because of what's in the concession definition what have you. And the reason for me pushing so hard on this, and I don't understand why the pushback, number one, but my reason is because it has been stated to get rid of CORA.

This is what's sitting in their minds, and hearts, and souls right now. And so, to have a little protective measure here that's not going to hinder anybody or anything at this time. And that was another term that was utilized by Parks Director during a lot of those discussions in Committee at this time. It doesn't affect CORA at this time, at this time. What does that mean? That puts a little bit of doubt and question marks too; at this time.

Because, yes, this body can change and do all day long. That is what, the purview of this body. So, this is where it's one of those measures. I had, my staff had long discussions with Mr. Ueoka in regards to the perpetuity bill. It's change, it has different connections to different parts of the Code. But to start in one section, to make sure there's a layer of protection of sorts to address in a separate. I mean, it gets complicated, but the point is that's why I'm doing this.

And to me, this has no difference during Committee work where the Chair of the Parks had made assurances in the naming rights portion. That's one of those protective measures that's being put in here, in the definitions portion of this section. I really don't know why, again, why it's being so difficult to just put a little bit of help for the people that provide some wonderful services of this community that I feel aren't that huge of an impact.

And, this whole concessions is about services. That is what they do. They do beach activity services. I think just that word alone is, is a red flag into what is that going to change on their behalf and the services they provide as a ocean activity. So, you know, I, I've made my point. I've heard everybody's points. But really I think it's, it, and hearing that, we've had all this discussion, Committee work what have you, yes.

And again, I've been hearing from the community that are here today that they tried to reach out to Administration. They tried to reach out to the department. They tried to get knowledge in seeking more information and clarity on what is going on, and they wanted their voice and input. And nobody was picking up a call, nobody responded. What is that saying to this community?

So you know, I'm hearing them. I'm empathizing, and I'm going to stand strong and push forward, so everyone, we call for the vote, and everyone's, you know, stated their peace, but I'm definitely staying forward with my proposal and standing by it no matter what.

CHAIR WHITE: Yea, the, I don't think anyone is questioning your passion for this. But you're certainly not the only one that hears them. But the place to provide them protection and comfort is in the CORA law, not necessarily the, in the concession.

Any further discussion, Members?

COUNCILMEMBER GUZMAN: Yea, I, I just wanted to clarify that in the naming section, initially the language in there was specifically referring to excluding the naming commission, I guess, standards. And so, I had amended it to apply to those standards.

And so, that's just to clarify that portion of it. So, there are measure, there are measures to make sure that there is a policy that, for the naming procedures.

But in terms of this, I would like to at least reiterate that no one is against the CORA advocates and, and no one here has, has any ill-feelings or any, I mean, we totally agree with what they're saying; is that yea, there are concerns. But, like I said earlier, those concerns are not brought up in its proper moment, in its proper place; if I can put that in a more simplistic way of saying it.

The, and I have to, I guess, retract that basically I wasn't trying to, you know, antagonize anyone. Sometimes I, I get a little bit lawyer-ish, because when I see something that doesn't really make sense by operation of law, what I mean by that is not that it's against the law not to talk about CORA.

I mean that when you're doing legislation, and you know this, Chair, at the State level as well as the County level we have Corporation Counsel that is always, and attorneys that are always advising us look we don't need to be redundant. We don't need to put these sections or referring or excluding different sections of the Code, because it's already implied. It's implied by operation of law that one section is independent from the other.

So, when I do argue this I'm just saying, look, I can't vote on this because it just doesn't make sense. And if I were to, to support it, it's like going against my training, or the way I look, I, I perceive or review legislation. And that would require us to go through every section in the Code to exclude the other sections of the Code, which just does not make sense.

So, on a rational basis, and a logical basis, I cannot support this type of language being inserted. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Seeing no further discussion, all those in favor of the motion to amend please say "aye".

COUNCILMEMBER COCHRAN: Aye.

COUNCILMEMBER KING: Aye.

CHAIR WHITE: Those opposed say "no."

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR WHITE: Could we have a roll call vote please?

Mr. Clerk.

COUNTY CLERK: Councilmember Alike Atay

COUNCILMEMBER ATAY: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

COUNTY CLERK: Councilmember Don S. Guzman.

COUNCILMEMBER GUZMAN: NO.

COUNTY CLERK: Councilmember Kelly T. King.

COUNCILMEMBER KING: YES.

COUNTY CLERK: Councilmember Pro Temp Stacy Crivello.

COUNCILMEMBER CRIVELLO: NO.

COUNTY CLERK: Council Vice-Chair Robert Carroll.

VICE-CHAIR CARROLL: AYE.

COUNTY CLERK: Council Chair Mike White.

CHAIR WHITE: NO.

AYES: COUNCILMEMBERS ATAY, COCHRAN, KING, AND
VICE-CHAIR CARROLL.

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

COUNTY CLERK: Mr. Chair, we have four "ayes," and five "noes."

CHAIR WHITE: Measure fails.

We're back to the main motion. Any further discussion on the main motion? Seeing none, all those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER COCHRAN.

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

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 49 (2017)

A BILL FOR AN ORDINANCE AMENDING APPENDIX A
OF THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES –
SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2017,
EMERGENCY FUND

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

MR. CHAIRMAN, I MOVE THAT BILL 49 PASS SECOND AND
FINAL READING.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion, Chairman.

CHAIR WHITE: 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.


COUNTY CLERK: Mr. Chair, there's no further business before the Council.

CHAIR WHITE: Thank you, Mr. Clerk.

This special meeting is adjourned.

ADJOURNMENT

The special meeting of May 1, 2017 was adjourned by the Chair at 11:09 a.m.



JOSIAH K. NISHITA, DEPUTY COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

170501s/lks:jm

CONCESSIONS BILL 46 - TESTIMONY 5/1/2017

Hi Council Chair and councilpersons,

We are against the concession Bill 46 as written, it needs to be amended to specifically exclude CORA activities from Concessions.

Concessions for CORA is a bad idea:

Parks may think they are making another "Waikiki", but they are actually turning Maui into another Mexico. Water safety will suffer, and corruption will thrive. Concession for CORA will be problematic and potentially very costly for the County. Much testimony has been given on this topic enumerating the many pitfalls that would result from this.

Water safety resources on Maui are already spread way too thin.

County Lifeguards have lost their liability protection, and the Rotary Club is donating 28 rescue tubes.

News Flash: Rescue Tubes, do not rescue people, people rescue people.

By Doing Concessions you are reducing water safety:

You are removing the thin layer of Water Safety and Expertise that protects our citizens and our visitors. Maui has developed its own system, that manages the CORA operations in accordance with community needs, and the natural elements. We have a tailor-made system here on Maui because that is what Maui needs. Maui does not need a cookie cutter approach borrowed from Oahu.

Lifeguards do not have anything to do with CORA:

Lifeguards can barely deal with all their current duties. They cannot and do not have anything to do with policing CORA. They cannot issue citations, or do any enforcement of regulations. Lifeguards simply "guard life" and that is enough. Lifeguards do not have anything to do with CORA, although they will get more calls and have more unsupervised people getting into trouble because they didn't have access to affordable CORA lessons and guidance.

Water Safety needs both CORA & Lifeguards:

Water Safety consists of Access to Affordable Instruction and Supervision (CORA), and Access to adequate Emergency interventions of Lifeguards. If you weaken either of these you will reduce water safety.

Parks thinks they are going to make Maui like Waikiki, But they are going to make Maui into another Mexico:

FYI Mexico has an atrocious safety record, and cheap activities are unregulated and many people are injured and killed doing outdoor sports there. The difference here is that every one injured here in Hawaii is going to sue the county/lifeguards/concessionaires etc (not so much litigation occurs in Mexico).

Concessions will degrade the Recreational value of Maui:

Concessions will degrade Maui's value and harm the Maui brand. Hundreds of people have testified over the years to this point. There are many other places (vacation destinations) to spend tourist dollars, other than Maui. Examples: Mexico, Aruba, Florida that are actively trying to win over Maui's customer base. Concessions (especially at beaches) give Maui visitor industry a black eye, and sully its reputation as a destination with integrity. Many people will go elsewhere to spend their vacation dollars, that are more in tune with the value of the visitor experience.

Bidding for Concession is About Money:

It is not about Safety, or Expertise, or Experience, or Integrity, or reliability. The Concession system is set up to undermine a community of hardworking professionals and give priority to the highest bidder period.

If any existing operator wants to bid on a Concession, they will have to find money from other parts of their operations. Like paying workers less than the living wage, skimping on training, or reducing non-profitable functions like safety training, and subsidized Kama'aina programs, and safety gear. Etc.

Maui County spends 4.5 million in taxpayer money annually to Invite people here to SURF?

What is the 4.5 million spent on? Promoting Maui to tourists to come here and; Drive to Hana on a windy single-lane road, and Watching the Sunrise at Haleakala Crater, and Go Snorkeling with Turtles, and go Surfing! So Maui County itself contributes to the overcrowding of Haleakala crater, and Road to Hana. By promoting these same old activities we are loving this island to death. What they should really be doing is Spend some of that 4.5 million Dollars on Maui to improve Recreational Infrastructure here at home.

Money could be used to pay Lifeguards, open new Beach parks on 100 acres of unused beachfront land that the County already owns, maintain

recreational facilities like Golf Courses, public restrooms, and offer more diverse recreational opportunities for both Locals and Visitors to enjoy.

Maui County complains that they do not have the money to open new parks:

Maui County complains that they do not have the money to open new parks, yet they send millions of dollars away to invite more people here to use a finite number of aging park recreational facilities.

Maui County needs to Open New Parks NOW:

Maui County need to add some new Parks NOW, like the Paia-Baldwin (Patsy Mink) Park (Maui County already owns the land), and the huge oceanfront area at Paukukalo-Waiehu shoreline (county owned) that would make a great Shoreline Access Recreational Park, for almost no money, just open the gates to the public already.

Maui County is reducing water safety:

Maui County actively invites people here to go Surf, Swim, SCUBA, Kayak, Snorkel, and Windsurf and Kiteboard. And at the same time they are reducing water safety by Reducing the number of permitted parks, increasing the CORA Fees, and now creating a nightmare boondoggle with the proposed Concession system.

The people that are CORA are dedicated to their sports:

The people that are CORA are dedicated to their sports but they have to pay their bills and make a living. If you do this (concession) they cannot make a living at this. Concessionaries too will not be able to pay a living wage to workers, because they are obligated to pay their arbitrary "concession fees".

Concessions will restrict access to Affordable Ocean recreation Activities:

This (Concession bill) will put the cost of Lessons, and Guidance out of reach of most visitors and local families.

- Currently CORA keep prices low and affordable for Kaamaina, and Kids, and Visitors.
- CORA currently actively discourage Novices from renting boards and going into the ocean without supervision.
- Concessions will force operators to rent boards instead of teaching on them. Much testimony has already been given on this Point.
- Concessions will increase the number of Unregulated Operations.

CORA keep the Cost of Lessons LOW.

Example: It currently costs just **\$30 dollars for a 2-hour Surfing Lesson with an Experienced, trained, CORA Expert. That gives them their undivided attention and provides the best level of security and protection, while during the lesson. This, in turn, protects the student, other water users., and the reef. (**Surfboard Lesson with board rental included average price \$55.00, Rental only = \$25.00). Concessions will drive the price up, and put the price of a lesson out of reach of locals and many visitors, inducing many people to go it alone, rather than pay for a high-priced lesson.

Will CORA Concessions increase the County's legal Liability?

When the county Grants a concession it essentially becomes a Business Partner with the operator. In the case of Liquor Sales, the County is going to be responsible for providing Liquor and will have to bear the responsibility and legal liability for claims arising out of misuse and over serving and other related claims. In the case of "Beach Activity" Concessions, the County essentially becomes the Business, because the County now chooses their qualified partners, the county is essentially Hiring and Firing the operators based on its own evaluations, criteria, and judgment. So the county is inextricably involved in the material operation of the business, and will, therefore, be considered to be a Partner in that business. The County will, therefore, be obligated to assume the same responsibilities and legal liabilities as the concessionaire does.

If the County chooses "Concession" over "CORA":

If the County chooses the Concession system it increases its own liability, When there are an accident and injury claims they shall bear MORE responsibility, than under the current CORA permit system. The CORA system keeps such claims at arm's length from the County. A concession system does not offer the same level of protection from liability and litigation

Restricting Access to Ocean Safety Education:

In addition, under a concession system, the County are excluding Access to Good Operators, and they are Restricting public access to quality Ocean Safety Education and supervision. Is the County then responsible and therefore legally liable for the people that get hurt because they couldn't have access to Safe Affordable Ocean Recreation Activities? This group

could be will be all of the people that chose not to take a lesson, because the County made it too expensive for them.

CORA should be Excluded from the Concession Bill:

CORA is a unique activity, and it has an effective set of rules that operate independently. Please put wording into the current bill that Excludes CORA from the other types of activities that the county wants to put to concession. The Parks Director has specifically stated that this bill is not intended to address or concern CORA. This fact was already "triple-checked" by Councilperson Elle Cochran at the previous BF meeting. So if it is not the intention of this bill to replace CORA, then please put it in writing. CORA should be allowed to continue to provide its important services and be allowed to operate under the rules that were developed here in our own community that reflect our local needs, and local conditions.

Excluding CORA from this Bill will help maintain current levels of water safety:

Excluding CORA from this Concession Bill will allow for a continuity of services, and allow CORA to maintain its role in providing life-saving ocean education and supervision for locals and visitors. It will help CORA to continue to improve water safety for patrons and the public. And it will allow CORA to continue to provide Safe and affordable recreational experiences in County Parks and Beaches.

Aloha,
David Dorn

Alan Cadiz, President HST Inc
RE: bill #46

283-0154

I am in fear of losing my business of 31 years. 31 years of service to the community. I lay awake at night and wonder, will the county of Maui force me to close my business.

Why am I in fear? the first sign was the deletion of section 7. In November of 2015 the deletion of Section 7 of ordinance 3143 eliminated the need for the county self imposed requirement for an EA. The elimination allows new cora permit to be issued as well as allows for concessions. NO new cora permit have been issued since the deletion but the concession bill seems to be on the fast track.

Second, when the parks director was asked if this bill would affect cora, his response was, "It doesn't affect CORA *at this time*". What if operative words of that sentence are "at this time"

Third, my proposed permit fee increase in this years budget is absurdly high but an additional concern is the renewal language is changing from "annual" to "monthly". If your landlord told you they were changing your lease from annual, month to month, Would you be concerned?

I can go on...but I am here today to appeal for your help. Lay my fear and the fear of all who work with me as well as the people who work in and support of in the cora industry. I am asking you to exclude CORA from this Bill. Please, chair, would you, or any of you, entertain a motion to exclude CORA activities in the designated CORA parks in the definition of concessions? As this bill is now written it could include CORA because it does not specifically exclude CORA.

I am asking you to seek the truth before you cast your vote. Its not just my business and employees but all thirty plus businesses and their employees and their dependents.

Passing it now without changing it is a injustice to me and the residents and visitors we serve. It has been a honor and pleasure for me share the gift of Maui's wind-sports to people in this room and across the globe. It would be a sad day to see my small *but valued* business come to end at the hands of government. Thank you.

Support for the concession bill 46

Joe Baldwin <joebaldwin526@gmail.com>

Sun 4/30/2017 6:59 PM

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

RECEIVED

2017 MAY -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

Please support the concession bill (46). The county has been talking about the having concessions in the parks for years but it has never materialized. However, these concessions should be limited to the likes of Food and drink vendors, not for T-shirts, and trinkets.

Pleas also exclude water sports from the concession bill, we already have a healthy water sports industry that is governed and kept small.

Mahalo,

Joe Baldwin
Jawz Fish Tacos Island Style Grill
PO Box 561
Kihei HI 96753
Cell: (808) 298-7949

Concession Bill 46

Jawz Tacos Maui <admin@jawztacosmaui.com>

Sun 4/30/2017 3:26 PM

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

RECEIVED

2017 MAY -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

Support for the concession bill 46

Please support the concession bill (46). The county has been talking about the having concessions in the parks but it has never materialized. However, these concessions should be limited to the likes of Food and drink vendors, not for T-shirts, and trinkets.

Pleas also exclude watersports from the concession bill, we already have a healthy watersports industry that is governed and kept small.

Joe Baldwin

Concession Bill 46

roger@tikiteamadventures.com on behalf of
Maui Eco Tours <fun@mauiecotours.com>

Sun 4/30/2017 2:25 PM

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

RECEIVED

2017 MAY -1 AM 7: 47

OFFICE OF THE
COUNTY CLERK

Aloha and Mahalo for the opportunity to share our thoughts in respect to bill 46.

If any concession bill is to pass, it should to exclude the CORA permitted activities as many of the operators are tied to these parks as a result of Parks 13.04. When we started out decades ago, we had a simple business model. As Parks got the permit transferred from Finance to Parks, they split the permit to locations, and then split again by activity. Now, our simple business license has mutated. It has already been verbalized that the concession model would exclude CORA but it really should be included in the bill verbiage.

I like the idea of the concession in certain parks however, few far and between. These parks are little corners of sanity for many residents. While its nice to grab taco and a shave ice and the like, it does not need anything more.

roger simonot

CONCESSIONS BILL 46 - TESTIMONY

Aloha Council Chair and Councilpersons,

We are against the concession Bill 46 as written, it needs to be amended to specifically exclude CORA activities from Concessions.

CORA should be Excluded from the Concession Bill:

CORA is a unique activity, and it has an effective set of rules that operate independently.

Please add wording into the current bill that Excludes CORA from Concession Bill 46.

The Parks Director has specifically stated that this bill is not intended to address or concern CORA. This fact was already "triple-checked" by Councilperson Elle Cochran at the previous BF meeting. If it is not the intention of this bill to eventually replace CORA, then please put it in writing.

CORA should be allowed to continue to provide its important services and be allowed to operate under the rules that were developed here in our own community that reflect our local needs, and local conditions.

Mahalo,

Suzanne Dorn
Maui Sports Unlimited LLC

871-5857