

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

December 15, 2017

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, DECEMBER 15, 2017, BEGINNING AT 9:02 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, S. STACY CRIVELLO, DONALD S. GUZMAN, G. RIKI HOKAMA, KELLY T. KING, YUKI LEI K. SUGIMURA, VICE-CHAIR ROBERT CARROLL, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBER ELEANORA COCHRAN.

(Councilmember Cochran was not present when the roll was called; however, she arrived at 9:19 a.m.)

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

CHAIR WHITE: Thank you, Mr. Clerk.

And for opening remarks this morning, we have Mr. Carroll.

OPENING REMARKS

The opening remarks were offered by Vice-Chair Robert Carroll.

CHAIR WHITE: Thank you, Mr. Carroll.

And just on a side note, I want to thank Arthur Suyama for making this chamber look as cheery and as wonderful as it does. And, I also want to thank him and our Clerk, retiring Clerk Danny Mateo, for the wonderful work they did on the display cases outside. So, for those of you who didn't have time to take a look at it on the way in, please take the time to look at the display cases on the way out, because they've done an incredible job of sharing some of Maui's history in those cases.

So, thank you very much for your remarks, Mr. Carroll.

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

PLEDGE OF ALLEGIANCE

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

CHAIR WHITE: Thank you very much. And just as a reminder, please turn your phones to vibrate or silent mode. And with that, we will proceed with the agenda.

Mr. Clerk.

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

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 17-172

EXTENDING CONDOLENCES TO THE FAMILY
OF THE LATE DAVID "BUDDY" NOBRIGA

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

ON YOUR BEHALF, I MOVE TO ADOPT THE RESOLUTION
ENTITLED "EXTENDING CONDOLENCES TO THE FAMILY OF
THE LATE DAVID 'BUDDY' NOBRIGA".

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. May I request that the Clerk read the resolution in its entirety?

CHAIR WHITE: Certainly.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. David "Buddy" Nobriga will be remembered as an icon of Maui County's history. He leaves a legacy as a powerful and successful businessman, a well-respected community leader, and advocate.

His deep compassion and dedication to the community . . . decorated with a multitude of awards and recognitions. Maui County has greatly benefited from Buddy's generous generosity and his commitment to serving the people of this County. He has sacrificed countless hours serving on various boards and organizations to improve, promote the betterment of our County.

It has been an honor and a privilege to work with Buddy on important issues that have impacted our community. I would like to thank his family for sharing his time with us. And, we truly appreciate his active involvement in the community. Mahalo, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I speak of support of the resolution this morning. For many of us who have had the pleasure of personally knowing Mr. Nobriga, he was like the resolution stated every day of his life.

He occasionally shared his steadfastness and his principles, especially on water issues as it came to Maui County; whether it be with State Representatives, other businesses, or the County itself. Mr. Nobriga lived on principles, strong principles, moral standards that is highly valued. And, you can see it in his own family. And, so I want to thank Mr. Nobriga's contributions not only within the family core, but he's served in every sector; the community sector, business sector, government sector, and especially non-profit sector. We will miss him greatly.

And, he came from an era that, fortunately for this County, we had a lot of great people; whether it be the Patsy Mink's, the Elmer's, the Hannibal's, the Najo Yoshinaga, Yama. We had tremendous amount of great leaderships from that era, and we are going to miss, miss Buddy as well as all of those others that gave to make this County No Ka Oi. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. I also would like to extend my strong support for this resolution. I, all of us will miss him. I have a personal meeting that I had with him when I decided to run for this seat. He was gracious enough to give me some time. I sat with him and he, he's like a walking historian about our water system. He was telling me about all the different wells and the decisions made, and how, I said, oh my god, I don't even know where these places are, you know.

But, he certainly lived his passion. And as you could tell by the resolution, the kinds of committees that he sat on for many, many years were of significance. And, his contributions, he lived by it. I also want to add to what Member Hokama said in that yes, he is part of the greats; as well as his dad. Riki didn't mention Goro Hokama was also part of that.

But, the quality of, we're so lucky because now we have the next generation, which is Mike and Cathy, and the family which carries on their, their family business. But, they also live in the community the same way. So, as the saying goes, you know, apple doesn't fall too far from the tree. And, I think that the Nobriga family, you know, stands tall alongside with everything their dad and mom taught them. And, they now carry forward to live the legacy that their father led. So, thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I would just like to add my, my few cents into this to graciously say mahalo for this legend, you know. I mean, I come from a little island, but when you hear the name Nobriga, you know it's Buddy Nobriga and, because his fingerprints and footprints are all over Maui County and throughout the State.

And, I also can appreciate that his DNA will cover the landscape of Maui County with his family. So, I'd like to take this time to mahalo his ohana for sharing this, this giant of a legend. Mahalo. Thank you.

CHAIR WHITE: Thank you, Ms. Crivello.

Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. I too would want to fully support this resolution recognizing David "Buddy" Nobriga. You know, in leadership, it goes into the service to our community. And I want to say mahalo to Mr. Nobriga's involvement in our community, most especially in the arena of agriculture and all the contributions he put in that arena, as well as his involvement with protecting and developing our water resources in our County; sitting on the various boards and committees of water.

So, as a leader, like we all heard earlier, you know, he is one of the greatest of Maui. And, at this time, I do want to extend my condolences to the Nobriga family for lending him, his service. And, I know the hours and hours of time that he gave to our community. All we can say is mahalo.

CHAIR WHITE: Thank you, Mr. Atay.

Members, any further discussion?

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I'd also like to extend my condolences to the family. When you think of Buddy Nobriga, you think of, like my colleague said, leadership and legacy. And, I think everyone who's been of the younger generation should have had that opportunity to have met those great ones. And, for me it was, it was, I had those opportunities. I had those conversations with Patsy Mink, Martin Luna, Richard Caldito, Elmer Cravalho.

And I specifically remember about 12 to 11 years ago taking a tour when I was working with Congresswoman Mazie Hirono back then, taking a tour of the Maui Soda & Ice Works. And, there was Buddy was there right, early, early bright in the morning to show us around the facility. And then cordially stayed around and had breakfast with us, and had coffee, and he shared his history.

And, like my other colleagues, he had a wealth of history, wealth of knowledge about our water system. And, one of these type of leaders that we, that we lose because of its passing, we lose a sense of identity. And, I'm so happy that, that there, his family has carried on that legacy with such pride and honor. And they've continued to work in the community, and, and continue to flourish that legacy on.

So, I thank Buddy for, for all his work in the past and, and really instilling into his family the community work that each and every one of them in their family has continued to do. So, mahalo and God bless the family as well.

(Councilmember Cochran arrived at the meeting at 9:19 a.m.)

CHAIR WHITE: Thank you, Mr. Guzman.

Well, the Chair would just like to add that Buddy was larger than life. And he was one of those who set an incredible example through his community work, through his work ethic at the company. And, everyone that he touched will remember the kind of man that they were in contact with. And, I think, you know, we will all miss him, but I think all of us can rest assured that of all the folks on Maui that this is a man who led a life well lived.

And, and if anyone of us had, had made the accomplishments of Buddy Nobriga, I think we could pass to the next world feeling very comfortable that we did all we could. And, we made a difference, we made an impact, we helped people in the community, we helped vast numbers of people in agriculture. And did so in a way that was kind, and gentle, and straightforward.

He was a man that I think all of us look up to and see as an example that will live on, especially with the family, but it will live on with all of us. And again, I'd like to also thank you for sharing him with us and I look forward to the legacy that each of you creates, because I know you're not going to be far behind him. So, mahalo and God bless the family.

Any further discussion? Seeing none, oh, Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh, no. Thank you, Chair.

CHAIR WHITE: Okay. Ms., Ms. King.

COUNCILMEMBER KING: No, I'm just ready for the vote. I think it's all been said.

CHAIR WHITE: 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. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. With your permission, I'd like to bring down the family of the late David "Buddy" Nobriga to be recognized, and to present Cathy Nobriga Kim with a copy of the resolution and leis.

CHAIR WHITE: Certainly. Will the family please join us?

VICE-CHAIR CARROLL: Again, I'd like to thank everybody that came today, and show the appreciation that we have for David "Buddy" Nobriga. And, I'd now like to present a copy of the resolution. And, thank you so much for what you've given. And, could you say a few words?

MS. CATHERINE NOBRIGA KIM: I'd like to thank the Council for this resolution on behalf of the family. Although he's been gone a couple of weeks, it's still a bit hard. We certainly appreciate all the kind words you have said.

You know, dad was all about people and about Maui. And, what the lessons he has taught us and has taught the community I hope will continue into the future, and we'll make this island a better place.

MR. MICHAEL NOBRIGA: We come from very good genes, so we cannot, both of us can't fit behind one podium at the same time.

It was very kind of all of you to think that we shared him with you and the community. We actually had very little choice in the matter. You know, dad was the type of person when he saw that something needed to be accomplished, he took it and ran with it, and brought all 5 of us, and 12 of us, and 20 of us along with him. So, we were there for part of his successes. But, if it wasn't for him leading the way, Maui would be a very different place.

And, I'm very comfortable that all of you will carry on his tradition, cause everybody on Maui is part of the Nobriga ohana. Thank you, Mr. White. Thank you, Councilmembers. Mahalo.

CHAIR WHITE: Thank you.

VICE-CHAIR CARROLL: Thank you so much.

CHAIR WHITE: Thank you all for joining us here this morning; very special for us.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record RESOLUTION 17-172.

RESOLUTION
NO. 17-173

CONGRATULATING THE
FRESH POK'E 65'S SENIOR SOFTBALL TEAM
FOR WINNING THE 2017 MEN'S 65 AA
DIVISION LAS VEGAS SENIOR SOFTBALL
ASSOCIATION/SENIOR SOFTBALL USA
WORLD MASTERS CHAMPIONSHIP TITLE

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RESOLUTION ENTITLED
"CONGRATULATING THE FRESH POK'E 65'S SENIOR
SOFTBALL TEAM FOR WINNING THE 2017 MEN'S 65 AA
DIVISION LAS VEGAS SENIOR SOFTBALL
ASSOCIATION/SENIOR SOFTBALL USA WORLD MASTERS
CHAMPIONSHIP TITLE".

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: Who was the second?

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Guzman.

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

CHAIR WHITE: Certainly.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. It is with great pleasure to, and honor to congratulate the Fresh Pok'e team. You know, Chair, we always, since I've been in office, we, we've seen many, many great talented teams come before us, and most of

them have been youth. And I always wondered where does all this talent come from? And finally, today, I'm, we're able to recognize where this talent comes from. And, we only have to look to our seniors, who basically set the foundation of hard work, perseverance, and in order to give the community success in working together. And so, it is with great pride to honor them today in their accomplishments.

I know that a lot of their work has to do with practice. And so, through our parks system in our, our fields that we have, they've been able to utilize those to practice, as well as to play their league games to prepare them for this world masters championship tournament. And by doing so, they came back and won the title. I also have to congratulate their Coach Stephen Cramer.

And, we have to look back at, as human beings, we value the experiences that comes with age. And we are reminded over and over again that statements like older and wiser, and respect your elders; promoting age is something to be cherished and respected. We respect our seniors and their wisdom that comes from experience. And, we should not stop learning from the wise counsel that they give us. It's always a blessing to learn wisdom from those who come before us. And having our seniors win this championship, paves a brighter path for future success amongst our youth of Maui County.

So, again I'd like to congratulate them in showing us a great path of success for our youth to continue. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

COUNCILMEMBER GUZMAN: Oh, one more thing. I'd like to also say thank you very much for the team moms. And, I know they're a little bit older to have team moms, but I think the team moms helped coordinate their travel arrangements and so on so forth, the detailed stuff. So, thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further discussion, Members?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Well, I want to thank them for continuing to put us in the map in Las Vegas. Hawaii is imprinted there. But, you know, I was thinking seniors, maybe makule, but not yet, yea? And, and you know, you know what this also brings to us as we recognize their participation, it's they're healthy. They got to be healthy to go up Las Vegas and win. I'm pretty sure they just, you know, so disciplined, they

turned into their rooms early, rested up for their next, next game. So, more so, more power to them for taking that, that win, and putting us on the map. So, congratulations guys.

CHAIR WHITE: Yes, I'm sure there was a curfew.

COUNCILMEMBER CRIVELLO: Yea.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: I also want to extend my support to this resolution. You know, when you listen to the names of the players, these are all prominent people in our community. And, you think how in the world do they do their regular jobs and then be able to accomplish this level, you know. So, I want to thank them for, with the same gusto and zest that they live their everyday lives, they're able to perform, you know, in another venue. And, just want to congratulate them. Thank you, Chair.

CHAIR WHITE: Thank you.

Further discussion, Members?

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you. I'd like to add my congratulations to the team. I don't know if Alec McBarnet is here, but I don't know where he finds the time to do this because I see him quite often over at the site of Maui Oil. And, I remember he shared with me one time that he everyday walks over to the post, the Kahului Post Office. And I, kind of shamed me because he's a little bit older than me. But, you know, I, I used to exercise a lot, I haven't done it in the past few years. But, he's such an inspiration.

And this whole team winning this level, I think is an inspiration to, to not just ourselves but to our younger generation to continue this level of, of sports and exercise, and just good living, I think, just being involved in a sport. Because it involves, involves knowing how to work as a team. That's what, to me, is really impressive about when these teams win these types of competitions. And, I think it really adds a lot and speaks well of our folks on Maui. So, congratulations and thank you for representing Maui.

CHAIR WHITE: Thank you, Ms. King.

Any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. I too would fully support this resolution in recognizing our world champions, you know, from Maui. And as I look at this and this tournament, you know, it talks about 612 teams from 39 states, 3 Canadian Provinces, and 7 teams from Guam. And now with Maui standing at the top, I'm thinking about the economic opportunities of Maui creating and hosting a senior softball tournament here and inviting the rest of the world. But, anyways, congratulations to the team.

CHAIR WHITE: Thank you.

Any further discussion, Members?

Well, I'll just say some of my happiest days were playing softball in Lahaina with, with an employee league. And, it's a great game, and I wish I was still doing it, cause I look at you guys and think gosh I, maybe I could still do it, you know, when running the bases might be a little bit more of a challenge today. But anyway, it does take a lot of practice and I take my hat off to all of you for your dedication and what a great win.

And, I'm sure that you'll work very hard to bring the tournament, tournament to Maui instead of Vegas. But, I guess we'd have to build a whole lot more fields in order to host something like that. But again, congratulations and thank you for holding Maui's banner so high. Aloha.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Back to Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I'd like to request that the team come to the floor to receive their accolades. I, we have something very special for them as well; the USA World Masters Championship rings came in. And, I know that the team was not aware of this. So, I'd like to also, as they come down, request the Clerk to call them by individual names so that their individually sized ring can be given to them. So, congratulation again. We are mostly going to be asking their Coach Stephen Cramer to present the rings. So, why don't we go ahead--

CHAIR WHITE: And, very nice.

COUNCILMEMBER GUZMAN: . . . to receive them.

COACH STEPHEN CRAMER: I got mine already.

COUNCILMEMBER GUZMAN: Can we get a camera shot on that? Okay. Thank you, Chair.

CHAIR WHITE: So, Mr. Clerk, do you have the list?

COUNCILMEMBER GUZMAN: Can, can we also, ask the Councilmembers form our line to acknowledge their successes?

CHAIR WHITE: Why, why don't we have the Clerk call out the names, get the rings, and then we'll, we'll join them?

COUNCILMEMBER GUZMAN: Okay. Okay.

DEPUTY COUNTY CLERK: Elward K. Alexander.

CHAIR WHITE: Actually, actually, Mr. Clerk, I think Mr. Guzman's solution is probably better. So, why don't we join them and we can work through the line.

DEPUTY COUNTY CLERK: Nestor Bio, Anthony Corniel, Mark Daniels, Daniel Fields, Terrance J. Gomes, Dennis Holland, Jeremiah Kaholoaa, Hiram Kaukani, Gerald Lau Hee, Alec McBarnet, Lawrence Pacheco, Frederick B. Petersen, Terrence Pike, Guy R. Yamashiro, and Lloyd M. Yonemura.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I'd like to request that their coach say a few words. I specifically want to know how they came up with their team name Fresh Pok'e. So, that, that would be an interesting story, and how they explained that when

they were playing in the tournaments on the, on the mainland. So, I would like to introduce their Coach Stephen Cramer to say a few words.

COACH CRAMER: Thank you, Chair. Thank you, Mr. Guzman. Well, first of all, Fresh Pok'e, in the mainland they didn't understand what fresh pok'e was, so they use to call us Fresh Poke. So, I had to put the okina in there, which you not supposed to put an okina next, but we had to put it in there. So, now they understand it's pok-e. Cause in the mainland they didn't understand.

This program started 15 years ago by Mr. Larry Pacheco, that started the Fresh Pok'e program. This is the first year that Maui has ever won senior softball world series. In the 15 years that they travelled for the world tournament, this is the first year we've ever won it.

And, going back to the resolution for the Nobriga family, the apple no fall far from the tree. I also worked for Mr. Buddy Nobriga when I came home from college, that was my first job that I had working for Mr. Nobriga. I'm an original maker of Roselani Ice Cream, okay. So, I also worked for the Nobriga family, and then got into the County. And, I stayed for the County for the last 25 plus years.

Mr. White, you're more than welcome to join us, because like, let me share with you, all you have to do is get a base hit and you can have a courtesy runner that runs the next three bases for you.

Going back to senior softball, I am the island coordinator for Maui senior softball here on Maui. Next January 7, will be my 25th year in running senior softball for the County of Maui and the State of Hawaii. It's because of you that give the money to appropriate parks, fees for pay umpires, fees for get, to buy the balls, fees to operate a program like this, okay. We separate from the Mayor now, let's get that separated now. The Mayor's thing is the Mayor's thing, our thing is our thing. So, don't include us with that one.

But, anyway, but when Mr. Guzman reached out and said he wanted to recognize the seniors because he found out that the Maui seniors have won the senior world championship, and we talked, and we talked, and I said you got to do something for us because it took them 15 years to win one of these, yea.

The oldest member on the team is 75 years old, okay. And, that's Mr. Terry Gomes of Gomes Trucking. He always doesn't want to get in the game, and I always say Uncle Terry you got to bat one time at least, you got to get in there one time. To have, to have you know that in all the years that we went from the 60's and now the 65's, he's batting a 1,000. He's never gotten an out yet. I think he's something like 9 for 9, with

4 RBI's in the four or five years that he's been up there. But for us this past tournament, he was 3 for 3 with one RBI. Yea, so he's still the batting champ.

I want to thank Debbie Bio for, for making sure the score is correct, corrected, and when I do things wrong in making substitute that she corrects it. I want to thank my wife, Francine Kamimoto for always being there on my side, for make sure I do things the right way and not doing this.

And, we did have a curfew at 10:00, whether we were in bed at 10:00 was a different story, okay.

But, I want to thank you very much for this honor. Thank you very much, and have a very Merry Christmas. May God bless you and bless the entire County of Maui. Thank you.

CHAIR WHITE: Thank you and congratulations again. And, don't forget your trophy here on the desk.

COACH CRAMER: The champs are home.

CHAIR WHITE: Thank you very much for coming in today.

Okay, Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-173.

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

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

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

Mr. Chair, currently we have 15 individuals signed up in the Council chamber. The first person signed up in the chamber is Sam Small, testifying on County Communications 17-486, 487, 489, and 491. He will be followed by Eric Poulsen.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. SAM SMALL (testifying on County Communication Nos. 17-486, 17-487, 17-489, and 17-491):

Good morning one and all. Thank you again for the opportunity to testify and participate in the democratic process. It's an honor to be here. My name is Sam Small. I represent myself and my organization called Maui Causes. Visit us on the web at mauicauses.org.

I am, this is 17-486. I'm consistently amazed how everything is connected. Who would guess that dead eucalyptus trees would connect to Charter revision. I live Piiholo now for 16 years. I've had many conversations about these dying trees with our County Arborist David Sakoda, who knows more about this than anybody. I warned this Council about these trees well over a year ago. Nothing happened. David Sakoda had been warning his boss ever since Ka'ala Buenconsejo was appointed to the job by Mayor Arakawa as a political reward for running and losing a dirty political campaign against Councilmember Cochran. The Mayor's politically appointed director did nothing.

Last July, David Sakoda quit. His nearly two decades of experience here is a huge loss for the County. Last week, I teased Mr. Dakota, Sakoda about coming back now that there's a \$1 million amount in play as an emergency budget. He responded and he gave me permission to quote him. And, I quote "It was a significant decision I had to make in leaving the position as Maui County Arborist. Poor leadership in appointed positions make it hard for good workers in the civil service field who are underpaid for the jobs they do already. The Department of Parks and Recreation Director is a political want-to-be appointee, poor manager, arrogant, egotistical idiot. And hell no, I would never go back to that position. Telling him for five years about the situation being the number one safety tree issue, and they did nothing until someone almost dies. And now, as I predicted, are in crisis mode, because they had no foresight and wasted all that time. It will cost more now, and it's much more hazardous. I feel no happiness nor do I think I won this issue. I love Maui. It's a loss for everyone, and it stems from the incompetence of the Director Ka'ala Buenconsejo. I think the only time I would deal with him again is if he goes to trial for his negligence for his duty to serve the public".

This Council approved the Mayor's political appointment, even though it was clear that he had no qualifications for the job. In 2016, the voters approved Charter revisions that the Mayor, about the hiring of directors and that we should have legal counsel

independent of Corporation Counsel. Both of these amendments were toothless and have done nothing to fix the problems we still have.

We've received, Mr. White and Ms. Sugimura, you've received Charter revision proposals, and I encourage you to bring those proposals to Committee so that we can change the way that our County is run. We're broken, it needs to be fixed.

CHAIR WHITE: Mr. Small, can you move to your next item please?

MR. SMALL: This is 17-487 and 17-489, they're kind of conflated, so time me and then we'll just roll over to the next one if that's okay with you. I spoke two weeks ago about how money owed to the County from three lot or less subdivision deferral agreements by law is supposed to be accounted for in the County's annual budget for Public Works, but never is.

To recap, deferral agreements were originally intended to allow parents to divide and give parcels to their kids without having to install curbs and sidewalks, and move utilities. The deal was that at some future time when the County initiates a roadway improvement along that frontage, that the landowner will get a bill for their share of the cost. No specific dollar amounts were ever mentioned. It was a sloppy system, badly managed.

For decades, Corporation Counsel wrote thousands of these agreements and literally stuffed them in boxes, and no one ever kept track. Even though capital improvement projects have been performed that should have triggered the collection, the County has never collected on any of them. The loss to us taxed payers could be in the hundreds of millions of dollars.

They was supposed to be a one-time thing; no parcel so divided shall be divided again. But, those in the know knew that no one was looking. They applied for, and politically appointed the directors allowed multiple overlapping subdivision deferrals. That's a TMK number where there's a dash one, then a dash a, then a dash one. There is no legal basis for those dashes.

So, in all likelihood, there's no way to ever legally collect on those deferral agreements. Those, those dashes have also allowed the three lots to be turned into eight or nine or more, if there's condominiums involved. That's a huge difference in density. And, even after all this was made public, Corporation Counsel continued to write new subdivision deferral agreements knowing full well that they were not worth the paper they were written on.

Ms. Cochran tried five years ago to get Corporation Counsel to make a determination as to whether they could be collected on, and was met by a stone wall. Deferral infrastructure improvement projects have actually been killed because they would have triggered collection of these deferral agreements. And they apparently didn't want to do that. So, rather than do the infrastructure project, they killed the infrastructure project.

Citizens have been hurt by all this. Corporation Counsel is hiding what they have done. They have withheld public documents, they have lied to the court. And they are to this day intimidating and manipulating the Members of this Council.

Our Charter allows this Council to launch an investigation into any issue that comes before it, yes the Council, yet the Council has never done that. So, okay, if the Council thinks that all it can do is pawn the problem off to the County Auditor, then do that. But not just the deferral agreements. You need to include the SMA minor permits as well, because those in the know, know that no one is looking there either.

Land planning firms know that no one will question their stamp on a falsified order of magnitude statement. They know that a politically appointed director will issue them an SMA minor permit, and even exempt them completely for ever having to have any public input or do any environmental assessments in direct violation of Federal Coastal Zone Management laws.

The Arakawa Administration doesn't care if their injection wells violate Federal Clean Water regulations. They even wasted our tax money defending them vigorously, and lost. Why would they care about issuing SMA minor permits instead of SMA major permits that mandate public input and environmental studies? They don't care.

Dollars to donuts, if the Auditor looks at a parcel with multiple overlapping deferral agreements, and an SMA permit application with an order of magnitude statement just below the threshold to get an SMA minor permit instead of an SMA major permit, that order of magnitude statement will be fraudulent.

That's why two weeks ago, Maui Causes launched an online public petition through change.org that in a very short period of time has collected close to 1400 signatures asking our County Auditor to investigate the deferrals, SMA minors, and full on exemptions issued at the full discretion and protection of, by the Mayor's politically appointed directors.

I know this can be confusing. The complexity makes your head explode. But, the two are often tied together. On shoreline properties, the work that gets put off by the deferral agreement is often the work that would otherwise be required as a condition

of the SMA permit. They are tied together. But, those in the know, know that the County doesn't do any final inspections on SMA minor permits unless a citizen files a complaint. Like Olowalu and Montana Beach, the developers get away with murder.

We think there are thousands of Olowalu's and Montana Beach's out there. We believe a simple focus audit will expose the loopholes in the SMA permitting process and reveal the massive number of multi-million-dollar private oceanfront developments where citizens have been legally cut out of the review and approval process. In order to end the decades long exploitation of Maui taxpayers; our ocean life, reefs and shoreline, we call on each County member, Councilmember to sign our petition as well, and join hands with the citizens in our request of Maui's independent auditor to identify and close the loopholes that facilitate the irresponsible management of Federal environmental laws and our tax dollars.

CHAIR WHITE: Please move to your next item.

MR. SMALL: 17-491. Of course, David Taylor should stay as the Director of Water Supply. Personally, I think the Mayor is delusional. His intimidation tactics ultimately fail. He spends our tax dollars defending his and his appointed directors' faulty decisions. It will just end up as another wrongful termination suit, like the film commissioner, because of the Mayor's ego and/or corruption.

The position that the Administration has requested to be restored that we took testimony on two weeks ago of a coordinator for infrastructure deferrals; they don't have infrastructure projects to justify the position. They want the position because they want to move David Taylor from Water to that position. They're looking for a job to give him to assuage him and get him out of Water. Why does the Mayor want him out of Water? Not for any reasons that are to the public's benefit. I can, I can vouch for that.

We should be looking at water very closely. The Upcountry water wells, especially. Who's participating and who's benefitting financially from those Upcountry water wells? I believe there's a garbage man that is benefitting. Thank you very much for your time and your consideration.

CHAIR WHITE: Thank you, Mr. Small.

Members, any need for clarification?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, Mr. Small, I think I heard you in your first item that you took up saying that we appointed Ka'ala Buenconsejo, we confirmed him?

MR. SMALL: He was approved. He was confirmed, yea.

COUNCILMEMBER SUGIMURA: So, that was not, I think he was part of the first, just, just to clarify.

MR. SMALL: Sure.

COUNCILMEMBER SUGIMURA: That was not part of us that did that. That, the new Charter amendment applies to now. It doesn't apply to at the time when he came in.

MR. SMALL: Right, but the--

COUNCILMEMBER SUGIMURA: So, I just wanted to clarify that. Thank you. Thank you.

MR. SMALL: Sure. Thank you.

CHAIR WHITE: Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Eric Poulsen, testifying on County Communication 17-489. To be followed by Teya Penniman.

MR. ERIC POULSEN (testifying on County Communication No. 17-489):

Good morning. My name is Eric Poulsen. I'm here this morning to speak on agenda item 489. And, Sam, thank you for your testimony and your courage.

The last time I came before this body, I brought forth three really big boxes full of 21 notebooks. This is one of them right here. These notebooks contain thousands of pages of developer agreements executed by Corporation Counsel over the last four decades, which have never been accounted for or collected upon.

Councilmember Carroll asked me for copies of the County records, which clearly exposes that Corporation Counsel has not distributed these agreements for Council review. We certainly know why.

As we all know, Corporation Counsel has deceptively executed overlapping agreements with private developers on this same parent parcel when the language of the ordinance clearly states that only a one-time deferral of developer's financial obligations was allowable.

We also know countless County capital improvement projects have already been completed and paid for with public funds where ownership of the parcels have changed hands. The question is whether the trigger for collection upon these agreements has already been exhausted.

We also know that private attorneys have actually altered these government contracts on overlapping subdivisions through private warranty deeds without any authority to do so. In other words, they have added parcels to agreements that were limited to three parcels of land to further avoid their subdivision infrastructure obligations.

While I completely support Mr. Guzman's resolution, I feel the last paragraph should be discussed by Members of the Councilmembers today to ensure we don't waste even more County resources and public funds on pointless tax. Since the odds of the audit is for 2019, we feel legal question of whether these agreements are in fact enforceable and will survive legal challenges should they be addressed immediately by outside legal counsel. Corporation Counsel clearly has a conflict in this question.

I want the Council to know that we citizens are fully prepared to launch a class action lawsuit and seek ruling from the courts to declare whether these agreements are collectable, or whether Pat Wong and his developer friends have unlawfully gambled on our tax dollars on a massive scale.

To net it out, these agreements represent millions of dollars in recovery of public funds or an enormous manipulation of public funds under the direction and authority of unethical attorneys in the Department of Corporation Counsel. Personally, I'm sick of sitting in traffic, looking at brown ocean water while wondering on the impacts of developers who have exposed loopholes in our County Codes with the assistance of conflicted appointed officials like Patrick Wong.

Mr. Guzman, we support the vote for an audit, but we ask you to bring the other task and issues in your resolution into Committee for an immediate review and public deliberation.

One final question for Ms. Cochran. How will this affect the Infrastructure Committee, specifically item number 32? Thank you.

CHAIR WHITE: Thank you, Mr. Poulsen.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Teya Penniman, testifying on County Communication 17-486. To be followed by Mark Hyde.

MS. TEYA PENNIMAN (testifying on County Communication No. 17-486):

Aloha, Chair, Councilmembers. Teya Penniman; I'm here testifying as a private citizen. Gosh, I was still in that, in that nice glow of Councilmember Carroll's talk about how this is the time to come together, and the inspiring recognition of Buddy Nobriga, and our wonderful softball team. So, I hope we can, I hope we can keep that thought going, especially as we consider this item should, which I think should be an easy one for the Council to come together on.

So, you may not know, but the Maui Invasive Species Committee's baseyard and offices are located at Piihola Road on the UH CTAHR property. So, we have the opportunity to drive that road, those who, who work there every day, several times a day. And then of course the trucks are going in and out of that facility every day. So, over the last couple of years, we've had the opportunity to watch those trees become diseased and die, and then suffer the consequences of having to either evade falling branches, deal with, with power outages, telephone outages, etc. But of course, the biggest concern for us is that of lives.

That came very close to home when that recent situation of the tree falling on a truck, one of our staff was just, there, their spouse and child were just two cars behind. So, we know it very well. And, every day we wonder is it better to drive fast so that you get through that area more quickly, or slowly so you have more opportunity to adjust to a falling tree or branch? And, you should not have to be making those decisions just to get to work or to home.

And so, we thank the Mayor and Keith Regan is the Acting Mayor for issuing that proclamation, and also our Budget Chair for putting that ordinance forth, and Chair White, I thank for supporting it. And, I thank you in advance for supporting this emergency allocation of funds to address this problem.

I have two requests. One which is that it not go to Committee, which would delay action on this, cause I understand that's a possibility. And then two, I understand that the way it's currently drafted for a potential bid going out, which would be to remove just the, the County trees, those trees that are on the County right of way. Or, to address the trees that are on both County and private property 35-feet back, with the idea of leaving, the second option you would leave all the trees there. So, it might be less expensive than cutting them up and hauling them off.

I would request that the, that the Council, if you can, just go for option number two. For one thing, if you haul out those, just the County trees, it's going to make the trees on private property easier to fall onto the road. And really, it's a, like, so great, the trees on, on County property didn't kill us, but the ones of private property did. Let's not be pound, pennywise and pound foolish in this. And, please move forward with helping us get rid of those trees to help save lives, truly. Thank you.

CHAIR WHITE: Thank you, Ms. Penniman.

Any need for clarification? Thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Mark Hyde, testifying on County Communication 17-491. To be followed by David Ward.

MR. MARK HYDE (testifying on County Communication No. 17-491):

Good morning.

CHAIR WHITE: Good morning.

MR. HYDE: I'm testifying with regard to the matter involving Dave Taylor. I imagine that this is a decision that you have to make that's not going to be easy. That said, I'd like to share my thoughts with you on that subject.

First, I think implicit in the responsibility conferred on this Council to pass judgement on a proposed firing of a Water Supply Director requires some showing of reasonable cause and fundamental fairness in the process. And, I'm not convinced that either is present here.

Second, just from a practical matter, Mr. Taylor has served in the role for seven years with only one year left in his term. He has an engineering degree, which is required to be held by one of the key officers of the Department. And, I think more importantly, he possesses significant institutional knowledge about Maui County's water needs, water law, the Department, its personnel, and projects underway.

In any event, both he and the Mayor will be gone in a year. So, the question remains that is it reasonable to expect that if Mr. Taylor is shown the door, that an effective new director can be hired in a short period of time who will turn the whole Department around and make a significant difference. I don't think so.

Third, I'm concerned that the record before the Council lacks the normal earmarks of acceptable employer/employee performance management which one would expect in the firing of this magnitude, or frankly in any kind of firing. Did the Mayor assign annual goals and objectives to Mr. Taylor? Did the Mayor assess his performance to those goals and objectives? Did the Mayor comment on Mr. Taylor's performance, and provide insight into shortfalls and opportunities for improvement? Was Mr. Taylor warned that his performance was lacking and that his job was in jeopardy? It's my understanding that none of this exists in the record before you.

In assuming that that's the case, then I believe that the management issues here reside with the Mayor. And that his petition for consent to the firing should be denied by the Council unless appropriate steps are first taken to professionally and respectfully process any action to be taken.

Finally, I believe we need to raise the level of management of County operations overall. And that our 50-year old Charter, which asks elected Mayors to have both political and immaculate and superb management skills, just isn't going to happen. Rarely will you find both in a politician. So, we need to reexamine our Charter, and look at the citizen proposed proposals that would change the Charter to allow for professional management. Thank you very much.

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

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is David Ward, testifying on Committee Report 17-192. To be followed by Stephanie Metzler.

MR. DAVID WARD (testifying on Committee Report 17-192):

Good morning, Chair White.

CHAIR WHITE: Good morning.

MR. WARD: Members of the County Council. My name is David Ward, and I am here on behalf of Hawaiian Canoe Club, and the current President of the Board of Directors. On behalf of the Board of Directors, the coaches, the existing paddlers, and the generations of paddlers to come, we want to thank you for your support in Committee for a 50-year lease at Hoaloha Park for Hawaiian Canoe Club.

I'm not certain that I can be here when this item comes up on the agenda. I hope to be here, but if I'm not, I wanted to come up and if there were any last-minute questions, provide any comments that you might have or questions. That's all I have. Thank you.

CHAIR WHITE: Thank you, Mr. Ward.

Members, any need for clarification? Thank you very much for your testimony.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Stephanie Metzler, testifying on County Communication 17-486. To be followed by Jean Ade.

MS. STEPHANIE METZLER (testifying on County Communication No. 17-486):

Hello. It is an honor to be here to speak with you all on something that's pretty important as a resident of Makawao and living on Piihola Road. I know that you have before you a million dollars to say we'll fix the tree situation there or not. There's a lot of things to look at, a lot of numbers to arrange.

But I ask that you just look at me for a moment, because this is the face of someone who almost died on the Sunday after Thanksgiving. It was very dark and rainy, and I'm a very cautious driver. It was about 6 a.m., driving, and as you, as Teya said, we don't know whether to drive quickly or to drive slowly. And I was driving slowly, and I came around a corner and there was an enormous tree in front of me on the ground. And, you know, this is a tree that could have been gone a long time ago.

And, I slammed on my brake and I fishtailed, and I know that my grandmother who was always taking care of me was sitting in the next seat, because it was insane and I really don't know how my car stopped. But, I was able to drive home, turn around and drive the other way home to my two small children. And I thought, goodness if I would have hit that tree, it would have taken an ambulance hours to get to me because they have to go up Olinda and down Piipolo, and then turn around up Piipolo and down Olinda, because there's an enormous tree blocking the way.

And, please take these trees down. I don't care, it doesn't matter if it's a County tree or a private tree, if it falls on my car, my family's not going to care and it's not going to matter. There, there are hundreds, and they're big, and they're scary, and they need to go. Please don't let this go to Committee. Take action and take these trees out of the way. We just want to drive up and down our street, and feel safe when we do. That's all. Thank you.

CHAIR WHITE: Thank you, Ms. Metzler.

Members, any need for clarification? Thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Jean Ade, testifying on County Communication 17-486. To be followed by Amy Halas.

MS. JEAN ADE (testifying on County Communication No. 17-486):

Good morning. I'm a resident of--

CHAIR WHITE: Could you adjust the microphone up? Thank you.

MS. ADE: I'm a resident of Piipolo Road. Several years ago, the eucalyptus trees that lined the roads started showing serious signs of decline and death. Since the initial signs of decline were noticed, the situation's grown much worse, beginning at mile .5, coming from Makawao Ave to about one mile, 1.25. There are numerous, very large dead eucalyptus that lean over the road.

Well, we have always had the chance of these large trees blowing down in storms. The risk of trees coming down has never been as great as it is now. These trees that have been dead for quite some time have weakened root systems that increase the likelihood of them falling onto the road. In other words, they no longer need strong wind to fall over.

During the past year, and, and this, I actually wrote this on May 15, and sent it to the Mayor's Office and the County Council. During this past year, there is, on, every time there was a windy day, I began to be afraid to drive my daughter to school or to pick her up from school. Now, we drive down the road with our eyes on the trees trying to rehearse in our minds what we will do or how we will react should a tree come down.

The rate of speed that a tree comes down leaves little room for a split second, second reaction time needed to respond in order to attempt to save your life. While driving the three-quarter mile stretch of road that is the worse, I hold my breath until I am past what we have come to call death alley. I along with many other residents and workers use the road continuously to get to and from work, school, the grocery store, etc. Driving further up Piipolo Road and around Olinda is not really an option. And, if you have made this trek, you will know what I mean. My oldest daughter brings my grandchildren up to watch during the week, and I am terrified that, that people will be killed on this road, and that it might be someone from my own family or even myself.

This is back in May, I wrote that two weeks ago, someone's truck was hit by a tree, and he was lucky that he did not die or that his daughter was not in the car. We need some action on this extremely hazardous and dangerous situation now before someone's family is killed.

Last, and this is back then, and you know, I notice the school bus driving up and down the road. Our school bus driver is terrified of the road. He wants to get reassigned to a different route because he's, he's petrified of trees falling on him.

I don't know whose responsibility this is to address this situation. Well, somebody. But, this is a County road. The trees are hanging over it. It's not a safe road. Many of the trees seem to be within the County right of way, and if not, the County needs to cite private landowners to remove these trees immediately. Please do not wait to take action until someone is killed.

CHAIR WHITE: Thank you, could you please--

MS. ADE: This is a much more dangerous--

CHAIR WHITE: --please conclude, Ms. Ade. I think you've done a very good job of putting forth your concerns. But, your time is expired.

MS. ADE: Oh, it's done. Okay, thank you.

CHAIR WHITE: Thank you very much.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Amy Halas, testifying on Committee Report 17-167. To be followed by Sara Tekula.

MS. AMY HALAS, (testifying on Committee Report 17-167):

Aloha kakahiaka. My name is Amy Halas. I live in Kahului. I support Committee Report 17-167, the sand mining moratorium ordinance, and urge you to pass this ordinance today on the first reading. Sadly, this legislation has now been deferred twice at both the November 17 and December 1, Maui County Council meetings.

We were shocked to see first reading deferred at the November 17 County Council meeting. Mike White's calls for more due diligence and assessment of others comfort levels was extremely insulting, because Mr. White is a voting member of the Infrastructure and Environmental Management Committee. In fact, Mr. White failed to attend the majority of the eight IEM meetings held over the past six months to discuss the 12 drafts of this amendment, of this ordinance.

Interestingly, it is my understanding that days after the sand mining moratorium ordinance passed out of the IEM Committee in October, Mr. White's Council staff personally contacted each and every landowner listed in this ordinance. We assume he did this to assess this, their so-called comfort levels and to conduct due diligence. And then again, on December 1, we saw Mr. White, who with the support of certain Councilmembers, request another deferral of the first reading in order for the landowners listed on the sand mining moratorium ordinance to request an exemption from this ordinance.

In so doing, Mr. White and his colleagues have systematically undermined the very intent and purpose of the sand mining moratorium legislation. I want to know how many of the landowners listed on the ordinance have filed sand grading and grubbing permits at the Maui County Public Works Department.

How unfortunate that it appears Maui County Council Chair Mike White has no intention of listening to the community members who wish to see the 2006 Maui Inland Sand Resource Quantification Study updated immediately. How could this study possibly be conducted when all of the landowners are in possession of Maui County grading and grubbing permits?

Furthermore, I find it extremely ironic, contradictory, and disturbing that the General Manager of Maui's most Hawaiian hotel is systematically undermining legislation that was created to protect the numerous . . . Hawaiian burials remaining in this section of the Central Maui Pu'uone Sand Dunes complex, a known wahipana with countless iwi kupuna.

I wish to emphasize that there are many State inventory of historic places, burials, including the 1984 discovery of Archaeologist, Dr. Earl Buddy Neller. I cannot fathom how we see activity construction occurring at Maui Lani Phase 6, Towne Island Homes where Dr. Neller's site was discovered.

My appeals to the Maui County Mayor, Maui County Planning Department, Maui County Public Works Department, and two other Maui County agencies, have been futile as they defer to the sorely underfunded and mismanaged SHPD. Currently--

CHAIR WHITE: Thank you very much, Ms. Halas. Your time has expired.

MS. HALAS: --there are no archaeologists in the Maui SHPD office. We are holding signs on Maui Lani Parkway because we feel that the State and County governments have failed to safeguard and protect the iwi kupuna.

CHAIR WHITE: Thank you very much for your testimony.

MS. HALAS: Please respect kanaka maoli and the iwi kupuna. Mahalo.

CHAIR WHITE: Thank you. Members, any need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Sara Tekula, testifying on County Communication 17-486. To be followed by Joseph Imhoff.

MS. SARA TEKULA (testifying on County Communication No. 17-486):

Good morning, Councilmembers, Chair.

CHAIR WHITE: Good morning.

MS. TEKULA: My name is Sara Tekula, and I'm a mother to a bright five-year old boy. I'm an instructor at UH Maui College, an outreach director at a local non-profit, and a

dedicated community advocate and volunteer. I'm also a 10-year Piiholo resident, along with my husband Joe, who you'll hear from next.

Before I begin, I must ask to please have your careful attention to this serious matter. It's urgent, because my family and beloved neighbors are literally putting our lives in your hands right now. Piiholo residents' lives are at risk every time we drive down our street. This risk increases daily, and we cannot afford to wait until tragedy strikes. It's not a matter of if, it's a matter of when. For those not familiar, our community uses one road in and out of our neighborhood. The dead and dying eucalyptus trees hover over our roads and over us as we drive to and from our homes. The trees are falling more regularly now.

We have a great community on Piiholo. Piiholo residents include deeply respected Hawaiian cultural practitioners, Grammy nominated Hawaiian musicians and award-winning filmmakers, surfing legends, some of our State's most accomplished doctors and lawyers, one of Hawaii's most prominent business entrepreneurs and philanthropists, and the list goes on. This is our neighborhood.

This issue has always existed on Piiholo because invasive eucalyptus just don't behave well here in Hawaii. But, this year the problem has increased exponentially, because the trees are now dead or dying. Our neighborhood now uses Facebook to alert each other of fallen tree hazards. And there is now a flashing sign when you turn onto our road that says, "watch for falling trees", which I don't know if that actually helps save lives, but we're watching.

Speaking for myself, I am terrified every time I drive my son to school, and every time I drive him home. We deserve to have safe roads. I'm even more fearful as the winter weather shows up. With the winds and heavy rains, it's a recipe for falling eucalyptus.

In closing, on behalf of our Piiholo community, I beg you to do something to make us safer immediately. Please do the right thing and approve the Budget Director's emergency funding request to make this road safe for me, for my family, and my beloved neighbors right away. This is truly an emergency. We cannot wait for tragedy to strike. Mahalo.

CHAIR WHITE: Thank you, Ms. Tekula. Members, any need for clarification? Seeing none, appreciate your being here this morning.

MS. TEKULA: Happy holidays.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Joseph Imhoff, testifying on County Communication 17-486. To be followed by Leiane Paci.

MR. JOSEPH IMHOFF, (testifying on County Communication No. 17-486):

Good morning.

CHAIR WHITE: Good morning.

MR. IMHOFF: My name is Joseph Imhoff. I'm here to talk about the eucalyptus trees. I have somewhat of a unique perspective in the matter. I've been working in the field of conservation for the last 10 years. And, I've been working really hard to restore native bio, biodiversity to devastated landscapes that have been taken over by eucalyptus globulus; mostly in Kula but it's the same species of tree that's dying on Piipiholo Road.

For the last 10 years, I've so far cleared about five acres of forest land. So, I totally understand the magnitude of what it takes to remove these trees. You know, they were planted in the 1900's by Ralph Hosmer, Louis Von Tempsky, people that, the trees were not planted by anybody that's alive today, and we have to shoulder the burden of fixing this horrific problem that we all face.

The trees come from a desert climate, so they're really thirsty, they fill up with water. Piipiholo Road has a lot of water. These trees have been known to fall over; perfectly healthy alive trees will just fall over because they get really, really heavy, cause they just suck up all this water.

Now that the trees are dying, there's invasive bugs that are defoliating the entire canopy of the tree, and the trees are all dying. And now that the roots are starting to rot, the frequency of them falling over is a lot more. Just in the last windstorm, there was like three or four trees that fell over. And, it's really dangerous for all of us.

It's a hazard to the motorists, like myself and my family, and the neighbors that I have that have taken the time to speak to you guys today. This is also a major safety hazard for our police officers, and also for the people who have to go out onto the street and clear these trees off the road during the middle of the storms. I drove home during the last storm and I was stopped by a police officer. The wind was blowing the trees sideways, and we were waiting for about 15 minutes for the trees to be cleared off the road. And, the police officer was nervous, as was I.

A couple years ago, there was a Hawaii Telcom worker who was up in his bucket truck fixing the power, or the telephone line. And a tree struck the bucket, and the gentleman fell out and severely broke his leg.

So, we have a couple choices. I ask you guys please fund this today. Whether it's County property or private land, it needs to be taken care of in a really big way. If it's prolonged, somebody might die. It might be me. It might be my neighbor. And, that's not acceptable. So, we really need to take care of this problem.

Like what Teya was saying, we need to take care of all the trees, not just the ones on the County edge, because once you remove the front edge of the forest, all the trees in the middle become the new edge, the wind break, and they're more susceptible to falling and we might actually make the problem worse.

So, in conclusion, please be proactive rather than reactive on behalf of our community. Take them out as soon as possible. Thank you.

CHAIR WHITE: Thank you very much, Mr. Imhoff. Members, any need for clarification?

Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. Thank you, Mr. Imhoff. How long have you been a resident of Piipolo?

MR. IMHOFF: Ten years, sir.

COUNCILMEMBER ATAY: Ten years. To your knowledge, how long has, or how many years have the community of Piipolo requesting to the County for assistance to cut the trees down?

MR. IMHOFF: It's been happening for quite some time. The actual visible death of the tree has been really in our face for about one year, and the trees have been completely dead for one year. So, that's when there's been a big spike, and please take care of the problem.

COUNCILMEMBER ATAY: Okay. Alright, thank you. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Atay.

COUNCILMEMBER COCHRAN: Chair. Chair.

CHAIR WHITE: Oh. Ms., hold on, Mr. Imhoff.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you. Thank you for being here. And so when you mentioned you were asking not just for the County rights of ways to be cleared, but for the next edge or so you mentioned, does that mean in people's properties? Is that what you're referring to?

MR. IMHOFF: Yes. Because, if the County property is only like what, 20, 10, 20, 30 feet or whatever, these trees are a maximum 150-feet. So, that's about a 150-foot safety buffer. If you really wanted to make it safe, you have to basically remove the trees by what the tallest one is. So, if you remove just the front edge of the forest, like I was saying, it, the trees that are in the center of the land are more susceptible to falling if they become, if they have to face the, the weather.

CHAIR WHITE: Okay. Anything else? Thank you for being here, Mr. Imhoff.

MR. IMHOFF: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Leiane Paci, testifying on Committee Report 17-167. To be followed by Madge Schaefer.

MS. LEIANE PACI, (testifying on Committee Report 17-167):

Good morning, Chair White and Members of the Maui County Council. My name is Leiane Paci, and I'm here today on behalf of Maui Lani Partners. Written testimony was submitted to the Council on November 30, December 8, and December 13, regarding CR 17-167.

As explained in the referenced correspondence, the following properties with TMK Nos. (2) 3-8-007:152, (2) 3-8-007:157, (2) 3-8-007:168, (2) 3-8-007:174, (2) 3-8-097:076, and (2) 3-8-007:151, have been masqueraded and therefore do not have any sand for a viable sand resource operation if it were permitted.

According to the proposed bill, the purpose of a moratorium on mining of Central Maui inland sand is to conduct further analysis required to establish regulations for mining inland sand. The purpose also states that it is necessary to limit and regulate the mining of inland sand until such time as an ordinance regulating the mining, extracting

or removing of inland sand is adopted, and the Maui Inland Sand Resource Quantification Study is updated.

Since the six properties do not have quantifiable sand resources, they would not be included in the updated study, and would not be subject to sand mining. Therefore, we request that the proposed bill be amended to remove the above listed properties.

Regarding TMK No. (2) 3-8-007:153, this property is partially graded, has an active grading permit, and therefore, would be exempt per Section 20.40.020, item 3, "Activities conducted pursuant to a valid permit issued prior to the effective date of this ordinance."

All seven properties have approved archaeological assessments or Inventory Survey Reports and monitoring plans, which include mitigation conditions for the protection of any specific burial sites in compliance with 6(E), and therefore, no burials would be affected as defined by HRS 60-72.

Based on all the above findings, we respectfully request that the Council amend the proposed bill to delete the seven identified properties from the moratorium area. Thank you.

CHAIR WHITE: Thank you, Ms. Paci.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you for being here. I was just looking at the list of the tax map keys, and I wondered if it is (2) 2-8-8, (2) 3-8-007:145, Maui Lani Partners, is that one of your TMK's that you have asked to be removed? It's 7:145 is the last four.

MS. PACI: 145? I don't have it on this particular list. Unless I have a, no that wasn't included in this list right now.

COUNCILMEMBER SUGIMURA: Okay. (2) 3-8-007:145.

MS. PACI: 145. Yea, I see it on the moratorium list. And, 6.839 acres; I don't know off the top of my head what property that one is.

COUNCILMEMBER SUGIMURA: Thank you.

MS. PACI: Thanks.

CHAIR WHITE: Any further need for clarification?

COUNCILMEMBER KING: I, I just have--

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you, Chair. I just had a clarification because you mentioned a number of tax map key parcels, and then you said they, you wouldn't be doing sand mining. So you wouldn't be affected one way or another, would, would they with those parcels? Were they?

MS. PACI: Well, right now, they're in the moratorium area.

COUNCILMEMBER KING: Right. But, I mean, if you're not going to be sand mining anyway, then they wouldn't be affected, would they?

MS. PACI: No, except for the definition of sand mining is, when we grade, we can't remove material from the property.

COUNCILMEMBER KING: So, you're planning on, you are planning on removing material, but you've already assessed that there are no burials. That's, that, that's what your, your testimony is then.

MS. PACI: Assessed that there's monitoring in place, and there's reports.

COUNCILMEMBER KING: I'm not sure. I, no, I mean, have you assessed that there are no burials in those sites where you want to move, remove the sand?

MS PACI: During mass grading, some of the properties did have some burials, but they're protected. Cause it's not that there's no burials, it's whether a burial would be affected. And, I'm assuming, even though it's a little vague in the moratorium, affected means adversely affected.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR WHITE: Thank you, Ms. King.

Any further need for clarification?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. Yea, that 153, that parcel 53 *[sic]*, you said has already been mass graded and what have you, and that you are not intending to do further work?

MS. PACI: 153, I said is partially graded, and has a active grading permit.

COUNCILMEMBER COCHRAN: Okay. Grading permit and so, and you're not intending to remove sand? Cause this is only talking about sand, you know. I mean, you can do gravel, dirt, other materials, per se, but not sand.

MS. PACI: The grading permit includes excavation and export.

COUNCILMEMBER COCHRAN: Of sand? And so, you are, you have sand and this is what you are grading, mining and exporting? Is that--

MS. PACI: Yes, on our active grading permit.

COUNCILMEMBER COCHRAN: --why you want it exempted? So yes, sand.

MS. PACI: Yea, under our active grading permit.

COUNCILMEMBER COCHRAN: Okay.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Could you ask her, I'm looking for her testimony, and maybe it's within the IEM Committee, but I wonder if she wouldn't mind giving us the copy of that if that's okay. If, she, I think you said that your testimony was submitted earlier in the, or is that with Committee meetings? We should look in the Committee.

MS. PACI: We sent in letters on November 30, and December 8, and then most recently an email on December 13.

COUNCILMEMBER SUGIMURA: Oh, okay.

MS. PACI: We sent it to all Councilmembers through the Clerk's Office.

COUNCILMEMBER SUGIMURA: Thank you. Thank you.

CHAIR WHITE: Any further need for clarification?

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: I just wonder if Ms. Paci could be a resource when we get to that item, if it's, if you're able to stay around or come back when we get to the last one on the agenda.

MS. PACI: I'll try to stay around as long as I can.

COUNCILMEMBER KING: Okay. Cause I don't want to belabor it right now, but I think we might need clarification at that time. Thank you.

CHAIR WHITE: Thank you.

COUNCILMEMBER COCHRAN: So, Chair, sorry, real quickly.

CHAIR WHITE: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: So, I just want, thank you, Chair, I mean I'm referencing the item, and so to clarify because sand is being exported, definitely not able to be exempted is my take on that.

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

MS. PACI: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Madge Schaefer testifying on County Communication 17-491. To be followed by Kaniloa Kamaunu.

MS. MADGE SCHAEFER, (testifying on County Communication No. 17-491):

Good morning. My name is Madge Schaefer, and I'm here in the matter of David Taylor. I watched the Committee meeting hearing and I thought the Council asked some really good questions. I was glad that you all were paying attention to what was happening for you. Because from what I concluded after listening to that hearing was

a qualified engineer, long-term standing with the County, with a, with excellent management skills, had never had a complaint, was unceremoniously fired by the Mayor who would not reveal what the accusers were saying. It really was a star chamber on the ninth floor against a person who has, I think the general consensus among the public and among this Council is that he's done a very good job.

What was infuriating to me was the Mayor defiantly said if this Council does, in my opinion, the right thing and does not support the Mayor dismissing Mr. Taylor, that he would simply put him on administrative, paid administrative leave. I believe that's what he did to Hana Steel. So, the taxpayers paid the salary of someone who didn't come to work, because she aggravated the Mayor. And now we have another situation, same situation; paying someone to stay home because he doesn't agree with the Mayor.

The issue of the Wailuku Water Company has been brought up in, in various articles. I, it's my understanding Mr. Taylor presented a business plan which is what a good department head should do when the County is going to acquire a very expensive property. And, the Mayor didn't agree with that.

If there ever was a case example for why we should have a County manager, this is it. I ask you all to do the right thing, the right thing so that the new department head can ignore the ordinance that requires that every water meter be assessed as to what the flow is for those already with meters, what the fire flow is, simply ignore that as the Mayor did with the short-term vacation rental enforcement. So, please do the right thing, and Merry Christmas.

CHAIR WHITE: Thank you, Ms. Schaefer. Any need for clarification?

Seeing none, Members, after this next testifier, we'll take our morning break.

DEPUTY COUNTY CLERK: Next testifier is Kaniloa Kamaunu, testifying on Committee Report 17-167.

MR. KANILOA KAMAUNU, (testifying on Committee Report 17-167):

Aloha mai kakou. Kaniloa Kamaunu, Waihee Valley. So, I'd like to read some excerpts from some Federal discussions as far as on citizenship of our people. And, this goes back to the 1900 Congressional Debate, as between the Senators as they debate who are considered citizens of the republic.

And it goes, "I desire to ask the Senator - I probably knew, but have forgotten the provision of the Constitution of Hawaii on the subject - as to the extent of citizenship under the republic. Were all the inhabitants meet citizens?" Answer, response, "No sir. There are a class of citizens existing under the republic who declined to take the oath of allegiance." Response, "And they were in consequence not citizens?" Rebutting "They were in consequence not entitled to vote." "But were they citizens of the republic?" "I suppose they might be regarded as citizens of the republic." "The Senator will see the pertinency of the inquiry when that part of the section is taken into connection with the amendment to which the conferees have agreed, because if they were not citizens of Hawaii on August 12, 1898, they are not now under this bill made either citizens of the United States or citizens of the Territory of Hawaii." And, the last remark, "And they would not become citizens of the United States except by naturalization, and I do not know that they could by naturalization under the existing laws".

The Ku'e Petition is the reason why they had this discussion. Because they knew that there were people that didn't want to be part of the United States, didn't want to be part of the process of annexation. They had to respect that due to the fact America did not have a confrontation with Hawaii. So, they could not exercise superiority over Hawaii.

So, the sovereignty, as stated in Act 103-150, "Whereas, the indigenous Hawaiian people never directly relinquished their claims to the inherent sovereignty of our people over the national land, over their national lands to the United States, either through monarchy or through plebiscite or referendum."

There is no documentation that you can find that states that we are naturalized people. And with that, I conclude with the case that was done about almost 10 years, five years ago, where 16 of our kupuna were arrested up in Waiehu for malama the land. They were taken into custody, arrested. Some of them ranging from 60 to over 70 years old. And, that case was dismissed on the lack of jurisdiction by the County to prosecute them because of separation of powers, which was given, which is a power of the Federal government bestowed upon the President and Congress, which took that action in 1900. Thank you.

CHAIR WHITE: Thank you, Mr. Kamaunu.

Members, we'll take our morning break.

COUNCILMEMBER COCHRAN: Chair, Chair.

CHAIR WHITE: Oh, I'm sorry.

COUNCILMEMBER COCHRAN: Chair, real quick.

Mr. Kamaunu.

CHAIR WHITE: Mr. Kamaunu.

COUNCILMEMBER COCHRAN: So, thank you. This, your testimony is referencing the whole agenda, or?

MR. KAMAUNU: No, it's referencing, well it could, but it's referencing that to the purpose that what's happening here, the discussion fails to address the people that lay in the sand. 1860 gave them a right, I brought that forward. 1816 6(E), referenced that in 6(E); that these people have a right to remain where they are. And the action to disturb, whether directly or indirectly, those people are held responsible for the disinterment, dismemberment, disruption of their burial sites. These places are known historically as burial sites. Their rights are moved over to say sand mining. These not, do not address the rights of those people to remain.

Congress already did that. I have a paper from Mr. Inouye, Senator Inouye prior to him passing, that if somebody asked him to come to the court case, he said due to the separation of powers, I cannot enter the court case, when they start saying that, that means the court cannot visit anything that was already done by the political departments, the President, and Congress. There's no court in the lands that can supersede what was already directed, which is the congressional date of 1900. So, that app refers to those people lying in the sand too. That's their rights.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. Thank you, Mr. Kamaunu for being here. Thank you for your oral testimony. My only question is, would you be able to provide us any parts of the, your testimony in a written format, so that we can enter that into this meeting's records?

MR. KAMAUNU: Yea, I'll do that.

COUNCILMEMBER ATAY: Thank you.

COUNCILMEMBER CRIVELLO: I have a, Chair.

CHAIR WHITE: Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you for being here. I've observed your participation, although I'm not a member of the Committee. So, mahalo. What I just heard you say, sand mining is not addressing the burials?

MR. KAMAUNU: No.

COUNCILMEMBER CRIVELLO: Okay. Next inquiry in this, because as, if I understand it right, came from Committee or the Committee Chair, that there is a request to exempt a landowner, I believe it's Everett Dowling. Is, is that, do you consider that okay as part of a moratorium request to exempt that, that landowner is not included in the moratorium?

MR. KAMAUNU: No, because you know, the whole thing is that due diligence to the properties haven't been done. Even though there's past history, that does not take into consideration. It's dismissed. Previous, they tried to separate the parcels as different sections of areas. But, really when you taking it to its full contents, and I believe one of your staff members bought a map of how huge the area exactly was.

And, I understand there are people that bought properties that have no idea. But then again, that's why you buy insurance too, yea. Insurance protects you from things that you are not told of by realtors that sold. But, also on the contract that people sign, real estate, it says, and I believe it's in Latin, buyer beware. Meaning that you should do your due diligence.

So to exempt anyone is really very atrocious, because why should they be exempted, cause when we know as the further down that they go to excavate, as was asked by Ms. Paci, they find them and then there's nobody to protect.

COUNCILMEMBER CRIVELLO: I was, I was just asking for clarification because that came part of the, from, from the maker of the bill.

MR. KAMAUNU: You know, and I support the moratorium. I don't agree with everything, but you know, some things can happen, some things don't. My due diligence is to bring forward what you actually are responsible for as legislators.

COUNCILMEMBER CRIVELLO: Thank you.

MR. KAMAUNU: Thank you.

CHAIR WHITE: Any further need for clarification? Seeing none, we'll be taking our morning break. Please be back in your seats at 11:00.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:50 A.M., AND WAS RECONVENED AT 11:11 A.M., WITH ALL MEMBERS PRESENT; EXCEPT COUNCILMEMBERS GUZMAN AND HOKAMA, EXCUSED.)

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

Mr. Clerk, let's proceed with the remaining testifiers.

DEPUTY COUNTY CLERK: Next testifier is David Prais, testifying on Committee Report 17-167. To be followed by Christopher Fishkin.

MR. DAVID PRAIS (testifying on Committee Report 17-167):

Aloha kakou.

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CHAIR WHITE: Aloha.

MR. PRAIS: My name is David Ka`eo Kamanaokealoha Prais. I'm here before you again to, in support of the moratorium. Recently, I was arrested in Hamoa, in Hana, Mokae, cause of the same situations; burials down there.

And the archeologist, the monitor is from the same company as the sand mining. Now as, as it goes, I have her on recording that she said that she couldn't stop anything unless it was full skeletal that she came across. Let alone, at that, she couldn't stop it because they want it so bad.

So, there's a problem here we have majorly within Hawaii and our County. And, it's upon all you guys to do the right thing. I'd like to also welcome criminal investigation unit here, because we are criminals. We are considered criminals for standing up for what is right; what you guys should be doing. Maybe you have your burial plots in place. What about 100 years from now if they decide to dig you up, will it be okay to put you in a cement wall somewhere in Honolulu or somewhere else? Let it take you home, yea.

Now, these burials that are there been there long time. And back then, our islands were small. Anybody kanaka maoli, we related, yea. So, the same thing that's going on out here is what's going on everywhere else. And I ask you guys to do the right thing, yea. No matter get exempt or what, it's hewa, yea. Please just do the right thing. Because, again, we're at the butt end of this. I was here the last time. Reconvene on this issue today. You guys need to do something, because, you know, how many of

us need to be on the back end of it, and at what cost? I mean, all peaceful, but we're protecting. And that's why we have CIU to monitor us and follow us around and do these things, because we're not afraid to stand up for what's right and do what's right. And I only ask that you folks do the same. Mahalo.

CHAIR WHITE: Thank you, Mr. Prais.

Members, any need for clarification?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Mr. Prais for being here. I want to get clarification. You mentioned some other burials sites out in Hamoa?

MR. PRAIS: Yes, in Mokae.

COUNCILMEMBER ATAY: Mokae?

MR. PRAIS: Yea, Mokae; M-O-K-A-E. Otherwise known as Hamoa Beach. They have the so-called correct permits; SMA, EIS, the arc one. There's a monitor on site. Now, this current monitor has 30 other permits that she's supposed to be at that are ongoing constructions, yet, she's right there.

So, it was day two that they dug the hole. So, what I witnessed was they dug the hole for the septic, which was previously disturbed ground. I asked her, so what's going on? I have everything on recording. That there's, it's scattered all over, and I'm also supposed to be sifting through the dirt that they moved over there. And, I witnessed it as they just scooped out, not slow, just grabbed with a backhoe, put it on the side bob, Bobcat pushed it on the side, then the excavator went right on top so that way it could lift up the septic tanks and get it closer. And, I said, and then she told me the only way that she could stop it was by full skeletal. And even at that, probably not because they want it so bad.

So, that's where I decided, you know, na iwi took over my body and I got in the hole. Everything was peaceful. I had communications with the hotel, the police officers, and the construction company onsite, as well as the archaeological monitor.

(Councilmember Guzman returned to the meeting at 11:15 a.m.)

COUNCILMEMBER ATAY: So, so I just want to get clear. So, the location that you're citing of this is--

MR. PRAIS: Desecration.

COUNCILMEMBER ATAY: --the, the beach? The--

MR. PRAIS: Yea, so if you're familiar with Hamoa Beach, you have the pavilions and then you have the bathrooms, the hotel bathrooms. Both establishments belong to Travaasa.

COUNCILMEMBER ATAY: Okay.

MR. PRAIS: They're seeking to put in a leach field and a grease trap.

COUNCILMEMBER ATAY: Okay.

MR. PRAIS: And, only options given so far which nobody has come to any of us in the village, Piilani is right across direct descendants, as well as us, Kealoha Aikau Ka'eo.

DLNR, SHPD, has not been there once. As far as I know, Shane Sinenci and Mavis Oliveira have been in contact with Travaasa, and SHPD perhaps. Shane Sinenci coming through Aha Moku Council, yet, nobody has come to see us right there.

And, emails have just begun between SHPD and, and us lineals.

COUNCILMEMBER ATAY: Okay. Thank you. Thank you.

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

MR. PRAIS: Mahalo. Merry Bah Hum Bug everybody.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Christopher Fishkin, testifying on County Communications 17-487, 489, and Committee Report 17-185. To be followed by Magdalena Pu'u Wood.

MR. CHRISTOPHER FISHKIN, (testifying on County Communication Nos. 17-487 and 17-489, and Committee Report 17-185):

Good morning, Members of the Maui County Council. My name is Christopher Fishkin. For the record, I'm a former legal assistant for the now deceased Attorney Burton Gould and presently legal assistant to two attorneys; one here on Maui, one in Honolulu.

As regard, 17-485 and 17-487 together, so you can roll over my time, I spoke at the past two budget hearings informing the Council that since 2012, they have been passing annual budgets, which violate the County Charter because they're, they do not include any of the anticipatory revenues, which would result from the assessed developer deferral agreements.

Not including anticipated revenues in a County budget in order to offset expenses is a breach of fiduciary duty by first the Mayor and then subsequently by this Council, which has approved these budgets annually since this Council amended the ordinance regarding the assessment of these deferral agreements.

Meanwhile, Public Works Director David Goode is allowed by this Council to make statements in a court of law that these agreements may or may not be collected upon, which contravenes the County ordinance. He has also acknowledged in previous public statements to this Council that the one time only deferrals have been used multiple times on the same underlying parcels, which is an acknowledgement of the blatant contravention of the County ordinance, deferrals authored and approved by Mr. Wong and the Department of Corporation Counsel.

I would like to ask the Chair to please ask Mr. Wong to recuse himself from any deliberations regarding the budgetary resolutions or the deferral of resolution audit, because he is a party to litigation presently pending that relates directly to those issues. So, I'm requesting that he recuse himself from those deliberations, he's conflicted.

A main issue with this Council, that I have, is that when someone is proven to have lied, violated County law, rules and procedures, abuse their power and authority, no County official is ever held accountable by this Council, despite the fact that you have Section 9-12 of the County Charter, which has penalties for incurring, for County officials that incur liability on the County of Maui.

I believe that the Council's, by the Council's failure to use its lawful remedies constitutes negligence and in itself, wittingly or unwittingly, incurs liability on the County of Maui by its ongoing failure to discipline or penalize County officials who lie in court documents, who lie to this Council, who, who actually collude with Administration

officials and cover up a developers' obligations. Just in unholy alliance is only akin to Watergate in Maui, which is going to be coming out little by little now.

Despite the ongoing violations by County officials proven to have incurred liability on the County; on Montana Beach, Olowalu, Palama Drive, multiple overlapping subdivisions, SMA permit and subdivision law violations. County authorized litigation against whistleblower and private citizens who are for, one of whom is a former executive assistant to this Council, who are trying to expose this corruption, they are systematically punished and litigated against, authorized by this Council using a conflicted legal Counsel led by Patrick Wong, sitting in this room right now. Not one official of which I've spoken over I'm aware has ever lost their job, gone to jail, been fined, etc., and this body refuses to stand up to ongoing corruption by their own legal Counsel.

Furthermore, I'd wish to announce a forthcoming ethics complaint by me against Mike White as Chief Procurement Officer for being formally noticed way back in September of procurement violations by Corp. Counsel, which Mr. White has failed to investigate, refused to have ever responded to any of my formal inquiries, and he's the Chief Procurement Officer for this Council.

I'm now moving onto 17-489. As to the agenda, licensed attorney and Councilmember Don Guzman's resolution. First again, Patrick Wong is conflicted, presently named a party, I said all that.

I'd like to recognize first the efforts of Mr. Guzman's executive assistant Kathy Kaohu for having the courage to once again bring this alarming matter into the public light. As you all may be aware, Ms., Ms. Kaohu was a long-time executive assistant to former Councilmember Jo Anne Johnson and Sol Kaho'ohalahala, and has been courageously serving the public interest in seeking the recovery of public funds owed by private developers for almost two decades.

Elle Cochran, also attempted to recover the public funds unsuccessfully because of the gentleman right over there who's your legal counsel, Patrick Wong, who for years has obstructed all documented efforts on behalf of private developers in collusion with the Department of Planning and the Department of Public Works. The Department of the Corporation Counsel should be named in the performance audit, which belong with Public Works.

Like Ms. Kaohu did, the executive assistants, for the Maui County Council stick their necks out each and every day, and their sincere and diligent efforts to serve the public interest should be recognized and protected. Certainly, Mr. White should not be allowed to intimidate, fire, or crush executive assistants current or former, when the

questionable acts of the Administration and Corp. Counsel are raised with substantial evidence of wrongdoing and so are just cause for whistleblowing an investigation.

As, as an expert in infrastructure and land planning, Mr. Christopher, is this three minutes on my, this, this new one?

CHAIR WHITE: Yea, you're, you're done with the second one, so you can go onto 17-185.

MR. FISHKIN: Okay. Thank you. For the record, the discovery that millions of dollars of public funds were being intentionally used by the Department of Public Works to complete private developers' subdivision infrastructure improvements was first presented to Kathy Kaohu almost two decades ago by a dedicated private citizen.

CHAIR WHITE: Mr. Fishkin, the, 17-185 is a budget amendment for the Parks Department. So, that doesn't--

MR. FISHKIN: I had linked those other two previously together.

CHAIR WHITE: No, and, and we've given you the full amount of time for the other two. We gave you three minutes, I believe. Mr. Clerk, didn't we give three minutes for each of the first two items?

DEPUTY COUNTY CLERK: Yes, Mr. Chair.

CHAIR WHITE: Thank you. So--

MR. FISHKIN: Okay.

CHAIR WHITE: --you're welcome to testify on 185, but you need to stick to the item.

MR. FISHKIN: I will just wrap up and just say I support the ordinance to audit, to, the audit performance ordinance for the deferrals. I wish you name Corp. Counsel. It would be a complete act of non-feasance, I believe, not to name the Department of Corp. Counsel in that investigation. Thank you very much.

CHAIR WHITE: Thank you, Mr. Fishkin. Any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Magdalena Pu`u Wood, testifying on Committee Report 17-167. To be followed by Annette Heu.

MS. MAGDALENA PU'U WOOD (testifying on Committee Report 17-167):

Aloha mai no County Council. I support the, the sand moratorium. I believe that it is at the least minimum effort to try and aid to saving our resources for this era is the last of all that we have.

Since the illegal overthrow of our Queen back in 1893, and shortly after, was the successful oppression of our people, our resources, and the illegal sale of our land. The exploitation has been going on for 117 years.

I believe that there should be no exemptions on anyone thus wanting to extract. We think about the resources as a commodity to make mass production of money. What are we going to do when it's gone? And these people that ask for the exemptions that solely making their revenue off of the sand, haven't they known that it's running out? What have they done to make sure that they have another source to make all that they have. Sand is not the only thing that you can build with. I feel that the exploitation, the abuse, is gone too far of our resources, sand, water, our medicines. It's gone too far already, and it's getting way out of hand. And, it's come to the point that it is successfully erasing our history, dismembering our kupuna, you know.

And, a couple of testifiers before me, you know, it's sad to really think that when we bury, when we get buried, if we so last 100 years beyond that, are we going to be dug up too? Am I and my children, and my ohana going to be dismembered because the land that I was buried upon is what you need for resources to make your money back? It's sad.

I feel that since the overthrow and the successful rising of the United States, it has brought forth the successful brainwash that we as people, we can successfully be brainwashed and moved into the commodity of moneymaking of modern time slavery. In these days and this era, we chase a colorful piece of paper and we are willing to do by any means to get it and make more.

What happens when things fall apart and go down? We will not be able to look back to our aina for resources that we need to live, to clothe us, to feed us. We'll have no more for we cannot eat cement, but we can eat aina. Aina means to feed. And what do we get from being fed? We are sustained and we live and we last. We are the moa'e. We are the future, and our future generations depend on this moratorium. I ask you humbly to please approve this moratorium. And I thank you for your time, and I appreciate you listening to me. Thank you.

CHAIR WHITE: Thank you, Ms. Wood.

Members, any need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Annette Heu, testifying on Committee Report 17-167. To be followed by Johanna Kamaunu.

MS. ANNETTE HEU (testifying on Committee Report 17-167):

Good morning, Councilmembers. My name is Annette Heu. I live in the land of Kalua. It has always been the sand dunes that the sand mining issue is all about.

When they come here with their entitlements, as they call it, my question is entitled by who? Who entitled you? Because, as Kaniloa so beautifully brought up, from lands long ago, ancient lands, the right belonged to the people, to their families, to the ancestors. This body, as you call it, has no right to sand mine. Sand mining definitions and grading definitions; come out to a sandhill and watch them sand mine. Watch them operate the bulldozer that takes an arm or a leg or a cranium of an ancient one. Is that desecration? Maui Memorial Park, is that desecration? No.

They come with tax map keys, and their archaeologists. All the little numbers given to you today began with 3-8-7-1-3-1 by their own archaeologists; a known burial area. When they bought it, they knew it should have been off limits. But, they were granted entitlements and promises that they could dig, and they could grade, and they could mine the bones of the ancestors.

So, I stand here and I say no. And, I thank this gentleman for protecting the bones of the ancestors at Hamoa, because guess what? My Aunty Rebecca is of Hamoa. So, thank you. No rights, because I'm not Hawaiian. I am a human being. I have rights. Thank you.

CHAIR WHITE: Thank you for your testimony this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Johanna Kamaunu, testifying on Committee Report 17-167. To be followed by Mahina Martin.

MS. JOHANNA KAMAUNU (testifying on Committee Report 17-167):

Aloha. Dang it's so cold this morning. My name is Johanna Kamaunu. I live in Waihee Valley. Early this morning, I read a text from a friend halfway around the world in Germany. And in the text, she wrote about how devastated she was.

She is at home visiting family and wanted to take flowers to her parents' graves. Upon arriving at their gravesite, she found their graves were gone. And, I'm shocked, and she says we heard that they were, we were told that they were going to move their graves. They needed to make room, but we have been trying to work with them to extend it until we found someplace to put them. But, she arrived that morning with her flowers and found that their graves and their headstone had all been removed.

This person is special to me. My son introduced her to me, and I lost my son in a traffic accident on Mokulele Highway. So, when we start talking about where we lay our dead, what we do with their remains, those words have special meaning to me. And even though she's halfway around the world, she's experiencing the pain that we experience.

I couldn't put my son in the ground. He's at home with us. I'm not sure where I would find him in the future, but I know I can always see him. Someday we will inter him, but not today.

She cries about the last remembrance of her parents are gone. The last physical remembrance of them being in this world is gone. We've lost a culture. We've been separated from it for a long time. And, granted the powers that be, has afforded us some opportunities at recovering that.

This moratorium is maybe one step in that direction to solving it. But, it doesn't solve the problem. No matter what area of land you clear here without vetting it first for remains and for family members, with family members, you always stand in that position of injuring them, injuring their memories, and just wiping us out.

I wanted to say more, but I'm just, I'm sorry. Thank you. That's my testimony.

CHAIR WHITE: Thank you, Ms. Kamaunu.

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

MS. KAMAUNU: One more thing, I'm sorry. I never got to say this when it happened, but the Council paid us a great honor when they recognized him and sent us a notice. I never got to thank the Council at that time for it. I appreciate that you help us to remember, help the rest of us to remember this place. Thank you.

CHAIR WHITE: Thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Mahina Martin, testifying on Committee Report 17-192. To be followed by Rosemary Robbins.

MS. MAHINA MARTIN (testifying on Committee Report 17-192):

Good morning, Chair, Council. I'm here as an individual. My name is Mahina Martin. There are many issues to offer testimony on and far more articulate than mine, including from the Kamaunu's. So, I hope you will take that into consideration.

I'm here to talk about and to thank you, mahalo you, for your consideration for the 50-year lease at Hoaloha Park for Hawaiian Canoe Club and Na Kai Ewalu. By the time 50-years has gone by, I think I calculated, I'll be 103; far too old to come before you to ask for renewal.

But for the record, I wanted you to have the perspective of how we got to this place and encourage you, as I'm sure you will and I hope you will, to favorably proceed in that, that manner.

In the early 1990's, I was sitting at the State Legislature. I, I think I was killing time in the research room before a flight, and I discovered that our hale, I was the president of Na Kai Ewalu at that time, was going to be taken away by A&B, because it was going to expand the harbor. And, unbeknownst to us at that time, because we were on a month to month lease, we didn't know that we were on fast-track to lose our hale grounds. And, we were in the little cove area where the small river mouth goes down.

And so, I came home, I was highly alarmed, talked to Diane Ho, who at the time and still is a key leader of Hawaiian. We formed a joint canoe committee, canoe club. And at the time, both canoe clubs were big rivals, very deep . . . historic rivals. But, we pulled together. We came before A&B, as well as the County, and asked for support to move to Hoaloha.

Not everyone supported us, because at that time, canoe clubs were still seen as a bunch of beer-drinking, hang out at the tailgate, you know, nothing better to do with our lives bunch of people, because we kind of kept to ourselves. But, as you can see throughout the years, you know, we've become far more engaged, a lot more public; and as obvious, we are very much a part of the community and come from all walks of life.

So, I encourage you to do that, because from that point forward, we were able to work with A&B, get Hoaloha Park, build in conjunction with County and State support, the two state of the art haies that you see today. And, it came from our Members, and it came from help from the community.

And, so I, I want to mahalo you for giving us a chance to continue for another half a century and separating out the two clubs, because they individually have earned the right to continue their work there. So, thank you again. It's been an exciting first few decades at the harbor. And I'm sure when I'm 103, I'll be hoping to continue that a little more. And, there's no age division to race for 100, but we'll see. But, thank you all.

CHAIR WHITE: Any need for clarification? Seeing none, thank you for being here.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Rosemary Robbins, testifying on County Communications 17-486, 489, Committee Report 17-167 and Bill 103 (2017). Ms. Robbins is the last individual who has signed up to testify in the Council chamber.

MS. ROSEMARY ROBBINS, (testifying on County Communication Nos. 17-486 and 17-489, Committee Report 17-167, and Bill 103 (2017)):

Good morning, everybody.

CHAIR WHITE: You've come appropriately dressed this morning.

MS. ROBBINS: It's freezing up where I am when I wake up. I argue with the alarm, but it works. I'm defeated in that one.

I'd like to address the first issues that are on the paper I submitted to an item at the very bottom of page 2 on the agenda. Not everybody has some of those other papers, but hopefully everybody picked up an agenda out in the front hall here.

Item 3 says that there is "An emergency proclamation, declaring that the county needs to remove more than 400 dead eucalyptus trees in the county owned right of way along Piiholo Road before any more falling trees cause property damage, injury or death." That's reading right from our agenda. I'm looking at those last two words in there, separated by the "or" "injury or death". This is not an emergency as far as everybody who has testified here this morning.

And, I must say that on December, in December of whatever, I was hit by a falling eucalyptus tree. This was on privately-owned land, but it did just as much damage. The tree hit the roof of the car, the roof of the car hit my head. I was unconscious, being pushed to the other side of the road because they have to, the tree had hit a hydrant, created a geyser and the aquatic specialist could have drowned in her own car several hundred feet above sea-level. I mean that sounds weird but that's in the record.

And, I would like to thank Charlie Ledward with the Fire Department, who indeed told me all that stuff that had happened while I was unconscious and heading to the hospital. This is not an emergency proclamation, this has been a need for years.

And some of the things that went on while I was long-term in the hospital, Maui Memorial, thank you for all that. Short-term memory a problem. That's why I write everything on the back of an envelope so I can stick it in my pocket, and deal with it as a reference because I can't use electronic devices the way the majority, but not all of the population does.

So, I would like to say that I indeed support getting rid of those trees. And, I'd like to thank the Fire Department, and did this last time I was up here for going after a grant for extrication equipment. That's how they got me out through the trunk of the car.

So, the next item that I had put down on the paper is over on page 3, halfway down. Item on the agenda, number 17-489, urging the County Auditor to include a performance audit, meaning of stuff already done and not having been done, of the Department of Public Works relating to three lots or less subdivision deferral agreements in the Fiscal Year 2019 list of the Auditor's self-initiated projects, end of quotes.

We've been trying for years, concerned citizens, to be able to get print-outs that show, not the audits of what has been done, but what is your plan? We've mentioned who, what, when, where, why. In setting out a plan, we have real concerns when it stops after the who and doesn't give due attention to the fact of why for the well-being of the people of Maui. So, we have recommended that those w's and the how of that get rearranged to make sure that our focus is on the well-being of people of Maui, and to

do that extensive planning ahead of time. And then, it'll be from here till where we're no longer here to look back on those things. But, this would be a good start to have that under the auditing.

Third item on that request to speak here this morning is over on page 3. I don't think so, sorry, it's on page 4. It's on the bottom of the page, Bill No. 103, "A BILL FOR AN ORDINANCE AMENDING ORDINANCE 4454, BILL NO. 63 (2017), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (KAHULUI DRAINLINE REPAIRS)".

If it's been said once, it's been said numerous times right at this microphone to keep in mind that anytime we're floating bonds, the four-letter word synonymous for bond is debt. And we, even though the bonds may go for 21 years, it's been said here before that children who have not yet been conceived are going to be born with this kind of a debt backpack on their shoulders, to try and get through life. So, be careful if you will about floating bonds; remembering that if those accommodations had been made timely, it'd have been much less expensive, much less dire in their extensiveness. And, those little ones would be able to learn to walk without the weight of that on them.

The last item on that is on the last page of our agenda, it's the last item; Committee Report No. 17-167 from the Infrastructure and the Environmental Manage *[sic]* Committee, first reading of the bill establishing a new Chapter 20.40, Maui County Code, declaring a moratorium on sand mining of central Maui inland sand.

I have no relatives in that area, but I'm not the issue. The issue is that it's been known for a long time, testimony has been given here, that the people who did the appraising for those were not people who were specialists in that variety. The same thing is happening up in Keokea, in upper Kula, that person also said that. Why would you hire somebody that's a specialist if that somebody is not a specialist in that field? And, they've announced it in their paperwork for it. So, the paperwork is here. It's on the seventh floor. It's been brought up here before this Committee before.

So, there is good news. People are bringing up all the folks that for years would not come up here, would not submit written testimony into the records. It's there on the seventh floor. It's available on your Granicus and whatever the rest of the instruments are that you are using.

Please hear the heart of the people who are here. They're talking from experience. They're talking because they care. So, endorse their care with your care and do the right thing. Thank you.

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

MS. ROBBINS: You're welcome. Stay dry. It's . . . out there.

CHAIR WHITE: Mr. Clerk. Thank you.

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

CHAIR WHITE: Thank you, Mr. Clerk.

Members, we've received written testimony, and without objection, we'll receive it into the record.

MEMBERS VOICED NO OBJECTION.

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

1. Sam Small, Maui Causes;
2. Stephanie Metzler;
3. Leiane Paci, Maui Lani Partners;
4. Michael J. Summers, Planning Consultants Hawaii, LLC;
5. Joseph Kohn;
6. Marta Greenleaf;
7. Lucia Maya;
8. Dorothy and Karl Higa;
9. Martha Lind;
10. Renata Mock;
11. Lee Stein;
12. Pamela Tumpap, Maui Chamber of Commerce;
13. Erik Fredericksen, Xamanek Researches LLC;
14. Charles Chimera;
15. Yarrow Walsh;
16. Robin Winn;
17. Melissa Michelle Chimera;
18. Mimi Boyum Tackaberry;
19. David G. Goode, Director of Public Works;
20. Bryan Berkowitz;
21. Erik Frost;

22. Karin Frost;
23. Jennifer Brittin-Fulton;
24. Jennifer Noelani Ahia; and
25. Maggie Kramp.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk, let's proceed.

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

(Councilmember Hokama returned to the meeting at 11:48 a.m.)

COUNTY COMMUNICATIONS

NO. 17-485 - MARK R. WALKER, DIRECTOR OF FINANCE,
(dated November 20, 2017)

Informing of the acceptance of sewerline easements S-1 & S-2, Lokahi Pacific Mokuha Subdivision, Wailuku, identified as TMK: (2) 3-4-033:005.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. I probably look a wreck. I was touched by a lot of the testimony.

MR. CHAIR, I MOVE TO FILE COUNTY
COMMUNICATION 17-485.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

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

The dedication is for two sewerline easements in Lokahi Pacific Mokuahau Subdivision, an affordable housing project located in Happy Valley, Wailuku. It is located on property identified for tax map key purposes as (2) 3-4-033:005. And, the purpose of the easements is to include manholes and other equipment and appurtenances to the underground sewerline system.

No County funds were used to acquire the easements.

The Director of Environmental Management has approved the dedication of the easements transmitted to the county communication. It has been constructed in conformance with County standards, and therefore, I ask for filing of this communication at this time, Chair. Thank you.

CHAIR WHITE: Thank you, Ms. Cochran.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

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

NO. 17-486 - LYNN A.S. ARAKI-REGAN, BUDGET DIRECTOR,
(dated November 30, 2017)

Transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PUBLIC WORKS, ROAD, BRIDGE, AND DRAINAGE MAINTENANCE PROGRAM – HIGHWAY FUND; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)";
2. "CERTIFICATION OF ADDITIONAL REVENUES FOR FISCAL YEAR 2018";
and
3. An emergency proclamation, declaring that the county needs to remove more than 400 dead eucalyptus trees in the county owned rights of way along Piipholo Road before any more falling trees cause property damage, injury or death.

The recommended action is that County Communication No. 17-486 be referred to the Budget and Finance Committee.

(WRITTEN TESTIMONY RECEIVED FROM THE DIRECTOR OF PUBLIC WORKS WAS REFERRED TO THE BUDGET AND FINANCE COMMITTEE ALONG WITH COUNTY COMMUNICATION NO. 17-486. See page 61 for discussion.)

NO. 17-487 - LYNN A.S. ARAKI-REGAN, BUDGET DIRECTOR,
(dated December 8, 2017)

Transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PUBLIC WORKS, ROAD,

BRIDGE, AND DRAINAGE MAINTENANCE PROGRAM – HIGHWAY FUND;
TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS
(OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"; and

2. "CERTIFICATION OF ADDITIONAL REVENUES FOR FISCAL YEAR 2018".

The recommended action is that County Communication No. 17-487 be referred to the Budget and Finance Committee.

NO. 17-489 - DON S. GUZMAN, COUNCILMEMBER,
(dated December 6, 2017)

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

The recommended action is that County Communication No. 17-489 be referred to the Budget and Finance Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 17-489 WAS AMENDED AND ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-174. COUNTY COMMUNICATION NO. 17-489 WAS THEN FILED. See pages 61 through 67 for discussion.)

NO. 17-488 - STACY CRIVELLO, COUNCILMEMBER,
(dated December 8, 2017)

Relating to the Section 8 Housing Choice Voucher Program.

The recommended action is that County Communication No. 17-488 be referred to the Housing, Human Services, and Transportation Committee.

NO. 17-490 - YUKI LEI K. SUGIMURA, CHAIR, POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE,
(dated December 7, 2017)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF CARL ADOLPHO III TO THE MOLOKAI PLANNING COMMISSION".

The recommended action is that County Communication No. 17-490 be referred to the Policy, Economic Development, and Agriculture Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 17-490 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-175. COUNTY COMMUNICATION NO. 17-490 WAS THEN FILED. See pages 67 through 74 for discussion.)

NO. 17-491 - YUKI LEI K. SUGIMURA, CHAIR, POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE,
(dated December 7, 2017)

Transmitting the following proposed resolutions entitled:

1. "APPROVING THE REMOVAL OF DAVE TAYLOR AS DIRECTOR OF WATER SUPPLY"; and
2. "DISAPPROVING THE REMOVAL OF DAVE TAYLOR AS DIRECTOR OF WATER SUPPLY".

The recommended action is that County Communication No. 17-491 be referred to the Policy, Economic Development, and Agriculture Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 17-491, "DISAPPROVING THE REMOVAL OF DAVE TAYLOR AS DIRECTOR OF WATER SUPPLY", WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-176. COUNTY COMMUNICATION NO. 17-491 WAS THEN FILED. See pages 74 through 92 for discussion.)

CHAIR WHITE: Thank you, Mr. Clerk.

COUNCILMEMBER GUZMAN: Chair.

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 17-486

CHAIR WHITE: Members, without object, Mr. Clerk, did we pass out the letter from Public Works regarding the trees?

DEPUTY COUNTY CLERK: Yes, Mr. Chair. That was distributed as testimony prior to this meeting to the Members.

CHAIR WHITE: Okay. Thank you. Without objections--

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: --I'd like the, hold on a second, I'd like the letter from the Public Works Director to go to Committee along with that item 17-486. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Guzman.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 17-489

COUNCILMEMBER GUZMAN: Thank you, Chair. In regards to 17-489, a resolution "URGING THE COUNTY AUDITOR TO INCLUDE A PERFORMANCE AUDIT OF THE DEPARTMENT OF PUBLIC WORKS RELATING TO THREE LOTS OR LESS SUBDIVISION DEFERRAL AGREEMENTS IN THE FISCAL YEAR 2019 LIST OF AUDITOR'S SELF-INITIATED PROJECTS".

MOVE TO ADOPT THAT RESOLUTION AND TO FILE THE
COMMUNICATION.

COUNCILMEMBER KING:

SECOND.

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

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Under County Council Rule 7(E), the Rules of the Council, there's no, no waiver of the Committee referral and report is needed because the resolution does not carry any force and effect of law.

This is, you know, imperative in time sensitivity because we're starting a new year. And every year the Auditor puts out a report. And it is up to the Auditor; he is an independent entity, and whether or not he makes his own decisions on what items he's going to audit for the, for the year.

And so, and that being said, this subject matter has been deferred to IEM Committee back in, I believe, May of this year. And, there's been no movement whatsoever on it. And, it's very, a complex matter, this whole subdivision deferral agreements. And, and clearly by my resolution, I have stated in various as, "WHEREAS'S" all of the years and documentation and ordinances that it applies to. So, it is a very complex matter.

And, and it's something that I believe that an Auditor, the independent Auditor that we have has the capability and the access to invest, not really investigate, but to put together a report to have it be more understandable, as well as recommendations into approaching if there are certain amount of deferrals that are out there. What do we do with them now? And, do we, do with, and what do we do with future deferral agreements? And, can we collect on them or not? These are the questions that we need to be answered.

And, maybe the report from the Auditor, if it does have issues to it that's our job to then discover what these issues are and move forward with it. I just don't believe that any Committee under this Council, or this Council as a whole, has the capability or the capacity to investigate this complex of a subject matter.

So, it's really up to the Auditor whether or not he, or that department is, or that entity is willing to investigate and put out a report to summarize what the issues are. So, at this point I would urge, or at least ask my fellow Members to, for support of this resolution. Again, it's just merely urging and requesting the Auditor to consider this be placed on his report to move forward as an audit item. So, thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman. Any further discussion on this item?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, I would agree in supporting this. You know, I'm aware of a petition from the community. I think something like 1400 have been on it. Probably by the time we get out of this meeting, probably be seeing 1500 of our community members requesting this to take place. So, hearing and listening to that community, as well as they talked to the Auditor. You know, we're asking him to consider this. So, I would support this.

CHAIR WHITE: Thank you, Mr. Atay.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I would first ask Mr. Wong, in his official capacity this morning, if he finds anything in the "WHEREAS" or "RESOLVE" clauses that may cause him pause to give us some comment prior to a decision by this body.

CHAIR WHITE: Mr. Wong. Do you have a copy with you? Do you need a moment to review it?

CORPORATION COUNSEL PATRICK WONG: If you don't mind, Chair.

CHAIR WHITE: Yea, let's take a two-minute recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:57 A.M., AND WAS RECONVENED AT 12:00 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER COCHRAN, EXCUSED.)

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, yes, I await Mr. Wong's comment, if any, please.

CHAIR WHITE: Thank you.

CORPORATION COUNSEL: Chair, if I may. Generally speaking, the topic involved in the resolution still is squarely being dealt with. As you heard a testifier say, litigation that's currently pending before the Ninth Circuit, the appellate briefing before the Ninth Circuit

is due early next year. So, as it relates to current active litigation, my office would have pause in that respect.

(Councilmember Cochran returned to the meeting at 12:01 p.m.)

CORPORATION COUNSEL: However, the resolution is simply urging the Auditor to consider something. And as Member Guzman articulated earlier, the resolution does not have the force and effect of law, and is simply a consideration for this body.

With that said, my only pause and hesitation again would be that it enters into a realm of active litigation. And typically, our office prefers that another branch of County government would not explore an area where we're involved in active litigation, Chair.

CHAIR WHITE: Thank you. And as Mr. Guzman stated, that we can't direct the, the Auditor to do something. But at the same time it's, it's his, it's his call whether he does or not.

So, any further questions?

COUNCILMEMBER HOKAMA: Chairman. Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Yea, thank you. So, hearing Mr. Wong's response to the question, and I understand his being concerned about the overall exposure of the County as a whole, so I appreciate that. And as I understand it, the County Auditor presents to the Mayor and the Council his annual recommendations on audits that he would like to perform a operational performance, financial, and that he awaits for us to give review and comment. But, specifically, there is no approval from the Mayor or from the Council. And, that's how the process is laid out in the Charter.

So, we are responding to a proposal from him. We're asking him for a consideration of a proposal. And, I'm assuming that that is appropriate. I would just like to make sure that we place it in the right, that we only can request a consideration period; nothing more, nothing less. That, it's the only parameter that this body has as it may want to put forth a subject to the Auditor, a request for a consideration. We cannot urge him. We cannot do anything else but put forward that request of a consideration. I just want that to be very clear on the record, that we are in no way trying to--

CHAIR WHITE: Instruct.

COUNCILMEMBER HOKAMA: --instruct, correct, or direct--

CHAIR WHITE: Right.

COUNCILMEMBER HOKAMA: --the Auditor in anyway on this subject matter. This is within his sole purview, his sole authority, and his, as the Charter has separated him from us and the Administration for audit review purposes. Thank you, Chairman.

CHAIR WHITE: Thank you.

I'm sorry, Mr. Guzman.

COUNCILMEMBER GUZMAN: Chair, yes, if I could, I would propose a friendly amendment if the body would allow.

TO AMEND THE WORDING OF "URGING" ANY, WITHIN THE RESOLUTION, ANY PARAGRAPH OR SUBSECTION OF THE PARAGRAPH THAT INDICATES THE WORD "URGING", BE DELETED, AND THE WORD "REQUEST" OR "REQUESTING" BE REPLACED.

CHAIR WHITE: Any objections to that, Members?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR WHITE: Okay, thank you. So ordered. Any further discussion?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh, thank you, Chair. And so, yea, I appreciate Mr. Guzman trying to, you know, move the, get this moving. Yes, there is a deferral agreement item in IEM, which we addressed and tried to move it forward, and it kind of got to, you know, a standstill with litigation what have you.

So, in this particular resolution there's a component, I think, that is really important and missing. And, it's the reference in changes that were made in 2010 to the, to the, it was an amendment to 18.040, 18.04.080H [sic]. And, in that sentence, it states, basically "Notices of Intent to Collect shall be sent to property owners with outstanding obligations at the commencement of project funding, followed by collection notices"

and it goes on. So, I think that particular sentence, and it's not stated in this reso, is very key to an auditor or whoever should suss out this particular topic to look at that sentence, cause it's not, it's not really highlighted or stated. Because, I, it says, clearly, shall; notice of intent shall, and collection shall be done. And, I guess that's where the peoples and the public have stated it's, it hasn't, and here we are. So, anyways, that's just my comments.

CHAIR WHITE: I would just add that the Auditor, I've been impressed with his thoroughness and so I don't, I don't think we need to amend the, the reso. But, I think, you know, the Auditor will certainly, I mean, that's, that is a core issue. So, it would be something that if the Auditor accepts this as a, as a project, then I'm sure that that would be a very core issue--

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: --that he would be looking at.

COUNCILMEMBER COCHRAN: Right, very good. It just seemed more like a chronological order of how this has progressed through the years. So, thank you, Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Chair, yea. Just for the record, once again, my reasoning of support for that is, you know, I sit here as a representative of the community. The community has come forward in testimony, making requests. I'm aware of, of the petition that's moved forward that there's at least 1500 constituents from our community making this request. I stand to support this body's, we're not directing the Auditor of anything, but just supporting this resolution.

CHAIR WHITE: Thank you. Any further?

COUNCILMEMBER GUZMAN: Yea, just, just final, Chair. This wasn't an easy resolution. This took my office as well as Council Services a month and a half to do the research for the "WHEREAS'S" to paint the roadmap and to cite the different legislations and ordinances among the years, and as well as stating the different sections of the Code that it would apply to. So, I would urge, or at least request that no changes be made, because it's basically showing the roadmap where, where things can be found, but not directing the Auditor - it's up to the Auditor to figure out the issues - but, directing the background of it. So, thank you.

CHAIR WHITE: Thank you. 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.

Oh, I'm sorry. Ms. Sugimura.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 17-490

COUNCILMEMBER SUGIMURA:

CHAIR, IF I COULD, REGARDING COUNTY
COMMUNICATION 17-490, I WOULD LIKE TO MOVE TO
DISCHARGE THE POLICY, ECONOMIC DEVELOPMENT, AND
AGRICULTURE COMMITTEE FROM FURTHER
CONSIDERATION OF THIS PROPOSED RESOLUTION
RELATING TO THE APPOINTMENT OF CARL ADOLPHO III TO
THE MOLOKAI PLANNING COMMISSION, ATTACHED TO
THE COMMUNICATION.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: Motion to discharge from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair. Your Committee met on November 13, as well as December 11, regarding this nomination of Carl Adolpho III. And, it went back to Committee after we had this last Council meeting because of a request from Councilmembers that they wanted to interview him.

I would like to acknowledge that he made great effort to include us in his already planned schedule for the day by calling in and being available to us online. We tried to get him once, but we kind of missed the window and then he called us back again. So, I just, I just would like to acknowledge him and appreciate what he did.

And, I also want to mention that some testifiers spoke in against him nomina, against his nomination citing when he was a part of the CPAC, Molokai CPAC. And, for the record, he was asked to join CPAC after, unfortunately, a member of the CPAC had passed away. So, going through, you know how our process right? So, we got to go through this process to put him on the CPAC, and, and then he participated, you know, as, as a CPAC member. We did receive testimony, like 20-something testimony of support of him. There were some people who, of course, I guess, spoke against him. But, overwhelmingly in support of him.

And, at this time I'd like to ask the Council to approve his nomination, because we have to reply by December 18. So, I would like to request for the discharge.

CHAIR WHITE: Thank you, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR WHITE: Any further discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, I support this young man. And, I know he will, first of all, the commitment to do his due diligence that would be benefit or not be of benefit to our island community as Molokai Planning Commissioner.

In reference to his, how someone, or some testifier had noted, missed so many meetings. You know, but when he, you know, when I look at the testifiers I didn't see them at the CPAC meetings either. I was there. And, very articulate, very open-minded to, to balance; he brings balance I believe.

So, hopefully, my colleagues will support my effort as the resident representative from Molokai, and support his appointment. Thank you.

CHAIR WHITE: Thank you, Ms. Crivello.

Any further discussion?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Seeing none, all those, oh, I'm sorry. Mr. Atay.

COUNCILMEMBER ATAY: I personally don't know Mr. Adolpho. But, I do member, I do know members of the Adolpho family. And, I know testimonies that, from the community saying not in favor of him, you know, saying that 78 percent of the meetings was missed. Did get confirmation from Mr. Molina that he did miss 50 percent of the meetings.

I also had a chance to confer with Member Crivello to, you know, further understand her strong support for Mr. Adolpho. And, I, listening to her, I would further believe and support her endorsement for Mr. Adolpho.

But, part of my mind is saying, is there a way where any commission or any board member, if you miss two or three meetings without an excuse, can we raise the question of removal from participation? Or do we have something like that?

CHAIR WHITE: We don't as the Council. But, I know that we have received some letters of removal from the Mayor when people have missed a number of meetings. I can't remember the number that he has seen as the trigger. But, I think that's something we're all concerned about, because you need to attend the meetings if we're going to put you in those positions.

COUNCILMEMBER ATAY: Yea. So, because of that, you know, I, I'll support Member Crivello's endorsement for Mr. Adolpho if we can, you know, maybe in the future, consider addressing that issue. But, thank you.

CHAIR WHITE: Okay. Thank you.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

That's for discharge.

COUNCILMEMBER SUGIMURA: That's for the discharge. I know, we got into kind of the main motion discussion which I started.

Mr. Chair, I move to, oh we just did the discharge. We just did the discharge. Okay. So, the discharge just passed right. So, now we're onto the main motion. I move to adopt.

CHAIR WHITE: No. You need to waive.

COUNCILMEMBER SUGIMURA: Oh, I'm sorry. Oh, we didn't do the waive yet.

OKAY, I MOVE TO WAIVE THE REQUIREMENTS OF
COMMITTEE REPORT PURSUANT TO RULE 7(E) OF THE
RULES OF THE COUNCIL.

COUNCILMEMBER CRIVELLO:

SECOND.

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

No need for discussion?

COUNCILMEMBER SUGIMURA: No need.

CHAIR WHITE: Okay. Thank you. All those in favor of the waiver, please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura, now back to the main motion.

COUNCILMEMBER SUGIMURA: Okay, here we go. Now we're onto the main part.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 17-490,
ENTITLED "RELATING TO THE APPOINTMENT OF CARL
ADOLPHO III TO THE MOLOKAI PLANNING COMMISSION",
AND TO FILE COUNTY COMMUNICATION 17-490.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I guess there's no further discussion. So, I think we
all stated why we support him. And, I appreciate his--

CHAIR WHITE: I think, I think so. I think we've covered it during the discharge.

COUNCILMEMBER SUGIMURA: Yea.

CHAIR WHITE: So, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, sorry, I was wondering what part we were at, because
no, I did not state my, my personal, my take on this. So, I'm looking back at the, I'm
going to stand by my, my Committee vote, which was no. And, at that time, this
nomination failed in the Committee, with a 4-2 vote. It just wasn't enough so, here we
are now. It got moved into this process on the full Council to be re-voted on is how I
look at it.

And the, the whole discussion and reference to my opposition has no bearing on this
person in particular; not his character, not his, you know, ma'a and intelligence, and

all this stuff. I, that was never ever a question I think in the testifiers words, and also in my, in my mind. And, also had no bearing on his position with Monsanto. That was never brought up. It was clearly and solely about attendance. And, there continues to be that question and doubt in my mind, according to his attendance. Even in his own words via Facebook and wherever, it has been stated, it was, he was brought in because of, due to the death of one of the volunteers, and sorry for that. And, he, and the calendar was made previously. He saw the calendar, yet, still chose to step up to be a volunteer on, to be the CPAC. He did not attend 80 percent of the meetings, even knowing ahead the, what the calendar was.

So, that still doesn't sit well. And, it's, yea, I hear comments this morning and I don't think it's the attendance records of the public. It's the attendance record of the gentleman we're going to be putting in place to do the work, the due diligent work, yes, the commitment, the dedication to the work of Molokai. And, that has not been proven. So, I like where Mr. Alike Atay was headed in reference to this particular person to, to put a condition or, I don't know, some type of thing in place. Maybe that would be through their own rules that, you know, your kind of, your attendance record is being watched because you previously have proven that you haven't been able to, to, you know, live up to that commitment. So, that's my reasoning. And I am again still in opposition. Thank you, Chair.

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

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Seeing no further discussion.

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Oh, I'm sorry. Ms. King.

COUNCILMEMBER KING: Yea, no, I just wanted to say that, you know, I had original reservations based on testimony that came out. We had, in the last meeting, we had testimony coming at, people testifying on behalf of this young man, and talking about his character and upstanding.

I don't think, from what I'm seeing, I don't think anybody is going to be watched more for his attendance than Mr. Adolpho will be. So, I'm going to assume that there's going to be a commitment there on his part. He did come forward. He did talk to the Committee. And, and I appreciate that. And, so I'm, I'm sitting in support of him at this point. Thank you.

CHAIR WHITE: Thank you. Any further discussion?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Seeing--

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Oh, I'm sorry.

COUNCILMEMBER ATAY: So, I know it's probably never been done, but can something like that be done on a volunteer commission of boards saying that, just like you come in to work, you're on probation, you know. There's a question of attendance, so can, can there be a probationary period of saying prove yourself? You know, the, the quality of, of the, sharing his intelligence and na'ao and judgement, representing his community is there, but I don't know.

CHAIR WHITE: We, we can certainly research that, and see if there's a way that the, that can be done by ordinance or some other way. But, I think it's predominantly up to the commissions to make those determinations.

COUNCILMEMBER ATAY: Okay.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, so, Chair, I think in our discussion, our Committee discussion, which is, was not part of what I read off here is that the commissions basically come out with their own rules of conduct for the commission. And, that usually attendance is, is brought to the consensus, I guess, of the body. So, I think that's what the Mayor's Office reported on that. Thank you.

CHAIR WHITE: Thank you.

COUNCILMEMBER HOKAMA: Chair. Chairman.

CHAIR WHITE: Oh, Mr. Hokama.

COUNCILMEMBER HOKAMA: Quickly. I speak in support of the motion that is before us at this time, Chairman. Regarding the side issue of the attendance, you know, it's an issue for Lanai Planning Commission. It's a issue of many boards and commissions. So, I wouldn't say it's just a Molokai issue. For us on Lanai, it's an issue also.

But, I will say we have received official communication from this Administration requesting replacements of those that have not followed up at, well on attending the meetings that they agreed to prior to the approval or confirmation. And so, I believe there is a process. I believe the magic number is three strikes you're out. I know it's been formalized, but we have received request to replace members on various County boards and commissions in the past. And, I would say it is not only this body's concern, it is the general community's concern as well that those that volunteer take their responsibility seriously that makes key decisions on behalf of all of us. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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: We have eight "ayes"; and one "no"; Ms. Cochran.

Mr. Clerk.

Oh no, we're back to Ms. Sugimura.

DISCUSSION AND ACTION RELATING TO COUNTY COMMUNICATION NO. 17-491

COUNCILMEMBER SUGIMURA: So, the next item that is, is on my Committee, or referred to my Committee is 17-491, which is regarding Dave Taylor. So, do you want to take it up now or?

CHAIR WHITE: Yes.

COUNCILMEMBER SUGIMURA: You do. Okay.

IN REFERENCE TO COUNTY COMMUNICATION 17-4, 491, I
MOVE TO DISCHARGE THE POLICY, ECONOMIC
DEVELOPMENT, AGRICULTURE COMMITTEE FROM

FURTHER CONSIDERATION OF THE PROPOSED RESOLUTIONS ENTITLED "APPROVING THE REMOVAL OF DAVE TAYLOR AS DIRECTOR OF WATER SUPPLY", AND "DISAPPROVING THE REMOVAL OF DAVE TAYLOR AS THE DIRECTOR OF WATER SUPPLY", ATTACHED TO THE COMMUNICATION, CHAIR.

COUNCILMEMBER KING:

SECOND THE MOTION.

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

Ms. Sugimura, further discussion?

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair. The Committee met at its meeting on December 11, consider, to consider the Mayor's recommendation to remove Dave Taylor as the Director of Water Supply for the County of Maui. Mr. Taylor was removed from his duties as Water Director on November 15, 2017, when the Mayor placed him on paid administrative leave.

Because of the time sensitive nature of this matter, discharge is needed or requested to enable the Council to consider action today on either of the proposed resolutions.

CHAIR WHITE: Okay, any further discussion on the discharge? All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Now, request for the waive.

I WOULD LIKE TO WAIVE THE REQUIREMENT OF
COMMITTEE REPORT PURSUANT TO RULE 7(E) OF THE
RULES OF THE COUNCIL, CHAIR.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello *[sic]*.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Approval of my motion by a two-thirds vote of the membership of the Council will enable the Council to consider either, either of the proposed resolutions today. Need a two-thirds vote. Thank you.

CHAIR WHITE: Okay, any further discussion on the waiver? All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 17-491,
ENTITLED "DISAPPROVING THE REMOVAL OF DAVE
TAYLOR AS THE DIRECTOR OF WATER SUPPLY", AND
FILING OF PROPOSED RESOLUTION ENTITLED

"APPROVING THE REMOVAL OF DAVE TAYLOR AS THE
DIRECTOR OF WATER SUPPLY", AND FILE COUNTY
COMMUNICATION 17-491.

COUNCILMEMBER KING:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, Chair, just some history. So, Dave Taylor is, has been employed with the County for 25 years in various capacities. He has worked as a managing, in the Managing Director's Office, Department of Environmental Management, and Department of Water Supply. He was appointed by the Mayor to be the Director of Water Supply for the Mayor's first term, and then again same capacity for the Mayor's second term.

Under his leadership, he has guided the Department through some tough water issues. He has, he has technical expertise and strong engineering background, which the Mayor can attest to. He also, he is also not being accused of any wrongdoing, which the Mayor also said. But, because there's only one year remaining before the end of the current Administration, I think it's critical to maintain consistency and keep leadership in place and, and appropriately prepare the department for the next Administration.

I believe our, in the Committee, we heard through closed session things that are related to this removal. And at this time, I think it's critical to maintain our water supply, the situation that it is. I would also like to add that Mr. Taylor is a position appointed by the cabinet, as a cabinet employee which are hired at the will of the Mayor. We all know that. And, it's something that is agreed upon and signed with Mr. Taylor.

I also would like to say though, that through the, through this one year, I guess almost one year that I've been here, haven't heard any really negative reports on his performance. I think that we did hear that there may have been some, you know, just kind of management things that came up that maybe that would be interesting for the union to talk to their members, or the members talk to their union and maybe handle those kinds of things in that way. But, at this time, that is what I'm recommending.

I also would like to say that when we did meet with the Mayor and the Mayor said that if we were to send him back to work, he is right now on a, on paid leave, and that with

12 months left that he may put him back on paid leave. I hope that doesn't happen. I'm not sure what this body is going to do. I do respect the actions of the body as majority will, will take the appropriate action in, for the will of the people. And, to represent a very important aspect of, of what the County does, which is managing our water supply.

As you know, no water, no life, no nothing, right? So, as a Ag Chair, also, I think that it's a very important thing. I would say I'm not that happy that the Upcountry Water Meter list is not handled after all these years. But, it, it's longer than Dave Taylor's existence, I mean it was even a problem when I worked for the County a long time ago. So, it's not something that's new. But, it is something that I wish somebody would pay attention to, closer, and take it seriously. But in this, at this case, at this time, Chair, that is my recommendation. So, I look to hear what the Members would like to say.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, thank you. I've had the opportunity to meet regularly with Director Taylor as we met with the Water Resources Committee, I sitting as the Chairman for that Committee. And you know, the kuleana that Director Taylor carried in regards to addressing water resources, you know, starts with the care of our forests, our places where we gather our rainwater, to then the surface water, so concerns of the health of our surface streams and so on. And then trickling on down to our groundwater situations; i.e., the status and state of our various aquifers that we have around the island. That's also part of his kuleana. And then it came into the pipes, you know, the water supply systems. You know, he oversaw some 780 plus miles of water pipes, and meeting with Director Taylor, you know, he was always on it, you know.

And, I'm kind of puzzled by this request from the Mayor for removal, because through my full year working, you know, every month with him, he has always been good, good, good, you know. And all of a sudden, he becomes like a bad employee. I don't agree with that. So, so I stand with this resolution to move this forward.

CHAIR WHITE: Thank you, Mr. Atay.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I don't question Mr. Taylor's capabilities. I think when we had the recent Wailuku River damage, and to our water supply, how, how he and his Department handled everything and it goes through.

The, the kind of stuff that bothers me is we have a fiduciary responsibility also. You know, when the Mayor makes comments that, and he's right now on administrative leave if I understand correctly. And, he makes like \$135,000 a year, plus about 84 or 85 percent with the fringe. That, that can total to almost \$250,000.

So, what is the Department or the Administration, how are they going to address what Ms. Sugimura talked about; making sure everything flows accordingly, because you cannot replace his position when he's on administrative leave? And, how are we going to appreciate what value he brings to with, with that, the comment that came from Administration? So, how do we move forward so that the Department is functional? And, I, I can see it as such. But, you know, how would that be handled with he's the engineer; he'll have that position on administrative leave? And, who do, do they have a plan in place, meaning Administration?

So, I'm, I'm torn as my role as paying attention to the dollars that, you know, we always hear that in Budget. Okay, let's zero out this position, let's add this position, or, or what have you because of the monies involved. And these, this also, administrative leave includes the pension, health insurance, and everything else that comes with, with that.

So, I would hope the Mayor and the Director will, would have been able to resolve whatever differences are in, in the line of managing the Department, and the end result are the consumers. And, that's my concern. And, if somebody can tell me how we can address that, you know, if we can be assured that he'll be put back in his position or is it a complete cutoff? Is it the Mayor's call to say, I'm having him on administrative leave if you folks disapprove my request to sever his position? That's, I, I don't question his capability. It's are we going to be able to use his capabilities? Are we, are we going to be able to do that?

CHAIR WHITE: The Chair would suggest that if, if this motion passes, then it's up to the Mayor whether he puts him back to work or not. And, I think, I think there's a sense, if I'm a layperson who's looking at the, at the Charter, said, saying that the, the Mayor cannot remove Mr. Taylor without Council approval, that would suggest to me that removal from him doing his job is really what the Charter anticipates; not that he could be left in his position and put on extended leave.

COUNCILMEMBER CRIVELLO: Can we have that clarified from the, from the legal minds?

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL: Chair, is the question whether or not after the body acts, in which direction the Mayor and the Administration is going to decide to act? I just want clarification on what the question is.

CHAIR WHITE: I think the question is if, if this measure gains approval, then does the Mayor have the ability to put Mr., as, as the Mayor suggested, put Mr. Taylor on extended leave again? And, but go ahead.

CORPORATION COUNSEL: Chair, without knowing what was discussed in executive session during the Committee meetings, I would prefer to receive that question in writing in order that my Department can properly respond.

However, with that said, you are all fully aware that this is the very first time that this Charter provision is being acted upon. And, this is the very first time that this body will render a decision in this circumstance. So, we're looking at a case of first impression. And I would be, want to be very mindful of all issues involved prior to giving you my response. I think it would be remiss of me to give you a response on the floor at the moment without due consideration of all issues involved.

COUNCILMEMBER CRIVELLO: Chair, may I ask a question?

CHAIR WHITE: Mr., Ms. Crivello.

COUNCILMEMBER CRIVELLO: What was discussed openly was Mr. Taylor is on administrative leave. If we approve his going back to, approving his returning rights as, as Director, can the, is the Mayor allowed to extend this administrative leave for the next whatever time he chooses?

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. Again, very difficult question, and poses some issues of Mayoral discretionary authority. And, I don't believe that my Department has currently generated an opinion as to whether or not the Mayor has discretionary authority under those circumstances.

I can assure you that there is other entities. For example, the Attorney General's Office, that has historically generated opinions on whether or not the Governor has discretionary authority under certain circumstances. It is a difficult issue. And, as I sit here before you, I am very, very cautious about whether or not an opinion should be

rendered without fully exploring the authority generated by our Charter to our Mayor in this circumstance.

CHAIR WHITE: Okay. Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, having heard that, this is a difficult situation, right? So, we have the, the unusual circumstances are if this happened maybe three years ago, and this came up, then maybe, you know. It's a very different circumstance rather than 12 months ahead.

Dave Taylor has return rights. I even have the documents to show; a signed agreement that he has re-redacted it. So, he has a signed agreement that he has with the Mayor that he made before he took this position of his return rights. So, he definitely has return rights.

I also heard, cause I did more research through, through Dave Underwood with Personnel, that if the County offers him a position and he turns it down, comparable position, that the return rights is then null and void, cause that was his chance to return, right? That was his return rights. It's not a forever thing.

He also is a cabinet position, which makes him able to be really in the luxury of, you know, being a director in a position and works under the Mayor. So, the relationship with the Mayor is very critical. So, I'm concerned about that that he and the Mayor can work together and work past. I don't know what all of a sudden erupted this, this confrontation, but that they can work past that cause I think that it's critical for the last 12 months. But, I think the 12-month thing is pretty critical, and we need that engineer.

I also wondered why Mr. Taylor didn't accept the termination. Cause usually if your boss says, okay that's it, and if there's, you have that kind of agreement, then that's what you respect. So, there's stuff that is, I don't know how you, you know, get that kind of personal information, but those are other questions that have come to my mind since we had our meeting as I, I kind of sat through thinking about all the things presented.

And, yea, Mr. Kushi was the Corp. Counsel person who was, you know, with us. And, maybe if, I'm just thinking that because Mr. Wong would like to have this in writing, that I wonder if we can defer this and, and get something in writing, you know, more definitive if it's going to have any kind of legal ramifications? I think that it's a important, important question. But, I defer to you. I think there's things coming up.

CHAIR WHITE: I think the question is one is that's going to be with us one way or the other. And, I think it's, I think it's appropriate for us to, to provide, provide a vote one way or

the other. And, if it's, if it's up then that question is pertinent. If it's, if we agree with the Mayor's removal then it's a, it's a moot question.

So, Ms. King, you turned your light on.

COUNCILMEMBER KING: I did. I didn't know if Mr. Hokama had his light on first, if he wanted to speak. Okay. Yea, I, I want to just speak in favor of the motion before us.

And, and I don't, and I know there's all these issues that people keep bringing up about Mr. Taylor's future and other jobs he could've taken. This is issues, not, to me, about the future of Mr. Taylor. It's about what is best for Maui County. And, we have somebody who's a professional, who's been in this position for seven years, who's by all accounts, from the Mayor even, done a great job, done no wrongdoing. I watched a video of the Mayor going to the Board of Water Supply and speaking about issues of planning and needing to plan for centuries, not decades. And, that was his reasoning for the dismissal.

And, then when he came before this body, his reasoning was different. It was about personnel and management. And, it seemed to be based on a survey that was done, one survey that seemed to return about a third of it that was, that had negative comments. And, I wonder if he's done the same survey for any of his other directors, and if he'd be dismissing directors that got similar numbers back from their departments. But, you know, to me there wasn't a history of, of records of mismanagement, or records of this kind of survey being done consistently or scientifically. And, both of the gentlemen, I believe admitted that it was not done scientifically.

So, I, I would just urge us to pass this. But, I also urge the Mayor to, to understand that, that and I agree with you, Chair, that the disapproval of that removal means put the gentleman back to work, put the Director back to work. Don't leave him there with a six-figure salary sitting at home, and try to do a work around, cause we're not going to make changes within the next year. We're not going to make whatever strides the Mayor is trying to make by changing direction. I don't see that happening in the next year. And, I think there's some very good things on the books that we're working towards that I'd like to see finished. This is, to me, maybe part of what we need to do if we do pass this.

And then that question of what does removal mean, maybe this, this body needs to define removal in the ordinance. And, if we can do that within a couple of months, we can get him back to work, you know. Maybe that's where the next step is. But, I do think that it, it will be a legal question regardless, and we should probably ask that legal question so that we could figure out if we need to make some kind of statement for

future, for the future decisions that are going to come up using this one as a reference; probably the first one.

So, I hope my colleagues will support this, this motion that's before the floor and really focus on what is the best for Maui County, not what would happen if he took this other job or why he didn't do this or that. Just think about what is, I believe, and I talked to Mr. Taylor shortly after this happened, is that his, that he, he feels his life would have been much easier just to accept termination and go back to return rights. But, he's doing this for Maui County, because he also believes that this is not the time to switch horses in the middle of the stream.

This is the time to finish out the term and get some things done. Keep that expertise at the head of the Department, instead of trying to put a new Director in there who would probably take a year to come up to speed. And by that time, we'll be done with that term. So, just hoping we can pass this on and, and move onto the next phase if, if we have to face that idea of the Director being on administrative leave. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Members, further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I concur with everyone thus far. I think this is about, you know, Director Taylor having a great track record in running our Water Department. You know, he's had a clean bill of health, no outstanding glaring deficiencies anywhere, and he explained the 60 perhaps, you know, not so much in favor of him survey reports. And, you know, and he in clear conscience, he, I spoke to him in clear conscience, he cannot step down. He is more than happy to, you know, to leave. But he cannot in clear conscience leave this most important Department in the hands of unqualified, unregistered civil engineers, and things, people of his level of expertise. That's what it boils down to.

And so, so far, I have not heard from the Administration, from the Mayor himself, if he has any such people in place currently or in the future. And so, Mr. Taylor is more than happy to step away, but he has not heard either. So, until that happens, I think we are putting ourselves in a very precarious, irresponsible situation. And, that's where a lot of my thought comes from.

And, also what Ms. King touched upon is the language in this Charter. We all, I mean, I will speak for myself, my idea of removal isn't send him home on paid leave. Removal is he is not doing the duties to benefit this County right now. He's sitting home watching

us on Akaku wondering what we're going to do. You know, he ought to be in that seat. And, you know, I did not attend the closed session.

And, I had a discussion with Director. And, you know, he shared a lot of insight as to currently this Department is, it's going afoul, it really is since he's sitting home. And, I, that's wrong. I think, again, that is being very irresponsible on our behalf, or Mayor, whatever.

So, my, I am in favor of this. And, I think that was the opening question as to what does removal mean? And, I think this Corporation Counsel ought to know what this Charter is saying in very plain language. And to me, removal is you're not doing, you're not in the position at the job checking in at the office every day. And, removal doesn't mean I'm being paid sitting home. So, I see it very clearly. But again, I guess that needs to be a legal decision. And, I'd like to change the word to terminated, or something that's more definitive, that you cannot, you know, have a different interpretation per se.

And, you know, I mean, I think it's a, it's a common practice of this Administration. I've seen a lot of people out on paid leave, you know, and that are supposed to be running divisions and departments, you know: Tracy Takamine, Glen Correa, Hana Steel. I mean, you name it, the list continues to go on. And, that is a very, very common practice which I think is total waste of taxpayer dollars. And again, being irresponsible.

So, Chair with that, and also I'm trying to factor in why the change? As many people have stated the, there has not been reprimand on this person, you know. And, I, I see there was a couple people, the Mayor was given the opportunity when Director, Deputy Director Paul Meyer left. At that time, he thought this would be a good time if you want to switch everything out at the head, I'll go out with him, and you can hire new people. And, he chose not to. He chose to keep Dave Taylor in at that time.

So, and then, you know, Ms. Baisa got in. So, if you look at what really changed, there's a couple new people that stepped into the Department, and then things kind of are different. So, I don't know. I think there's a lot more to be looked into definitely. But, I am totally in favor of keeping this Director in place to do the job that he's been charged to do, and quite well I may add. Thank you.

CHAIR WHITE: Thank you. Further comments or discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I needed to, and I appreciate the Members being able to communicate their comments this morning, Mr. Chairman.

Cause, I was awaiting for Ms. Sugimura's recommendation, which is resolution number 2, of the two that has been proposed, which is disapproving the removal.

And, I would agree with the other Members. Historically, removal has always been you're gone, you're replaced, you're terminated. But, the County, in general, whether it's the State or the Federal, has always allowed the individual a gracious out, whether it be through resignation or other types of ending the relationship between the employer and the employee. So, you know, there's reasons why if you look at the, how the Charter Commission of the 60's under Douglas Sodeani and how they viewed it. Again, Members, part of our challenge is dealing with a, portions of our Charter that was meant for the 60's version of governance and what we were then, which was a semiautonomous Board of Water Supply.

If you look now, the Department is under the Mayor. And yet, every position in the Charter, whether it be the Police Chief, Fire Chief, Liquor Director, and now the Water, if you look, we treat everybody a little differently. Some is as prescribed by a law and other duty, duties of direction from the Mayor, some is a little bit different. So, I can appreciate some of the concerns and confusion our own Charter makes with similar designated positions, but all with different languages on duties and functions.

So, for me, Chair, I have enough information to support the termination, especially with insubordination. It's an appointed position. But, there has also come into play my concern that I've stated on open record many times with the impact and undue influence that return rights that we allow creates with this type of appointing, and these type of situations.

So, under one hand, I am, I can see and justify and vote for termination of Mr. Taylor. And, on the other hand, from a financial point of view, what would save us money, knowing what may more than likely happen in the next 12 months, I could support retention, because I don't, I'm pretty sure nothing would change in 12 months. But, on the other hand, I am concerned about his performance.

A percent of CIP completed versus funding from Arakawa "1". We have given this, various Council has given CIP funding to this Department at levels that we should be very much up to speed on many CIP projects, okay. For whatever reasons it lapsed, or was unable to do. I know that funding the money was not the reason. Then we look at rate increases. The low-hanging fruits we were promised for what, eight years. I don't see those fruits after harvest. And yet, with all the support we've given through this Council for rate increases, my disappointment is looking at the continued increases of the surpluses. What has been accomplished besides making a surplus larger? Is that the best we can expect from our Department and our Director? That, to me, is good enough to terminate if he was working for me.

Or are we down to a personality thing, because it's just down to one bloody issue; Wailuku Water Company? Is that it; support or don't support it? Or is the issue I want to have a say in who replaces me even though you're not the appointing authority?

You know, we can make up all kinds of scenarios, Chairman, on why things are happening or not happening. I just know that regarding the money, the CIP's, the surpluses, I could support the termination right now. But then, if I don't, and let's say one scenario comes true that the Members believe, it may rightfully so, which is he'll still be placed on leave after termin, maybe with termination because we got to deal with the return rights. I got to pay more money for new bodies to come up with the same result, nothing done. Just going to cost us more.

Isn't it a sad choice? I mean, think about it, Members. That's a sad choice where we are in this term. Pathetic, maybe. But, I'm disappointed this kind of issues come before this body when we got bigger things to take care of, Chairman, than a personnel issue on open meetings. I guess I'll vote on it when it's, my name's called up, Chairman. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I would have to agree with Mr. Hokama in regards to CIP's. I mean, there's a, I call it lame duck project on Molokai. Every year for, and it goes prior to when I came on. And, at, when, I know when we have our budget sessions, that's the kind of questions many of us question on the CIP and then what happens to the projects? Why weren't the projects done? And yet, we still try to seek rate increase to the consumers and we have not.

And, whether or not it's, it's Mr. Taylor or what, but it's part of the Department. And, that's, that's dollars. How can we, if there was a way that we can say take him back, don't put him on administrative leave, I can, I can go for it. But, to take him back, and he has, I don't, I don't have clarification if he can continue Director's administrative leave. And, so again, you know, we just say, oh po ho all the dollars, you know. Just put it elsewhere the dollars. That's, that's kind of what also bothers me. And, I, I know we, we appreciate his work.

But, I also look at the CIP issue that has been ongoing since I've been onboard. And, I think that's, we should all be concerned about that, with the dollars and the budget. But, enough said. Thank you.

CHAIR WHITE: Thank you, Ms. Crivello.

I would just add that, you know, I think the, the challenge that I see is that without Mr. Taylor, we're likely to get less done than with him. And, spending some time talking to Paul Meyer, who worked with him for six years, Paul's praise for Dave's intellect, his ability to get things pushed through the Department, mostly focusing on the, the rebuilding of the system after what Mr. Meyer termed about 30 years of, of whether you call it neglect or whatnot. But, Mr. Taylor made the assignments, got the projects going, and has replaced a bunch of things. And so, it's not just CIP, it's the operational end of it, and I realize that there are other issues.

But for me, I will, I'll stand by the, the support that somebody who worked side by side with Mr. Taylor for six years. And, and I feel that we will get more done with Mr. Taylor staying in his position, than we will with trying to find somebody new with a, with a Deputy Director, currently who has some experience but not enough to move the Department forward at the speed that I think we can with Mr. Taylor.

So, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. So, I had a question for Corporation Counsel. In his comments, he mentioned some AG's determination in reference to the Governor decision, and wondered if he has further comments if there was, if there was a determination in these similar situations on that level?

CHAIR WHITE: I'll let him answer for himself, but I think he's made it clear that he would prefer to get this in writing and, and take the time to evaluate various issues.

COUNCILMEMBER COCHRAN: Is that?

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL: Thank you, Chair. I believe the, as best I can recollect, I don't think that the Governor's circumstance is identical to this. But, we would tend to look to the discretionary authority of an executive, have it be the Governor or other Mayors. And that type of question needs to be thoroughly evaluated in order for us, for me to be comfortable in the response. And, the reason for that is, again, there is a separation of powers between the legislative branch and the executive branch.

And, I think it behooves us to be mindful of delineating what the authority may be without short-changing the administrative branch whatsoever. So, he's entitled to get a full evaluation of that. And so too do you, respectfully have that right to have that item defined properly. Thank you.

COUNCILMEMBER COCHRAN: Right. Okay. Well, thank you for that. And, I understand. And, I also concur with your take, Chair, in reference to past, you know, side by side workers or employees with Director Taylor, cause I've been getting phone calls from retired, and people who know him, you know, directly from working within, from Wastewater and into the Water Department also.

And, there's been some great reports that his, he knows it, inside and out, the job. And, you know, operations and CIP, and all that stuff are, of course, two different animals. But, been getting some great reviews in reference to Dave throughout the years.

And, in West Maui, I have no complaints about him doing all the waste, the water, Mahinahina Wells, and what have you, and the upgrades to Napili's A, B, C. And all this stuff has been really moving right along, and have been extraordinary work in my eyes, in reference to West Maui in particular. So, I've seen it first-hand that he's been doing great work. Thank you, Chair.

CHAIR WHITE: Okay. Thank you.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I guess everyone has, I wasn't going to say anything, but apparently all the Members have had their turn to speak. I think, I kind of, not think, I have to go on the issues of when I, when I listened to the Mayor and answer some of my questions. And, Mr. Taylor's response to those. It really comes down to, for me, the betterment or at least the consistency within the Department itself.

When, and, and to bring it down to the most basic level, when you're watching a baseball game and the pitcher's pitching, you always know who's in the bullpen. You always know who's in the, who's going to relieve the pitcher. And so, the team has this sense of, you know, okay, their, their starter pitcher is going to be relieved, but they're still going to be okay. There's this sense of comfort or assuredness that things will be okay because they know who's in the bullpen.

And, in this case, we have a Director that is being removed, but we don't know who is in the bullpen. So, when we're talking about surveys and the survey that was

conducted, did the employees that, that wrote all those things, did they know that their comments were eventually going to lead to the termination of their star pitcher, starting pitcher? And, maybe the comments would have been different. Maybe things had been different if they had known it would have led to a termination.

And, I, I look at it as if you're going to take surveys as one of your components or the basis, your substantial basis of termination of the Director, wouldn't you at that point take those surveys and then do a Director evaluation based off of these surveys? But, in this case when I asked Mr. Taylor if he had been given a evaluation in the past, he said yes, he had two, he had two. And then I asked him, did you receive an evaluation after August when the surveys were conducted? And he said no.

So, there's some missing elements all the way through. And, it doesn't, it doesn't fit quite right in my mind. And when, when I asked the Mayor, okay, did you give the basis to the water, the Board of Water? And, he said yes, but no, no mention of the surveys were given to the Board of Water. So, there's some missing elements. So, at this point, I just would go along with the Chair of PEA and her direction, and go from there. Thank you.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR WHITE: Any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, in, in light of that, the, I wondered if, just because of what the Charter says, just so the Committee knows that based, this is a good exercise for us. As we went into our PEA Committee, I think Member Hokama in his wisdom and years said let's do it in executive session so we can understand what the process is, right? So for me, by scrutinizing the Charter and what we are, our fiduciary responsibilities are and what the Mayor needs to do in terms of running, you know, the County of Maui, I respect that a lot.

And, and it also brought to light that there are some things in the Charter that I would like to fix. So, just so the Members know that I think part of what we're hearing is that if today we decide to send, whatever decision we make today, that the Charter doesn't say our decision is final. It just kind of says that we can, you know, approve or disapprove the Mayor's decision.

But, I would like to recommend, at the appropriate time, a Charter amendment so that this can be kind of tightened up. There's a puka here. And because of the puka, we're having these, you know, these challenges. So, I wanted, I wanted to also say that.

The next thing I would like to also know, and maybe this is a Corp. Counsel question, is that, okay here we are today, whatever we decide and if the Mayor doesn't agree with us and he takes action, then if he does, let's say if he does decide that he wants to terminate Mr. Taylor again, and that happened. And then at the same time of termination, can you tell us, like, what Member Guzman said? Can he tell us who's the director or deputy he's suggesting? Because, you know, although he cannot say who the appointment is, because the appointment would have to be determined based upon a Council approval for a later day, at least we know who the players are, right? Who's in the bullpen? I mean, who's, who are we talking about? We're like talking about maybe's, you know, right now.

And, to have this engineer position is important. It is not Mr. Taylor's responsibility to do that. It is the Mayor and our responsibility. So, you know, in conversation, Mr. Taylor said that he didn't want to resign because, or accept the Mayor's termination because he felt it was his responsibility to fulfill that engineering role. It is not his decision. It is the Mayor's decision, and it's the Council to approve, right, if it's going to be the Director? If it's the deputy, it could be a deputy that can, you know, fill in as a engineer qualifications that, that's, we do not approve the engineer or the deputy position for the Water Department. So, is that correct? No, we do approve the deputy.

CHAIR WHITE: No.

COUNCILMEMBER SUGIMURA: No. Okay, only, only the Director?

CHAIR WHITE: Right.

COUNCILMEMBER SUGIMURA: So, there's missing pieces here, and is part of the frustration of me making the recommendation. You know, send him back to work, and then at the same time if the Mayor, I want to send a message to the Mayor, if you're going to again decide that you do not want Director Taylor, at least tell us, you know, by letter who this engineering person is going to be to fill this slot, cause right now there isn't one. But, if we can get the total picture, that would, you know, make me feel a lot better. Plus, to hear what Corp. Counsel has to say on the question that Member Crivello had, you know. So, thank you.

CHAIR WHITE: Okay. Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, second and final time according to our rules. Thank you. I am really enjoying this discussion of all the Members presenting their

comments on an important issue. But, I would also ask Mr. Wong, if appropriate, to also give us guidance. I don't want to even have a question presenting the future, because the Charter is clear. The Council cannot direct administrative personnel or the Mayor what or what not to do, okay. That's impeachable.

So, I ask the Members of this Council, let us know our areas of jurisdiction in authority. We cannot tell the Mayor what to do. That's impeachable. If you want to lose your job, go ahead do it. I'll lead the efforts. But, let us be clear, until there is a vacancy, the Mayor has no obligation to give a name on a what if basis. Because that so-called individual also has rights of privacy until such time that it is an open and real position for consideration. Thank you, Chairman.

COUNCILMEMBER GUZMAN: Chair, last and final.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: I guess let me reiterate and make it more, clarify my position. It's the stability of the department. So, while we were talk, what we're actually talking about is to, two transitions; one for a new Director, and then when the Mayor's term is over within a year, another transition for a new Director. So, two transitions. So, I would think that if we're looking at budgetary matters, like you said, I think it's, it's looking at the totality of everything, it is probably safer for us to, to at least keep Mr. Taylor there and have more consistency, and at the very end have one transition. There's not much that you can do in one year. Not with the, the amount of CIP's that are currently on the table. So, thank you.

CHAIR WHITE: Okay. I think we've pretty well exhausted discussion. Again, the vote is to approve the reso, the resolution disapproving of the removal. So, a, an "aye", I guess, vote means Taylor is sent back to work. A "no" vote means that you are wanting to agree with the Mayor. So, everybody clear? Okay. All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: I guess it's nine "ayes".

Thank you. And, at this point, Members, we're going to break for lunch. Before you leave, let me confer with Mr. Carroll to see what kind of time he needs.

COUNCILMEMBER HOKAMA: Are we in recess?

COUNCILMEMBER COCHRAN: Oh, did he hit a gavel?

CHAIR WHITE: We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 1:12 P.M., AND WAS RECONVENED AT 1:13 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER COCHRAN, EXCUSED.)

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

Members, remember we have a Planning Committee meeting scheduled for 1:30. Ms. King is going to call it to order, and then postpone that meeting. And then we will reconvene at 2:30 in the chambers. So, that'll give you an hour and 15 minutes. But, please those of you who are on Planning, please come back for the 1:30.

COUNCILMEMBER KING: So, Chair.

CHAIR WHITE: Yes.

COUNCILMEMBER KING: So, we have to wait till 1:30 to convene and then reconvene? So, that, that actually gives us a little less than an hour if we have to be back here at 2:30, so.

CHAIR WHITE: But, it, are you wanting more time?

COUNCILMEMBER KING: Well, I'm just wondering, I mean, I know I can't do it at 1:15, so, you know, is there, are we going to have a quorum, are we going to have a quorum at 1:30 to open this up? Because if everyone takes off for lunch right now, we won't have enough people to even convene the meeting at 1:30.

CHAIR WHITE: Mr. Hokama, heard you make a--

COUNCILMEMBER HOKAMA: I'm happy to have the return of Council come at a later time to allow the standing Committee enough to take care of their procedural requirements,

Chair. I mean, it's a long day anyway, so half an hour is not going to kill me today, Chairman.

COUNCILMEMBER KING: Is it, is it, it's totally required that we have to convene and then adjourn, so we need to do that at 1:30?

COUNCILMEMBER CRIVELLO: Chair. Chair.

CHAIR WHITE: Hold on, just a, hold on just a second.

Ms. Nakata, do we need to, can we cancel the meeting by announcing or?

LEGISLATIVE ATTORNEY CARLA NAKATA: Mr. Chair, I believe the Chair of the Planning Committee could cancel the meeting if that's her preference. Otherwise, if she plans to open the meeting, ordinarily, we take public testimony before adjourning.

CHAIR WHITE: Okay. So, you want?

COUNCILMEMBER KING: Yea, I think it's, it's better to cancel, because then we, we'll save some time that way and we're not going to, we're not going to accomplish anything by convening I think.

CHAIR WHITE: Yea, that's fine. So, the Planning Committee for, scheduled for 1:30 is cancelled. And then we will reconvene here at 2:30.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR WHITE: Okay, we are in recess till 2:30.

(THE MEETING WAS RECESSED BY THE CHAIR AT 1:16 P.M., AND WAS RECONVENED BY THE VICE-CHAIR AT 2:33 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER GUZMAN AND CHAIR WHITE, EXCUSED.)

VICE-CHAIR CARROLL: This Council Committee is back in session.

Members, Mr. White is excused, and Mr. Guzman will be joining us shortly.

Mr. Clerk.

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

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 17-183 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 106 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES – FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF PLANNING, GENERAL FUND, CHARGES FOR CURRENT SERVICES, FEES – DEPARTMENT OF PLANNING," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-432, from the Budget Director, be FILED.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from the Members, I would request the Clerk to bring up all remaining Committee Reports from Budget and Finance that would include up to 17-186.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: Mr. Clerk.

COMMITTEE REPORT
NO. 17-184 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 107 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, EMERGENCY MANAGEMENT AGENCY (STATE HOMELAND SECURITY GRANT (SHSG) PROGRAM)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 17-185 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 108 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PARKS AND RECREATION, KIHAI-MAKENA COMMUNITY PLAN AREA, PARKS AND RECREATION, WAIPIULANI PARK IRRIGATION SYSTEM; 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 109 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PARKS AND RECREATION, KIHAI-MAKENA COMMUNITY PLAN AREA, WAIPIULANI PARK IRRIGATION SYSTEM," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. That County Communication 17-413, from the Budget Director, be FILED.

(Councilmember Guzman returned to the meeting at 2:36 p.m.)

COMMITTEE REPORT

NO. 17-186 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 110 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PUBLIC WORKS, WAILUKU-KAHULUI COMMUNITY PLAN AREA, DRAINAGE, WAIIEHU DRAINLINE REPAIRS, 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 111 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4454, BILL NO. 63 (2017), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (WAIEHU DRAINLINE REPAIRS)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. That Bill 112 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PUBLIC WORKS, WAILUKU-KAHULUI COMMUNITY PLAN AREA, WAIEHU DRAINLINE REPAIRS," be PASSED ON FIRST READING and be ORDERED TO PRINT.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE THAT THE COMMITTEE REPORTS AS READ BY THE CLERK, WITH ITS RECOMMENDATIONS, BE PASSED ON FIRST READING, BE ORDERED TO PRINT.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER CRIVELLO: No, it was Crivello who second.

COUNCILMEMBER SUGIMURA: Crivello.

VICE-CHAIR CARROLL: Oh, excuse me, Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman. Chairman, basically these are housekeeping on the grants portion. Regarding to the key two projects, Waipuilani as well as the Waiehu Drainline. These are projects your Committee has vetted and reviewed.

Your Committee did question the funding mechanism for the Waiehu Drainline, and we are currently recommending bond. Although, I noticed that last minute they all of a sudden found \$7 million of cash. Where? I don't know. But, they've certified it, so it's something your Budget and Finance Committee shall do a re-review of those balances. Thank you.

VICE-CHAIR CARROLL: Any further discussion? Seeing none, all in favor of the motion on the floor signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", excuse me, eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, relative to Committee Report 17-183 that's BILL 106 (2017). Relative to Committee Report 17-184, BILL 107 (2017). Relative to Committee Report 17-185, BILLS 108 and 109 (2017), respectively. And, relative to Committee Report 17-186, BILLS 110, 111, and 112 (2017), respectively.

COMMITTEE REPORT
NO. 17-187 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-140, from the Director of Finance, transmitting notice of the acquisition of Road Lot L, Waiale Road, Waikapu East (Large-Lot) Subdivision No. 3, Wailuku, Maui, TMK: (2) 3-5-002:018 (Por), be FILED.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you. Chair, may I request the Clerk also bring up Committee Report 17-188 through 190?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: No objections, Mr. Clerk.

COMMITTEE REPORT
NO. 17-188 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-157, from the Director of Finance, transmitting notice of the acquisition of a Road Widening Lot 2 on Central Avenue, Ann Boteilho Subdivision, Wailuku, Maui, TMK: (2) 3-4-012:044 (Por), be FILED.

COMMITTEE REPORT
NO. 17-189 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-186, from the Director of Finance, transmitting notice of acquisition of Northshore Greenway Phase 2 Bikeway Path Lots 25, 26, & 27, E Paepae Ka Puko`a Subdivision, TMK: (2) 3-8-095:024, 025, & 026, be FILED.

COMMITTEE REPORT
NO. 17-190 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending that County Communication 17-223, from the Director of Finance, transmitting notice of acquisition of Road Widening Lot 5, Holokai Road Subdivision, Haiku, Maui, TMK: (2) 2-8-004:068, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you very much. And so, let's see, Number 17-188 is recommending, oh sorry.

OH, CHAIR, I MOVE TO, I MOVE TO ADOPT THE
RECOMMENDATIONS IN COMMITTEE REPORT 17-187,
17-188, 17-189, AND 17-190.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: Been moved by Ms. Cochran, seconded from Mr. Hokama.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. These matters were considered at the IEM meeting of November 27, '17. And, Number 17-187 involves the acquisition of, acquisition by the County of a road lot forming a portion of Waiale Road between East Waiko Street and Kuikahi Drive extension in Wailuku.

Number 17-188 involves the acquisition of, by the County of a road widening lot located alongside Central Avenue in Wailuku. The lot was acquired when it was discovered that a small section of Central Ave. encroached on private property.

17-189 involves the acquisition by the County of three road lots, which are part of the Northshore Greenway Phase 2 Bike Path in Spreckelsville. The lots were acquired as a condition of subdivision approval.

Then 17-190 involves the acquisition by the County of a road-widening lot on North Holokai Road in Haiku.

This, your Committee reviewed warranty deeds that relates to each of these acquisitions, and no, and we reported no concerns. And no County funds were used to acquire any of them.

So, your Committee recommended filing all four communications. And I therefore ask for my Members support. Thank you, Chair.

VICE-CHAIR CARROLL: Any further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

COMMITTEE REPORT
NO. 17-191 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending the following:

1. That Bill 113 (2017), entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 10.48.040, MAUI COUNTY CODE, RELATING TO PARKING PROHIBITIONS ON CERTAIN STREETS AND HIGHWAYS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-378, from the Director of Public Works, be FILED.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 17-191.

COUNCILMEMBER HOKAMA:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. Cochran, seconded by Mr. Hokama.

Discussion, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes, thank you, Chair. This matter was considered at the IEM Committee meeting, November 27, '17. It involves the amendment of Section 10.48.040, by prohibiting parking in two areas. The first is in the close vicinity of the Grace Bible Church driveway on West Hawaii Street in Kahului. And the other is on the north side of Haku Hale Street in Honokowai.

Both amendments address safety concerns that arise from vehicles parking in those two areas. And the amendments will address those safety concerns.

Your Committee recommended passage of the bill at first reading, and filing of the communication. And, I now respectfully ask for my Members support at this time. Thank you, Chair.

VICE-CHAIR CARROLL: Further discussion? Seeing none, all those in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 113 (2017).

COMMITTEE REPORT
NO. 17-192 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending the following:

1. That Resolution 17-177, entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO HAWAIIAN KAMALI'I, INC.," be ADOPTED;

2. That Resolution 17-178 (2017), entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO NA KAI EWALU," be ADOPTED; and
3. That County Communication 17-436, from the Director of Parks and Recreation, be FILED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

I'D LIKE TO MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-192.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. Crivello.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on November 28, 2017, to consider the resolution to grant a 20-year lease. Your Committee noted that the Warranty Deed transferring the parcel upon which the haies are located from A&B-Hawaii, Inc. to the County, dated May 18, 1994, provides that the parcel must be used for the park and recreational purposes, and that one of those purposes must consist of organized Hawaii outrigger canoeing activities.

Your Committee also noted an appreciation for the canoe clubs' stewardship of the land and their outstanding community achievements.

Your Committee also revised the proposed lease to allow for a term of 50 years instead of 20.

Your Committee also incorporated a special condition to the proposed leases to require general liability insurance for the use of the associated access easement across the adjacent parcel.

Your Committee voted 8-0 to recommend adoption of the revised proposed resolution and filing of the communication. Respectfully request the Council's support for the Committee's recommendations. Thank you, Chair.

VICE-CHAIR CARROLL: Discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-176 *[sic]* and 17-177 *[sic]*, respectively.

COMMITTEE REPORT
NO. 17-193 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-179, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 301547579300001 OF BARBARA CABALO," be ADOPTED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE
REPORT 17-193.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. Crivello *[sic]*.

Mr. Guzman.

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER KING: Ms. King.

COUNCILMEMBER CRIVELLO: Second by King.

VICE-CHAIR CARROLL: By Ms. King.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on November 28, 2017, to consider a proposed resolution authorizing settlement of the claim read by the Clerk for the amount of \$25,399.08.

The claim against the County arose from damages that were, damages that were on the Plaintiff's property that resulted in a water main break on July 16, 2015.

A Deputy Corporation Counsel said that the break in the water main resulted from normal wear and tear. It took about three hours for the water to be shut off, and then by that time, the mud had entered the garage and home. The Department provided a list of costs incurred.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Respectfully request the Council's support of the Committee's recommendations. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you. Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-179.

Mr. Chair, just for the record, I apologize, the last Committee Report, that was RESOLUTION 17-177 and 17-178.

COMMITTEE REPORT
NO. 17-194 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-180, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30178022844-0001 OF ENTERPRISE RENT-A-CAR," be ADOPTED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE
REPORT 17-194.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR CARROLL: Been seconded, moved by Mr. Guzman, seconded by Ms. King.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Your Committee met on November 28, 2017, to consider the proposed resolution as been read by the, by the Clerk for the amount of \$13,714.20.

The claim alleges damages to an Enterprise Rent-A-Car vehicle arising from its operation by an employee of the County's Department of Fire and Public Safety while in Hilo, Hawaii, attending a conference on May 10, 2017.

A Deputy Corporation Counsel said that the fire fighter was on the Big Island for a work-related conference. However, he was driving a rental vehicle from his brother's

house to the conference hotel, and collided into a guardrail, mailbox, residential sign, and fence. They were cost for the repairs of the vehicle.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Respectfully request the Council's support for the Committee's recommendations. Thank you, Chair.

VICE-CHAIR CARROLL: Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-180.

COMMITTEE REPORT

NO. 17-195 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-181, entitled "AUTHORIZING SETTLEMENT OF IVANETTE P. BLEVINS VS. SHAWN K. MIDA; COUNTY OF MAUI, ET AL., CIVIL NO. 16-1-0191(2)," be ADOPTED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-195.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. King.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Again, your Committee met on November 28, 2017, to consider the proposed resolution that was read by the Clerk.

The Complainant in this case was a passenger in a vehicle stopped at an intersection on August 15, 2013, wherein a County employee was driving a County vehicle that collided with the rear end of another County vehicle, causing that vehicle to collide with the vehicle in which the Complainant was riding. The Complainant alleges physical injuries and emotional distress as a result of the accident.

Following an executive meeting, your Committee voted 8-0 to recommend adoption of the proposed resolution.

Respectfully ask the Council support of the Committee's recommendation. Thank you, Chair.

VICE-CHAIR CARROLL: Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-181.

COMMITTEE REPORT

NO. 17-196 - PLANNING COMMITTEE:

Recommending the following:

1. That Bill 114 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.080, MAUI COUNTY CODE, RELATING TO COMMUNITY PLAN ADVISORY COMMITTEES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-75, from Planning Committee Chair Kelly T. King, be FILED.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 17-196.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. King, seconded by Ms. Sugimura.

Ms. King.

COUNCILMEMBER KING: Mr. Chair, your Committee met on November 30, 2017, to consider a bill for an ordinance amending Section 2.80B.080, Maui County Code, relating to the Community Plan Advisory Committees.

The purpose of the bill is to establish criteria and procedures for the selection, appointment, and removal of community plan advisory committee members.

At its meeting, your Committee received public testimony in favor of striving for member diversity and balance of age, gender, background, profession, heritage, experience, and ideology in CPAC appointments.

The Department of Planning informed your Committee of the challenges that occur when CPAC members are absent from meetings.

Following discussion, your Committee voted 4-0 to recommend passage of the revised proposed bill. I ask for the Members support of your Committee's recommendation. Thank you.

VICE-CHAIR CARROLL: Thank you. Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak in support of, of the motion on the floor before the body this afternoon.

I do have some reservations. I appreciate the good work of the Committee. But, as it regards to the CPAC component itself, Chairman, I take a different perspective regarding vision. I want our community members to have vision within our own community on how our views work within the general wide parameters of either the General Plan or a Countywide Policy, okay.

The Community Plan is the more specific component of filling out the skeleton of the body. That's the muscles on the skeleton that come from the specific communities where I expect our communities to have a lot more definitive understanding or, or considerations where we are more clear of exactly what we want within that short timeframe of 10 plus years, Chairman.

So, that's just my experience and my thoughts, because you don't have that much time in a 10-year window to redevelop another vision. It's got to be already part of what we've been working on in the various updates throughout the last 30 years that I've been watching this. Thank you.

VICE-CHAIR CARROLL: Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 114 (2017).

COMMITTEE REPORT

NO. 17-197 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending that Resolution 17-182, entitled "RELATING TO THE APPOINTMENT OF JOHN SPRINZEL TO THE MOLOKAI PLANNING COMMISSION," be ADOPTED.

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT 17-197.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Committee, Policy, Economic Development, and Agriculture Committee, met on November 13, November 27, to consider the Acting Mayor's nomination of John Sprinzel to the Molokai Planning Commission for a term expiring on March 31, 2021, to fill a vacancy due to the resignation of Robert Stephenson.

And, the Council asked if the Mayor would consider a termination date, shortening the termination date of this appointment to March 31, 2018, which the Mayor allowed, which therefore, your Committee met and approved by a vote of 7-0 to recommend adoption of the revised proposed resolution approving the nomination of John Sprinzel

to the Molokai Planning Commission, for a term expiring March 31, 2018, to fill the vacancy due to the resignation of Wiliama Akutagawa.

I respectfully ask for the Council's support. Thank you.

VICE-CHAIR CARROLL: Any further discussion? Seeing none, all those in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", no "noes", one "excused"

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 17-182.

COMMITTEE REPORT

NO. 17-198 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending the following:

1. That Bill 115 (2017), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI THROUGH THE CHIEF OF POLICE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF THE ATTORNEY GENERAL," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-400, from the Chief of Police, be FILED.

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met twice on this item to consider the proposed, oh sorry.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-198.

COUNCILMEMBER CRIVELLO:

SECOND THE MOTION.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: One step too fast. Thank you, Chair. So, your Economic Development Committee, we met on October 30 and 27 *[sic]*, regarding this item.

The Members of the Committee had some questions, and they wanted it to be included in this, which was for the Committee to, add to, added to the bill to require Council review and agreement every five years, including the list of properties that we would receive through this program.

The Committee voted 7-0 to recommend adoption. I respectfully ask for the Council's support of my motion. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you.

Further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Very quickly. I'll speak in support of the motion being presented by our standing Committee.

I will say though, at last weekend, Texas, our Board of Directors of NACo did discuss this also. We have sister counties across the country, Chairman, that have worked different agreements on this position of the used equipment after a certain time, whereby they've even been allowed to transport said equipment or benefits from this program to third-world countries in South America, with approval.

So, what we were told in Committee is partially correct. But, I think the ability of our disposition and ability of how, how we can use it is a lot more wider than previously explained to us, Chairman. Thank you.

VICE-CHAIR CARROLL: Thank you.

Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 115 (2017).

COMMITTEE REPORT

NO. 17-199 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending that Bill 116 (2017), entitled "A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE DIRECTOR OF PUBLIC WORKS AND THE DIRECTOR OF ENVIRONMENTAL MANAGEMENT," be PASSED ON FIRST READING and be ORDERED TO PRINT.

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-199.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee, met on this item, qualifications bill, August 14, October 7 *[sic]*, November 13, and November 27, to consider a proposed bill to establish the qualifications for County administrative heads appointed by the Mayor, pursuant to Section 6-4, Revised Charter of the County of Maui, as amended.

The proposed addition of Section 6-4 to the Charter was presented to voters through a question on the 2016 general election ballot. The proposed garnered, the proposal garnered the votes needed to become law.

As discussed in Committee, the bill restates the minimum five years of administrative expertise, and required for administrative heads of the Charter, either in public service or private business, or both. Further, it requires that three of those years consistent, consist of responsible managerial and budgetary experience, and a bachelor's degree in a relevant discipline, or a combination of education and work experience equivalent to such a degree.

Rather than consider qualifications of all 11 administrative heads at once, the bill was revised to establish additional qualifications, taking two administrative heads only, starting with the Director of Public Works and Director of Environmental Management. This would enable the Committee to consider an overall approach to additional qualifications, which could then be tailored as appropriate for other department directors.

The, the bill was further revised to require that the director has three years of experience in one or more of the Charter-mandated functions under the director's purview.

If enacted, the effective bill, effective date, sorry, of the ordinance would be January 2, 2019, consistent with Resolution 16-96 and the intent of the Charter amendment that was voted on by the, by the public.

Your Committee voted 8-0 to recommend passage of the revised proposed bill. I respectfully ask for the Council's approval of my motion. Thank you, Chair.

VICE-CHAIR CARROLL: Any further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER SUGIMURA: Oh, your mic.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR CARROLL: Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 116 (2017).

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

ORDINANCES

ORDINANCE NO. _____
BILL NO. 102 (2017)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO ESTIMATED REVENUES;
DEPARTMENT OF PUBLIC WORKS,
WAILUKU-KAHULUI COMMUNITY PLAN AREA,
DRAINAGE, KAHULUI DRAINLINE REPAIRS,
TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections, with no objections, I request the Clerk to bring up 103 and 104.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: No objections.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 103 (2017)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4454,
BILL NO. 63 (2017), RELATING TO THE ISSUANCE OF GENERAL
OBLIGATION BONDS OF THE COUNTY OF MAUI
(KAHULUI DRAINLINE REPAIRS)

ORDINANCE NO. _____
BILL NO. 104 (2017)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,
DEPARTMENT OF PUBLIC WORKS,
WAILUKU-KAHULUI COMMUNITY PLAN AREA,
KAHULUI DRAINLINE REPAIRS

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILLS 102, 103, 104 OF 2017 PASS
SECOND AND FINAL READING.

COUNCILMEMBER CRIVELLO:

SECOND. SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your, your Committee again vetted this project. We believe this is a, has some time requirements that your Committee is recommending for approval this afternoon.

VICE-CHAIR CARROLL: Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

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

UNFINISHED BUSINESS

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 17-167 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending the following:

1. That Bill 116 (2017), entitled, "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 20.40, MAUI COUNTY CODE, DECLARING A

MORATORIUM ON SAND MINING OF CENTRAL MAUI INLAND SAND," be
PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That County Communication 17-214, from the Mayor, be FILED; and
3. That County Communication 17-215, from Councilmember Alike Atay, be FILED.

DEPUTY COUNTY CLERK: Mr. Chair and Members, currently pending before the body is a motion by Councilmember Cochran, and seconded by Councilmember King, to adopt the recommendations in Committee Report 17-167, as amended.

VICE-CHAIR CARROLL: Ms. Cochran, before I call on you, I have from Mr. White. Members, a floor amendment was prepared by Chair White, being disseminated with all the proposed exemptions from the bills that were received and requested at last meeting.

Per the Sunshine Law, all documents received could not be shared with the Members before the meeting, and therefore all documents are being disseminated in an orderly manner today.

In order for the Councilmembers to fully review all the documents, we will not be taking any action on these exemptions today. The intent is to allow Councilmembers to review the proposed proposal and be prepared to make a fully informed decision at a Council meeting in the new year.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. So, there's a pending, there's a motion and a second pending on the floor right now. So, I'm not here to--

VICE-CHAIR CARROLL: No. We have a motion on the floor. We're discussing the motion.

COUNCILMEMBER COCHRAN: Right. Okay. And so, I have, and thank you for that with Chair White's Amendment Summary Form.

I have an Amendment Summary Form that I passed out.

VICE-CHAIR CARROLL: Yes, proceed.

COUNCILMEMBER COCHRAN: So, does everyone have that? It's just a single page. And it's, and so that's where now I'm going to jump in and move to amend.

VICE-CHAIR CARROLL: Yea, okay.

COUNCILMEMBER COCHRAN: So, is that, okay. So, Chair, I--

VICE-CHAIR CARROLL: Proceed.

COUNCILMEMBER COCHRAN:

I MOVE TO AMEND SECTION 20.40.020 BY AMENDING THE
DEFINITION FOR CENTRAL MAUI INLAND SAND BY
INSERTING THE PHRASE "CLASSIFIED QDO BY USGS".

VICE-CHAIR CARROLL: Seconded?

COUNCILMEMBER COCHRAN: Oh, that's my motion. That's my motion.

COUNCILMEMBER KING: Is that, is that the complete motion? Okay.

SECOND.

COUNCILMEMBER HOKAMA: Been moved by Ms. Cochran, seconded by Ms. King.

Ms. Cochran.

COUNCILMEMBER COCHRAN: And, oh wait, sorry, sorry, sorry, hang on. I have to add.

COUNCILMEMBER KING: That's why, that's why--

COUNCILMEMBER COCHRAN: Sorry, I wasn't reading it right.

VICE-CHAIR CARROLL: That was, there's more to the motion?

COUNCILMEMBER COCHRAN: Yea, let me--

VICE-CHAIR CARROLL: Oh okay. Proceed.

COUNCILMEMBER COCHRAN: So, I'm the, yea let me--

COUNCILMEMBER KING: I'll withdraw.

COUNCILMEMBER COCHRAN: I have to yea. Okay, let's start all over from.

I MOVE TO AMEND SECTION 20.40.020 BY AMENDING THE DEFINITION FOR CENTRAL MAUI INLAND SAND BY INSERTING THE PHRASE "CLASSIFIED QDO BY USGS" TO READ AS FOLLOWS: "CENTRAL MAUI INLAND SAND" MEANS INLAND SAND CLASSIFIED QDO BY USGS LOCATED WITHIN THE AREA SHOWN ON THE MAP SET FORTH IN SECTION 20.40.080. AND, FURTHER TO AMEND SECTION 20.40.020 BY ADDING A NEW DEFINITION, "QDO MEANS OLDER DUNE DEPOSITS (HOLOCENE AND PLEISTOCENE)".

COUNCILMEMBER KING:

I'LL SECOND THE MOTION.

VICE-CHAIR CARROLL: Been moved by Ms. Cochran, seconded by Ms. King.

Discussion, Ms. Cochran.

COUNCILMEMBER COCHRAN: This amendment is being requested to prevent, oh hang on, yea, and the reason is to clarify the intended scope of the moratorium for landowners whose property may contain Qdo sand, as well as other surficial deposits, which is like the surface stuff and the proper term I guess, surficial deposits such as Qa (alluvium) or Qtao (older alluvium deposits). To prevent inadvertent impacts to landowners conducting other legally permitted activities within their property which involve surficial deposits not intended for inclusion within this moratorium.

VICE-CHAIR CARROLL: Further discussion?

COUNCILMEMBER CRIVELLO: I, I have a question for the--

VICE-CHAIR CARROLL: Alright. Ms. Sugimura followed by Ms. Crivello.

COUNCILMEMBER SUGIMURA: You can go first.

VICE-CHAIR CARROLL: Ms. Crivello.

COUNCILMEMBER CRIVELLO: I just wanted, I under, what I see here, Qdo means older dune deposits. And, how do you distinguish between, no, how do you filter it, because you have old and you have new sand? I guess I'm just trying to understand.

VICE-CHAIR CARROLL: Ms. Cochran, do you have a reply?

COUNCILMEMBER COCHRAN: The, so the Qdo is what we see, that really nice clean white type of sand that is very appealing to people who want to export and sell, basically. And then the older alluvium stuff is, is more, is mauka. And, it's mix, it's kind of like a dirt sand. And so, there's clearly a difference in where it's located and what it looks like physically.

COUNCILMEMBER CRIVELLO: So, does it need any kind of filtering?

COUNCILMEMBER COCHRAN: With what?

COUNCILMEMBER CRIVELLO: I mean, wind blows, you know.

VICE-CHAIR CARROLL: Excuse me.

COUNCILMEMBER COCHRAN: Sorry.

VICE-CHAIR CARROLL: The discussion needs to go through the Chair.

COUNCILMEMBER CRIVELLO: Chair, is, is there a difference when, you know, the wind blows sand? We know that. And, are there, there's a filtering mechanism for this?

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: There's, well yea, there's, so the Qdo is what's located in the central. Alluvium is more in the mauka areas. So, there's, it's, it's distinguishly in separate kind of areas is, is what's right. And, we're trying to protect to keep this Qdo sand in place, and not transport it off. You can keep it on the lot and move it however you want, but, and as long, and don't disturb burials. But, that's what this is about; is preserving that type of sand.

COUNCILMEMBER CRIVELLO: Okay. Thank you.

COUNCILMEMBER KING: Chair. Question.

VICE-CHAIR CARROLL: Any further, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, on the Qdo, so basically, what this is saying is that Qdo sand is good or not good to be moved?

VICE-CHAIR CARROLL: I'm sorry.

COUNCILMEMBER SUGIMURA: Is, is the Qdo sand, is it, is it qualified to be moved or not moved, or I mean, is there a test so that people know they have this Qdo sand? Or is there some kind of way to verify this?

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: So, sand cannot be moved off the lot. That's stated in this, yea.

VICE-CHAIR CARROLL: And, the question was what's the difference between?

COUNCILMEMBER COCHRAN: And, there's tests, so all the geotechnical reports that my office and Chair White's office has been receiving is stating, that's what those reports, and studies, and trenches, and all that stuff is about. So, it's determined. And, that's how we're vetting through whether a project is exempted or not. But, it's pages and pages of reading and deciphering this out.

And, putting in this term, definition Qdo, is really honing in on specifically the sand that this moratorium is looking to protect, preserve, and keep onsite. So, no moving off. Sorry.

VICE-CHAIR CARROLL: Ms. Sugimura. Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Can we ask Public Works if they know the differences, if they're going to be the one that has to administer this, this moratorium? So, would Public Works be able to look at the sand and go, oh this is, you know, Qdo or whatever it is? Is it, are we the experts to be able to know this? I don't think so. You know, I'm kind of concerned about what makes us be able to look at sand and say, okay, this is going to be excluded or included in the moratorium. And, I have kind of big concerns with that, of us as a legislative branch deciding that we're going to decide what, what is going to be included or not included. I don't know. I think that's a big problem.

VICE-CHAIR CARROLL: When we pass out the, we pass out the ordinance, if there's a responsibility of others, Public Works and other entities to make these determinations. It's not the Council, because we cannot go out there and look at the sand. We can write the ordinance and have the intent. But, to actually, other people have to have the expertise to make those judgements.

COUNCILMEMBER SUGIMURA: Can I ask Corp. Counsel? Can I ask Corp. Counsel that question?

VICE-CHAIR CARROLL: Yes, proceed.

COUNCILMEMBER COCHRAN: What's the question?

VICE-CHAIR CARROLL: Mr. Wong.

CORPORATION COUNSEL: Chair, just to clarify. Is the question whether or not Public Works would be the appropriate entity to evaluate the differences in the identified sand composition? Is that the question?

COUNCILMEMBER SUGIMURA: Yes, yes, yes. Does Public Works, cause they are the Department that's identified for this proposal. So, do they have the expertise to be able to look at this and say, oh, this is a Qdo dune sand and not, and this would be excluded, not, you know? Who's the expert?

VICE-CHAIR CARROLL: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. I prefer not to answer on behalf of Public Works. You know, I'm personally not familiar with the distinction between those items. And, I'm not equipped to answer one from the other. So, if you would want an answer from Public Works, I would suggest the body requesting Public Works representative present qualified to answer that question.

COUNCILMEMBER COCHRAN: Chair.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you, Chair. So, basically, it's not Department's determining this. It's engineers. It's, right, it's the engineers who are hired by the landowners to determine what their land is made up of. That's what all these reports have been about, all the geotechnical reports, the AIS's are describing the archaeological aspects of there.

So, the landowner hires the experts. There are these reports, and that's what we have been vetting. But, it's the engineers basically, who are determining Qdo, old, young, alluvium, you name it. That's what all those testings, and pits, and trenches, and things are doing for the landowner. And thereby, we get reports, we can read them, the experts are telling us what is there or not there, and we are making determination.

This moratorium is asking to keep the Qdo, the older nice sand, finer stuff on sites for six months, you know, until, so anyways, the rest of the moratorium explains the rest of it. So, that's who determines and judges what your sand is, or what your land is made up of.

COUNCILMEMBER KING: Chair.

COUNCILMEMBER COCHRAN: So, helpfully that helps answer the question.

COUNCILMEMBER KING: Chair.

VICE-CHAIR CARROLL: Ms. King.

COUNCILMEMBER KING: Thank you, Chair. So, I just wanted to clarify because it, it's obviously a classification that is defined by United States Geological Survey. So, that's who, who created that classification, and it's up to the engineers to apply that classification.

But, my question is, so are the, is the intent of this that the older deposits are the ones more likely to have the burial, the burial remains in them? And so, really what we're doing here it's not like we're trying to figure out which is the most desirable sand, but which was most likely to have those burial remains? And that to me, that's how this reads.

So, if I could ask Ms. Cochran, Chair.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes. Yup. Basically, that is it. But, I'll explain if Members need to know about Qdo, a little bit more in relation to geotechnical. So, it's, it is acknowledged that the term Qdo is not utilized in AIS's, Archaeological Inventory Surveys, and in the Geotechnical Reports.

However, it is the identifier that we use to draw the boundaries for this moratorium, using USGS Geological Map, which identifies the older sand dunes as, which is as Qdo sand.

The AIS's and Geotechnical Reports actually use more obvious terminology in their findings. The terms that are used in their reports are Pu'uone Sand, Dune Sand, and just sand, in contrast to other terms that are used in this same reports such as alluvium, silt, clay, gravel, etc.

The reason the addition of this Qdo is really crucial for the definition of Central Maui Inland Sand is that we have run into a few examples where without that clarifier, certain properties that contain alluvium, which is gravity swept soil from the mountain mixed with either clay, silt or sand, and or gravel, is deposited in a much more recent geological time would be inadvertently unable to move that material from their lot. That is not the intent of this moratorium.

The intent of this moratorium is to not allow older dune sand, Qdo, to be moved off the lot for six months. And, the way it is currently written could have negative unintended consequences for landowners identified on the moratorium map. So, that really is why I'm trying to add in this definition.

VICE-CHAIR CARROLL: Further discussion to the motion to amend the main motion on the floor? Seeing none, all in favor signify by saying "aye".

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

VICE-CHAIR CARROLL: Opposed.

NOES: COUNCILMEMBERS HOKAMA AND SUGIMURA.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: One opposed.

COUNCILMEMBER SUGIMURA: I opposed.

VICE-CHAIR CARROLL: Two opposed? Okay. Two opposed. Alright. We have two "opposed". We have five "ayes" *[sic]*; motion passes.

Mr. Clerk, oh I'm sorry. We're really trying to speed things up over here.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Let's see. Chair, at the Council meeting on November 17, 2017, the proposed bill attached to Committee Report was amended by striking Tax Map Key (2) 3-5-001:064 from the moratorium area, and by amending that attached map to reflect the removal of that TMK.

At the December 1, 2017, meeting, we discussed the fact that letters had been sent out to all the TMK holders in the proposed moratorium area, and that we would give those who were notified until Friday, December 8, to petition us to consider removing them from the moratorium area. And, that's what I think Chair White will be revisiting. He's passed it out, and so there's a list of all those people there.

And, that's kind of where we're at. And, I'm very much in favor after all these meetings to get support on this. It's been interesting, and my staff has been vetting through stacks and stacks of all these reports from the different landowners. And the historical background of the Central Maui area as, we're trying to protect like 2.5-million-year-old sand. And, along with that, of course, in human, you know, our homo-sapien terms have come, and they've buried the past there, you know. And, then during the 1800's, this is where excavating, exporting, all these things started occurring.

And, so in that time, when you look at how old and, and you know, sensitive and special this area is and this resource is, and to think of how much has already been taken, I think we're not late. But, I think this is that opportunity to, to preserve what is left. And, there is so much to be learned, and so much to protect.

And, I think I've said so many things over and over in support of this. And, this is like our third first reading we're trying to push this through, you know. And at this time, I would really like to, you know, get the support on the main motion to this, to this bill we've been going through.

And, and the longer we delay, the longer the landowners are going to have to delay their projects too. So, I'd like to get this through in order to get their, you know, their business rolling too. And in a good proper way is the intent, also. So, thank you.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. On the main motion, as amended on the floor at this time?

VICE-CHAIR CARROLL: We are on the main motion, as amended.

COUNCILMEMBER HOKAMA: Okay, Chairman. Thank you. I just wanted to be clear that it's as amended from the previous meeting. You know, we, we've been following this topic for more than half a year, Chairman. So, I thank Ms. Cochran for her proposal. I thank Mr. Guzman for his proposal. I appreciate everyone that has shared their thoughts. Some of it may be truly emotional, and I can appreciate it's a very sensitive cultural subject we're talking about.

And, that's why for me, this after, after watching this continue to evolve, I'm going to speak against the motion. I still support what I voted for to come out of Committee. And you will see my name as one of those that said "aye", to report out of Committee at that point in time. If I believe, I recall the record correctly, I think since June I've been asking for us to pass out this moratorium and to do that assessment, which if we did, pretty much we'd be in the last month of the moratorium and maybe halfway through an assessment, okay.

But, here we are, still in the batter's box. And I know many have tried to deal with additional issues. But, all we did is postpone a decision and the ad hoc moratorium is in place, per se. How smart is that?

So, for me, Chair, I am going to vote "no", cause I rather go back to the original proposal that came out of Committee that I supported and voted for. Because now, with all these exemptions, what are we doing? Why not exempt everybody? Then we solve it in another way. So, for me, the line has been crossed, and I don't want to bastardize this anymore. So, either I'll support the original intent of the Committee as reported out, or not at all. Thank you.

VICE-CHAIR CARROLL: Further discussion to the motion on the floor?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. So, not being part of the Committee, but you know, watching it, and the discussions, and yes, it's been quite a, you know, you have to give the Committee credit for where it's at. But, where it's at, I have a hard time.

With, with this, with this Committee Report, there comes an exemption anyway for Everett Dowling, that came with the property that he owns. So, to me, what are you, where is the moratorium then on, you know. So, we're going to allow one exemption, what about those to follow? That becomes questionable.

And then I heard a testifier say it doesn't address the burials. So, that's, to me what I thought was the initial concern. Yes, it says purpose, but it doesn't address it throughout. That's my opinion. And, if, if it passes through or what have you, I think we still need to deal with all the requests for exemptions, because the, if I understand it correct, Ms. Cochran's bill is submitted with an exemption for particular properties. And so, where does that put us if we allow one or two exemptions, and there are others standing in line for that same request? I'm just trying to understand that, Chair. Thank you.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Yea, Mr. Dowling's, that exemption is because he had no sand on his property, but he is caught in the net, in the line on the map per se. So, we, yea, we researched it and his reports came back; there is no Qdo sand on that property. So, he got exempted so his project can move forward. And, it's in that process where he's ready to break ground. So, I didn't want to hinder him. And he totally was clearly in the clear basically.

And, the other, all those different TMK's and perhaps due to the letter Chair White had sent out to every single landowner and TMK, each one of those will be vetted individually, just as Mr. Dowling's was. It's not going to be one fell swoop. It can't be. Everybody would need to be vetted.

So, I think and I agree with Mr. Hokama, I would have loved to pass out the original from back in the day. But, here we are trying to, there's been questions popping up along the way. And so, we've been trying to accommodate and figure out all these things and, and people, you know, not to hinder progress forward, basically, but stay true to the intent of this moratorium. And, it's, you prove you have no sand, you prove that you're not exporting and all this stuff, and you're keeping your resource onsite, wonderful, you know.

But, there's a whole waiver section here, there's, you know, and these people that are seeking exemptions are because, at least in Dowling's case, he is good to go. And, so it was going to really stop him and it was needless for us to stick him in this moratorium, and it was proven through all his paperwork. And the rest are, are now being vetted, you know, case by case. So, that's what's happening there.

And, it's, and I'm, yea I don't really know what more to say about all that. But, it's been a long time coming and everyone's having their, you know, looking at them each one fairly and equally.

VICE-CHAIR CARROLL: Thank you, Ms. Cochran.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted some clarification. So, as amended, are we back to the main motion to pass?

COUNCILMEMBER COCHRAN: Yes.

COUNCILMEMBER GUZMAN: But, didn't you read earlier, Chair, a statement from Chair White that he was asking for January 5 or something like that on his motion?

VICE-CHAIR CARROLL: January 5.

COUNCILMEMBER GUZMAN: Is that, is this, is this Chair White's motion, or is this?

COUNCILMEMBER COCHRAN: No, no.

VICE-CHAIR CARROLL: No, excuse me.

COUNCILMEMBER GUZMAN: I'm kind of confused on the--

VICE-CHAIR CARROLL: Let me explain. Some people, there were, when it was passed out, there were other lots or other TMK's that were also requesting to be exempted. Since there was no time to have that vetted, and for Sunshine Law, and to be considered by the Councilmembers or the public, that we propose to do that at the second reading meeting in January, the first meeting in January.

COUNCILMEMBER GUZMAN: Oh, second reading.

VICE-CHAIR CARROLL: Yea.

COUNCILMEMBER KING: Chair.

VICE-CHAIR CARROLL: Ms. King.

COUNCILMEMBER KING: Thank you, Chair. I speak in favor of the motion. I think, I agree that if this had been passed earlier we'd be out of this, that period by now. We'd be moving along. We'd have this report. But, I'm satisfied that it's very clear what the purpose of this, what the purpose of this bill is, and it mentions historical, cultural, archaeological sites, and unmarking of burial sites. And, it even reiterates that in the section that talks about waivers. And it, and it specifies that, you know, one of the waiver conditions is that the proposed activity would not affect a burial site.

So, it's, you know, I think it's really clear what the intent of this bill is, and why we're doing it. And, we've heard from many, many people who have been in here who, who are desperate to protect those burial sites. So, every time we defer this, that's another two weeks or four weeks of not doing, not protecting it. But, it also is going into the

next period of when the next people who might be ready in six or eight months to break ground or do something are going to be now in that moratorium period.

So, I'm in favor of passing this out. And, and I'm happy to look at Mr. White's information for the next reading. But, I think we've kind of looked at this bill to death, and there've been a lot of concessions based on Members concerns. So, let's just pass this out. Thank you.

VICE-CHAIR CARROLL: Thank you, Ms. King.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Yea, I just had, just a quick, you know, I still feel a little bit uncomfortable with the Qdo amendment. But, I'm willing to pass this through to second reading. I just, we had numerous amount of meetings and I, and I recall when we did the GIS there was mention about Qdo 1 and Qdo 2. I did require or request that we refine the property to be identified, therefore, TMK's were included into the ordinance.

Now, this is another, this is another, I guess, filtering or another condition placed into the ordinance which I feel uncomfortable with, but I'm willing to pass it through to second reading because I don't understand how it works within the entirety of the bill. So, I know that Ms. Cochran has stated some of the rationale behind it, but just like any argument, it's an argument or it's a support. There hasn't been any evidence that has been placed into the record. So, usually when I hear things from my colleagues, it's usually an argument that's already based off of foundation that has been submitted into Committee, and they're arguing their points.

But, this, in this case, Ms. Cochran hasn't had the, there was no evidence or foundation to support what she's, you know, basically saying on the floor. So, to me it's a little bit of a void. So, I, I don't, I guess before second reading, I'll probably have to read more information and submit it into Committee. But, like I said I'm willing to pass this through to second reading. Thank you.

VICE-CHAIR CARROLL: Thank you, Mr. Guzman.

Ms. Sugimura, followed by Ms. Cochran.

COUNCILMEMBER SUGIMURA: So, I think I've asked . . . meetings in the purpose which is, which was stated to, you know, protect archaeological, the, the iwi kupuna, as well as to update the 2006 sand study. And in the bill, I'm still not sure where it protects the iwi kupuna, except now we're including this Qdo, a classified Qdo by USGS and saying that somehow that's connected. I'm still not clear why that would be connected

to iwi kupuna. Maybe somebody could explain that. And I, and because it's now included in the, in this, it's an amendment to the bill. I do not see how this specifically helps preservation of iwi kupuna and all the testifiers that came forward.

As I said earlier, it is the kuleana of, you know, the State Department of Land and Natural Resources with SHPD, whether you think they're doing a good job or not. Their, their job is, is to identify and make recommendations. They don't do enforcement. So, I proposed a resolution the last Council meeting, which went into Mr. Guzman's Committee. But, it is to ask the Governor to ask DLNR to take care of the enforcement portion, which I think is what would help with this, although we're not State of Hawaii.

So, I'm hoping that would answer the question, but I'm still not clear why this bill helps protect iwi kupuna, number one. And again, updating the 2006 sand study is going to come up with the same conclusion, which is we're going to run out of sand. And, I thought that was why we were talking about it meetings ago, because we're trying to prove why we shouldn't ship sand offshore, right. So, we should keep the, all the sand here on, on Maui, Molokai, Lanai. I think what the sand company said they would do, that they wouldn't ship it off to Oahu to the rail system or whatever.

And, at that time, to update the 2006 sand study, which, you know, Member Hokama references and made sense, because we needed to prove that we need to keep our sand here. So, that, that act has been said they wouldn't do it. The company said they wouldn't ship off, offshores. Keep it in Maui, Molokai, and Lanai, I think, because we're island, a County, they said they would keep it, you know, within Maui, Molokai, Lanai. So, that solved that problem. But, I'm still not clear about where the iwi kupuna is being helped and preserved through this bill. Thanks.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, it states that you cannot disturb burial sites. So, I don't know how clearer it can get. And, the other thing is the Q, we based this map, the boundary line of this moratorium on Qdo sand. It's throughout the entire documentation, throughout the entire discussion of months and months and months of discussion on this. And so, Qdo is, that's what everything was based on, and therefore, to really refine and define that intent. That's what this, that amendment did just now; to really make sure that it's spelled out and that's, and that's what it is.

So, the definition was considered, I recall, during the original drafting of this bill. And then after more review, several exemption requests made it obvious that it was a very, very crucial clarification to be made. And essential for landowners to be distinguished, you know, whether they're in this exemption phase or not.

So, for the Members information, this term Qdo does mean older sand, older dune deposits. And, the source is from USGS, geological maps of the County. And, that's how we use the boundaries for the map to begin with. The Qdo is defined as Holocene or Pleistocene, which is the measurement of age. And, Holocene can be up to 11,700 years old. And Pleistocene can be up to 2.5 million years old. As opposed to Qa, alluvium or Qtao, older alluvium, which is deposited during comparatively recent geologic times.

And so, therefore, that amendment prevented inadvertent impacts to landowners conducting legally permitted activities within their property boundaries. And, so it involved deposits that were not intended for inclusion in the moratorium. I mean, that's basically what that did. And so, I really see it was a pertinent and important thing to do, and very, very beneficial to the landowners. So, I can't get any clearer than that. But, thank you, Chair.

VICE-CHAIR CARROLL: Mr. Atay, followed by Ms. Crivello.

COUNCILMEMBER ATAY: Thank you, Chair. I sit here, I say this is a great experience of where governance meets economics, meets science, meets culture, and then we got to make a decision.

For me, it started nine months, eight months ago, on County Communication 17-215, mainly with inquiries from the community inquiring about the exporting of sand, and the mining of sand. And, in that request of just addressing that, you know, relating to sand mining and exporting our resource off-island, that's how my initial involvement got moving.

Through that I've, I've, through due diligence, I realized that the sand industry over here on Maui, or the sand exporting industry involves at least 21 trucks moving at least 10 loads each truck loading a barge. Each barge carrying at least 210 truckloads of sand. Each barge leaving Maui with 6,000 tons of sand. And, in the last 10 years, there were 400 barge loads of sand that got exported and shipped off Maui to Honolulu. 400 barge loads of each barge load being 6,000 tons; 2.4 million tons or 4.8 billion pounds of sand. Or was it iwi kupuna? So, the inquiry was enough, you know, nuff already and look at our, you know, with our constructions, our building needs. Do we ship off that resource? So, to inquire that.

And so, it basically was a request of can we have a moratorium to expound on this Maui Inland Resource Quantification Study that was done in 2006, get that study updated to see where that is at. But, along the process in these last eight months, other things have come up. And, and the representations and the testimony of the

Hawaiian community and the cultural people emphasizing the existence of cultural history, and the cultural connections of our ancestors. So, now it's beyond just exporting sand, it's now it's just beyond the economics. It's, it's how do we get there.

And, and I agree with Ms., Ms. Cochran because the quantification or, or the identification of Qdo comes from USGS. It comes from the geological surveys. I forgot the lady's name that came from the Administration that showed us the map. She just showed, shared what the USGS map had of where this sand dune was, and the kinds of quality of sand. And so, this designation of the other types of sand, that's saying this is not sand that's kind of like has dirt. That's why the exemption of, of that property got involved.

So, I followed this through, and I fully support the current resolution as is. I think if we passed it from the beginning, I think it's, it was only a six-month moratorium to do the study and get everything up to date. We've, it surpassed that to eight months. But, it's been an experience for me, and I sure don't want to go through another eight months. We want to get this done. Let's move it, put everybody in a pause, and, and let's solve this. Thank you, Chair.

COUNCILMEMBER CRIVELLO: Chair.

VICE-CHAIR CARROLL: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I don't, I don't have a problem really to having it pass through the first reading. I, I just, you know, if we're going to put something into law, who does the inspections to say, as an engineer or whoever it is, a classification for Qdo or? You know, we can pass things, but make sure can, we have the capacity to enforce with identification, that's my concern. But, I don't have a problem for us passing this through for, through first reading at this time and then further vet it with the exemptions.

I, I do have concerns how we say moratorium, but then you know, you going push through with your moratorium bill that, okay, I'm going to let Everett Dowling because no more sand. But, who determines that? He did an AIS. What, you know, what, what was all the requirements for the landowners, and then if that's going to be allowed, then we, we have to make your own, and further discussion for all the other inquiries that are coming down for exemptions. And so, those are my concerns. There's no question. There's concern.

There should never had been exportation of sand. That should never have been allowed. Okay, so that's, that's pau. So, how do we come to, so that there's no loopholes, you know? Who classifies? Is it the engineer? Is it the landowner? Is it

Public Works, or is it USGS that it's all Qdo sand or what have you? But, I think for myself, there's still more homework until we come to second reading. I'm okay with passing through first reading.

VICE-CHAIR CARROLL: Thank you, Ms. Crivello.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Yea, I think I explained reports are done by the engineers and experts, and USGS, and people of that caliber. And so, the, the reason for handing out what Chair White did is so there'll be enough time for everyone here to vet through all the information, cause it's kind of a nice packet, and then be prepared on the next final reading of this. And, it's, it's the expertise of the people who do studies, and know what they're talking about. And, it's our job as decision makers to read these reports and to deter, make a educated determination on whether a person is qualified for exemption or waive, you know, or not.

And, there's a waiver process and current bill. That's where I was hoping all this would go, but now it seems to be coming through this body. And so be it. You know, I'm doing everything, my office has been doing everything we can to accommodate every single person, and literally every single person's challenge and, you know, issue with this. So, yea, it's taken way longer than the moratorium itself could have been. But, here we are.

And, you know, it's interesting that we are not the only place in this world that has an issue with their sand leaving their home. Even in the Middle East, in the desert, they're shipping out all their sand, and they're losing beaches along their coastlines. And, the places in down south in Arkansas. My nephew just came and was telling me about that, and how they got sand issues with tar sands and I'm like, wow. So, it's, it's globally.

But, you know what? We can make a decision and make a positive effect right here in our own backyards literally. And, I think for me, it is about the culture. It is about the iwi. And, I'm standing up strictly, if anything, above all else is to protect that. So, I really don't have a lot more to say, Chair. Thank you very much, and I'm ready for the vote.

VICE-CHAIR CARROLL: Any further discussion to the motion, as amended, on the floor?
Seeing none--

COUNCILMEMBER GUZMAN: Chair, I guess--

DEPUTY COUNTY CLERK: Mr. Chair, I apologize. Before, before you call for a vote, for the record, we're going to have to clarify the vote count of the last amendment. What was stated by the Chair was that there was five "ayes", two "noes". The two "noes" weren't identified, but we have it down as Councilmember Hokama and Councilmember Sugimura. But, there are eight Members present. So, for the record, is the vote count six to two, or is it four to three?

VICE-CHAIR CARROLL: Brief recess.

(THE MEETING WAS RECESSED BY THE VICE-CHAIR AT 3:47 P.M., AND WAS RECONVENED AT 3:48 P.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

VICE-CHAIR CARROLL: Two "noes" for the amendment to the main motion. And, I misstated it, it's six to two. I misstated, and I just said five to three. But, it's six. The motion to amend passed six to two. Okay, and we just need to clarify that for the record. My apologies.

Alright, we're back to the main motion as amended. All those in favor, please signify by saying, ah excuse me. No, we're not going to do that, I'm not going to. We'll go into just go straight to roll call vote.

Yes, Mr. Clerk.

DEPUTY COUNTY CLERK: Councilmember Alike Atay.

COUNCILMEMBER ATAY: AYE.

DEPUTY COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

DEPUTY COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

DEPUTY COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

DEPUTY COUNTY CLERK: Councilmember Don S. Guzman.

COUNCILMEMBER GUZMAN: AYE.

DEPUTY COUNTY CLERK: Councilmember Kelly T. King.

COUNCILMEMBER KING: AYE.

DEPUTY COUNTY CLERK: Presiding Officer Pro Temp Stacy Crivello.

COUNCILMEMBER CRIVELLO: YES.

DEPUTY COUNTY CLERK: Vice-Chair Robert Carroll.

VICE-CHAIR CARROLL: AYE.

DEPUTY COUNTY CLERK: Chair Mike White.

VICE-CHAIR CARROLL: EXCUSED.

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

NOES: COUNCILMEMBERS HOKAMA AND SUGIMURA.

EXCUSED: CHAIR WHITE.

DEPUTY COUNTY CLERK: Mr. Chair, there are six "ayes," two "noes", and one Member "excused".

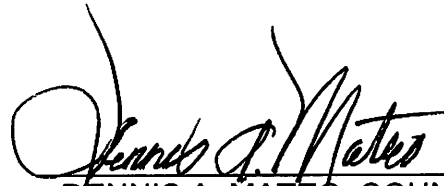
VICE-CHAIR CARROLL: The motion passes.

Members, we have come to the end of our agenda today. Thank you so much for staying with us. And to the Members of the public who are here, and all in television land, thank you so much for involvement. It does make a difference.

This Maui, this Council meeting stands adjourned.

ADJOURNMENT

The regular meeting of December 15, 2017 was adjourned by the Chair at 3:50 p.m.

A handwritten signature in black ink, appearing to read "Dennis A. Mateo", written over a horizontal line.

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

Sam Smali

Audit Maui's SMA Permit Process: Close Loopholes That Hide Corruption & Dama...

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Petition details ▾

Petitioning [Maui County Auditor Lance Taguchi](#), [Maui County Auditor](#)

Audit Maui's SMA Permit Process: Close Loopholes That Hide Corruption & Damage Environment



[Maui Causes](#) Makawao, HI



We now have clear evidence of fraud and collusion in Maui County's administration of Special Management Area Permits to allow developers and licensed consultants to intentionally avoid public review and the cost of environmental protections, in violation of Federal Coastal Zone Management Laws.

As the decades of public records expose, one by one, politically appointed Planning Directors have selectively issued thousands of exemptions and SMA Minor Permits on private ocean front

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1,390 have signed. Let's get to 1,500.

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County Auditor: Assess our...

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Recipient: Lance Taguchi, Maui County Auditor

Letter: Greetings,

We now have clear evidence of fraud and collusion in Maui County's administration of Special Management Area Permits to allow developers and licensed consultants to intentionally avoid public review and the cost of environmental protections, in violation of Federal Coastal Zone Management Laws.

As the decades of public records expose, one by one, politically appointed Planning Directors have selectively issued thousands of exemptions and SMA Minor Permits on private ocean front properties and massive agricultural tracts that have been subdivided into condominiums, in order to serve the developer's financial interests.

The cumulative impacts of toxic runoff, obstructed coastal access, shoreline erosion and traffic jams are being perpetuated by an active and illegal covered-up of this fraud and collusion by Corporation Counsel.

We believe a simple, focused audit will expose loopholes in the SMA Permitting process and reveal to the Planning Commission the massive number of multimillion dollar, private, oceanfront developments where the citizens have been illegally cut out of the review and approval process.

In order to end the decades-long exploitation of Maui Taxpayers, our Ocean Life, Reefs and Shoreline, we call on each County Council Member to sign this petition and join hands with the citizens in our request of you, as Maui's Independent Auditor, to identify and close the loopholes that facilitate the irresponsible mismanagement of Federal Environmental Laws.

BACKSTORY:

Mayor Arakawa's stinking Injection Wells demonstrate how little he cares for the environment. This carries over to a weak administration of Federal SMA (Special Management Area) laws. Politically appointed Dept. Directors manipulate permits so wealthy private developers can build multi-million spec homes and skirt around zoning and environmental laws.

All of this systematically sucks our tax money out of the budget to the benefit of private developers. We pay their bills. And the environment sustains ongoing harm.

For years Arakawa's cronies have facilitated falsified Order of Magnitude Statements and illegal, overlapping Infrastructure Deferral Agreements.

The Planning Director uses his enormous discretion to exempt developers from having to commit land for county road widening. To move the Pali Hwy, we just paid \$4 million to buy back land that should have been ours for free.

The Planning Commission and Directors looked the other way while Olowalu's developer skipped out without meeting their obligations. A citizen sued to bring them back 10 years later. We think there are thousand of Olowalu's out there.

Council Member Elle Cochran and others before her, JoAnne Johnston-Winer, Michelle Anderson, Sol Kaho'ohalahala, have tried to stop this abuse but the Mayor's lawyers stonewalled them all.

We think Corporation Council is blocking all public discussion of SMA Permit abuse and 3-Lot-or-Less Subdivision Deferral Agreements as part of an ongoing Cover-Up of multiple acts of fraud that were perpetrated around 2001 where a Land Planning consultant submitted falsified Order of Magnitude estimates and then went to work for the County as Deputy Director of Public Works, where he signed off on his own client's oceanfront subdivisions containing the very same falsified estimates.

Maui Causes is launching this public petition to call upon our independent County Auditor to assess our financial loss and close the loopholes that hide this ongoing corruption and environmental harm.

Pi'iholo Tree Removal

RECEIVED
2017 DEC 15 AM 7:44

SN stephanie nabor <smnabor@hotmail.com>
Yesterday, 8:26 PM
County Clerk ✕

OFFICE OF THE
COUNTY CLERK
✕ Reply all | ✓

Inbox

Hello,

My name is Stephanie Metzler, I am planning on testifying in the morning tomorrow (December 15th). However, on the off chance that I will not have a turn or have to leave early to go back to work, I wanted to be sure that my story was heard. Therefore I am writing it down as well.

Pi'iholo is a special place. It is lush and green and beautiful. When I turn up the hill next to St. Joe's, I immediately feel my blood pressure lower as I leave the town and the worries of the day behind. My family and I love living here.

However, lately it has become dangerous to drive home. To drive to work, to go to the grocery store. It is not an exaggeration to say that someone will probably be seriously hurt or worse very soon. In fact it was almost me.

The Sunday after Thanksgiving I got up early as normal to do my shopping. I headed out of my house around 6 am. The road is dark up there on a normal winter day at that time, and this Sunday it was a little foggy and rainy as well. I am a safe driver, and very aware, especially these days because of the danger of falling trees. I was driving along, came around one of the curves, and by the grace of God was able to brake in time before I slammed into a huge tree that had fallen across the road. I was very very lucky.

I was lucky because my husband had bought new tires the week before. I was lucky because I was not on my phone, or looking back at my children in the rearview mirror. I was lucky because I had been being especially vigilant and aware of my surroundings because I know of the dangers on that road. My tires squealed as I pushed the brake, and my back end fishtailed because there was so much water on the road. I saw flashes of memories race through my mind as the world moved in slow motion around me.

I am not sure how my car didn't hit that tree, and I am very grateful that it was me that encountered it on the road, rather than someone who wasn't being quite so careful.

I have 3 children, 2 of them still toddlers. I drive up and down this road every day with them, as do many of us. The need for funding to get these trees down is great. Please protect us.

Sincerely,

Stephanie Metzler

DEC 12 AM 3:44

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Reply all | Delete | Junk | ...



Proposed Bill Declaring a Moratorium on Sand Mining of Central Maui Inland Sand (IEM-33) (CR 17-167)

LP

Leiane Paci <LPaci@mills-group.com>

Yesterday, 4:58 PM

Mike White; County Clerk

Reply all |

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COUNTY CLERK

Inbox

Maui Lani Master Site...

388 KB

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Action Items

Dear Chair White and members of the Maui County Council,

Please accept the attached clarification as it relates to Maui Lani Partners' letters to the Maui County Council, dated November 30, 2017 and December 8, 2017. A map of Maui Lani with annotations related to the subject properties is provided for your reference.

As explained in the referenced letters, the properties highlighted in yellow in the table below have been mass graded, are flat, and do not have any sand for a viable sand resource operation (if permitted.) Phase 9 (highlighted in grey in the table) is partially graded, has an active grading permit, and therefore would be exempt per section 20.40.020 item 3, "Activities conducted pursuant to a valid permit issued prior to the effective date of this ordinance."

TMK:	Owner	acres	DLNR approvals	grading plan
238007152 (79, VMX)	Maui Lani, 100, LLC	7.537	Exhibits: 1 and 2	Exhibits: 3 and 4
238007157 (6D)	Maui Lani Partners	2.568	Exhibits: 5 and 6	Exhibit: 7
238007168 (77, VMX)	Maui Lani, 100, LLC	2.07	Exhibits: 1 and 2	Exhibits: 3 and 8
238007174 (regional park)	Maui Lani, 100, LLC	12.11	Exhibits: 9	Exhibit: 10
238097076 (76, VMX)	MLVC, Inc.	2.208	Exhibits: 1 and 2	Exhibits: 3 and 8
238007153 (Phase 9)	Maui Lani Partners	62.581	Exhibits: 11 and 12	Exhibit: 13
238007151 (Phase 8)	Gentry Maui	46.698	Exhibits: 14 and 15	Exhibits: 3 and 16

Based on the submitted information, Maui Lani Partners respectfully requests that the proposed bill be amended to remove the above listed properties.

Sincerely,

Leiane Paci

Partner

Maui Lani

149 Ma'a Street

Kahului, Hawaii 96732

(808) 244-8730

TMK: 238007153 (Phase 9)

Zoning: Residential

Mass Graded: partial

Structures: yes, 3 wells/pump houses, road, water transmission lines

Work Remaining: grading/utilities/vertical

Active permit: yes, grading permit

SITE PLAN

TMK: 238007157 (Lot 6D)

Zoning: Residential

Mass Graded: yes, flat

Work Remaining: Utilities/Vertical

Active permit: No

TMKs: 238097076, 238007168 and 152

(Lots 76, 77, and 79)

Zoning: commercial

Mass Graded: yes, flat

Work Remaining: Utilities/Vertical

Active permit: No

TMK: 238007174 (Regional Park)

Zoning: Recreation

Mass Graded: yes, flat

Work Remaining: Utilities/Vertical

Active permit: No

TMK: 238007151 (Phase 8)

Zoning: Residential (51% affordable)

Mass Graded: yes, flat w/import fill

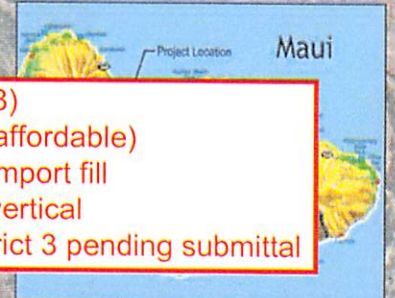
Work Remaining: utilities/vertical

Active permit: Project District 3 pending submittal

Kehalani
2,400 Units

Maui Lani
VMX

Residential Mixed-Use
392 Units



MAUI LANI

A MILLS GROUP DEVELOPMENT

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OFFICE OF THE
COUNTY CLERK

December 8, 2017

Honorable Mike White, Chair
Maui County Council
200 South High Street
Wailuku, HI 96793

Subject: **Proposed Bill Declaring a Moratorium on Sand Mining of Central Maui Inland Sand, (IEM-33)**

Dear Chair White and members of the Maui County Council:

Thank you for the opportunity to provide additional information on parcels that are affected by the proposed moratorium on sand mining. This letter will supplement our letter dated November 30, 2017 to further justify granting an exemption to this moratorium.

In proposed section 20.40.060, it states that the council must find that the following are met:

A. The proposed activity would not affect a "burial site", as defined in section 6E-2, Hawaii Revised Statutes

Response: In Chapter 6E "burial site" means any specific unmarked location where prehistoric or historic human skeletal remains and their associated burial goods are interred, and its immediate surrounding archaeological context, deemed a unique class of historic property and not otherwise included in section 6E-41.

It should be noted that an unknown burial does not meet the definition of a "burial site" until it is discovered or known.

All properties listed in the November 30, 2017 letter (with the exception of 238007153) have been mass graded level with no intact dune system. All properties have valid grading permits and approved archaeological surveys/assessments and monitoring plans. All known burial sites in specific unmarked locations are protected by mitigation plans in compliance with HRS 6E, and therefore would not be affected.

Regarding parcel 238007153 (Phase 9), valid grading permits for the construction of a residential subdivision have been issued for this property with approved archaeological

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HONORABLE MIKE WHITE, CHAIR
DECEMBER 8, 2017

Page -2-

assessment reports and monitoring plans. During construction of the single family subdivision, there were 5 inadvertent discoveries which are pending final determination by the Department of Land and Natural Resources, Historic Preservation Division (SHPD) in accordance with Section 6E HRS. These known burial sites in specific unmarked locations are protected by interim mitigation plans approved by SHPD, and therefore would not be affected.

B. The proposed activity does not conflict with the purpose of this chapter to conduct further analysis required to establish regulations for mining of inland sand to protect Maui's environment and limited natural resources and prevent the disturbance of Hawaiian historical, cultural, or archaeological sites, and unmarked human burial sites.

Response: The properties listed on the November 30, 2017 letter (with the exception of 238007153) have already been mass graded level and large areas are filled with imported soil. Any excess material due to onsite construction of these lots will have a negligible impact on the remaining sand inventory on the Island. Again, all known burial sites in specific unmarked locations are protected by mitigation plans in compliance with HRS 6E.

Regarding parcel 238007153 (Phase 9), the property consists of the Central Maui joint venture water lines, HC&S irrigation lines, 3 well sites and pump stations with water transmission lines connecting to Kuikahi Drive and the Waiale Tank that provides water to various districts on Maui. Preliminary subdivision approval was also granted on September 29, 2017 for a residential subdivision which will include approximately 170 homes and are on hold pending the Planning Department's review of grading definitions (Refer to Exhibit 17 of the November 30, 2017 letter). Again, all known burial sites in specific unmarked locations are protected by interim mitigation plans approved by SHPD.

Given the above, and that a current valid grading permit was issued for parcel 238007153 (Phase 9), this parcel is already considered exempt in accordance with section 20.040.020 definition of "sand mining" which makes an exception to activities conducted pursuant to a valid permit issued prior to the effective date of this ordinance.

Honorable Mike White, Chair

December 8, 2017

Page -3-

The table below provides a summary of these parcels proposed to be exempted:

Parcel	Mass Graded Level	Approved AA* or AIS**	Approved Mon. Plans***	Approved permits	Meets Purpose of Bill
238007152	Yes	Yes	Yes	Grading and Subdivision	Yes
238007157	Yes	Yes	Yes	Grading and Subdivision	Yes
238007168	Yes	Yes	Yes	Grading and Subdivision	Yes
238007174	Yes	Yes	Yes	Grading and Subdivision	Yes
238097076	Yes	Yes	Yes	Grading and Subdivision	Yes
238007153	Partially	Yes	Yes	Grading and Preliminary Subdivision	Yes
238007151	Yes	Yes	Yes	Grading and Subdivision	Yes

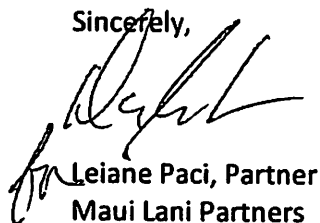
*Archaeological Assessment

**Archaeological Inventory Survey

***Monitoring Plans

Thank you for your consideration on excluding these parcels that have been mass graded and/or currently have valid permits and approvals from the moratorium. Should you have any questions, or need additional information, please contact me or Daren Suzuki at 244-8730, or by email at lpaci@mauilani.com or dsuzuki@mauilani.com.

Sincerely,



Leiane Paci, Partner
Maui Lani Partners

cc: Daren Suzuki
Gentry

MAUI LANI RECEIVED

2017 DEC 11 PM 1:06

November 30, 2017

Honorable Mike White, Chair
Maui County Council
200 South High Street
Wailuku, HI 96793

OFFICE OF THE
COUNTY CLERK

Subject: **Proposed Bill Declaring a Moratorium on Sand Mining of Central Maui Inland Sand, (IEM-33)**

Dear Chair White and members of the Maui County Council:

On November 17, 2017, the Maui County Council voted to defer First Reading of the proposed Sand Moratorium bill. This deferral would allow some time for landowners to come forward and provide updated information on their properties for granting of a waiver to the moratorium.

Maui Lani Partners appreciates this deferral as we were not aware that waiver can be granted prior to the enactment of this moratorium. As such, we request that the following properties be exempt from this moratorium:

TMK:	Owner	acres	DLNR approvals	grading plan
238007152 (79, VMX)	Maui Lani, 100, LLC	7.537	Exhibits: 1 and 2	Exhibits: 3 and 4
238007157 (6D)	Maui Lani Partners	2.568	Exhibits: 5 and 6	Exhibit: 7
238007168 (77, VMX)	Maui Lani, 100, LLC	2.07	Exhibits: 1 and 2	Exhibits: 3 and 8
238007174 (regional park)	Maui Lani, 100, LLC	12.11	Exhibits: 9	Exhibit: 10
238097076 (76, VMX)	MLVC, Inc.	2.208	Exhibits: 1 and 2	Exhibits: 3 and 8
238007153 (Phase 9)	Maui Lani Partners	62.581	Exhibits: 11 and 12	Exhibit: 13
238007151 (Phase 8)	Gentry Maui	46.698	Exhibits: 14 and 15	Exhibits: 3 and 16

All properties listed above (with the exception of 238007153) have been mass graded with valid grading permits and approved archaeological surveys/assessments and monitoring plans. All known burial sites are protected by mitigation plans in compliance with HRS 6E.

Regarding parcel 238007153 (Phase 9), valid grading permits for the construction of a residential subdivision have been issued for this property with approved archaeological assessment reports and monitoring plans. During construction of the single family subdivision, there were 5 inadvertent discoveries which are pending final determination by the Department of Land and Natural Resources, Historic Preservation Division (SHPD) in accordance with Section 6E HRS. These known burial site are protected by interim mitigation plans approved by SHPD.

Honorable Mike White, Chair

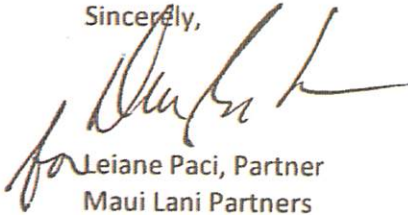
November 30, 2017

Page -2-

The property also consists of the Central Maui joint venture water lines, HC&S irrigation lines, 3 well sites and pump stations with water transmission lines connecting to Kuikahi Drive and the Waiale Tank that provides water to various districts on Maui. Preliminary subdivision approval was also granted on September 29, 2017 for a residential subdivision which will include approximately 170 homes and are on hold pending the Planning Department's review of grading definitions (Exhibit 17).

Thank you for your consideration on excluding these parcels that have been mass graded and/or currently have valid permits and approvals from the moratorium. Should you have any questions, or need additional information, please contact me or Daren Suzuki at 244-8730, or by email at lpaci@mauilani.com or dsuzuki@mauilani.com.

Sincerely,



for Leiane Paci, Partner
Maui Lani Partners

cc: Daren Suzuki
Gentry

Dec-09-2004 11:36am From: STATE Historic Preservation

To: <i>MICHA MIRANO</i>	From: <i>C. T. AGHER</i>
Co./Dept:	Co.:
#:	Phone: <i>692-8823</i>
Fax: <i>244-8229</i>	Fax #:

808 692 8020

T-564 P 001/004 F-704



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING, ROOM 555
801 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
DAN DAVIDSON
DEPUTY DIRECTOR - LAND
YVONNE T. IZU
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LIVES
CONSERVATION AND RESOURCE ENFORCEMENT
ENFORCEMENT
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 4, 2004

Jeffrey Pantaleo
Archaeological Services Hawaii, LLC
18 South Market Street, Suite G
Wailuku, Hawaii 96793

LOG NO: 2004.3187
DOC NO: 0410MK20

Dear Mr. Pantaleo:

SUBJECT: Chapter 6E-42 Historic Preservation Review of an Archaeological
Monitoring Plan Proposed Construction on a Residentially Zoned parcel
for Mr. Dave Gleason Formerly referred to as the "Light Industrial Park"
Wailuku Ahupua'a, Wailuku District, Maui
TMK (2) 3-8-07: Por. 131

Thank you for the opportunity to review this plan which was originally sent to our office on May 3, 2004 (Rotunno-Hazuka and Pantaleo 2004, Archaeological Monitoring Plan for the Proposed Construction of a Residentially Zoned parcel, TMK 3-8-07:131 Pors. Wailuku Ahupua'a, Wailuku District, Island of Maui, Archaeological Services Hawaii, LLC, ms). We have previously commented on this parcel as part of Maui Land Use Plan Update and Related Project District Amendments (Log 2004.1833/Doc 0405CD49) and indicated that an archaeological survey was conducted on this portion of the project area in 2001. The report (Simoto et al. 2001, Supplementary Archaeological Sampling: Proposed Light Industrial Park Maui Land Development Area, Wailuku, Maui Island, TMK 3-8-07: por 131) was reviewed (Log 28525/Doc 0110MK03) and revisions were recommended. Upon receiving this monitoring plan, we indicated to you that the requested revisions were necessary prior to our processing the review of the monitoring plan. We received the recommended revisions to the archaeological inventory survey on September 13, 2004. The revisions have been reviewed and accepted (Doc. 0410MK19). We can now proceed with the review of the monitoring plan.

The plan conforms with DLNR/SHPD guidelines governing standards for monitoring and includes the following provisions. An archaeologist will be on site on a full-time basis and will have the authority to halt excavation in the event that cultural materials are identified. Consultation with Maui SHPD will occur in this event, to determine acceptable course of action. If human burials are identified, work will cease, the SHPD Burial Sites Program, Maui SHPD, O'ahu SHPD and the Maui/Lana'i Islands Burial Council will be notified, and compliance with procedures outlined in HRS 6E-43.6 and HAR 13-300 will be followed. Coordination meetings with the construction crew will be held prior to project initiation. The plan further indicates that an acceptable report will be submitted to this office within 180 days of project completion.

EXHIBIT

Jeffrey Pantaleo
Page 2

Please notify our Maui and O'ahu offices, via facsimile, at onset and completion of the project and monitoring program.

The plan is adequate and we can accept it as final. If you have any questions, please contact Dr. Melissa Kirkendall at 243-5169.

Aloha,


Melanie A. Chinen, Administrator
State Historic Preservation Division

MK:jen

c: Bert Ratte, DPWEV, County of Maui
Michael Foley, Director, Dept of Planning, 250 S. High Street, Wailuku, HI 96793
Maui Cultural Res Commission, Dept. of Plng, 250 S. High Street, Wailuku, HI 96793
Jeffrey Pantaleo, Principal Investigator, ASH, LLC, FAX 837-0131
Chair, Maui/Lana'i Islands Burial Council
Kana'i Kapeliela, Burial Sites Program

NOV - 9 2004

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

April 25, 2008

APR 9 2008

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ms. Leiane Paci, Partner
Maui Lani, A Mills Group Development
105 N. Market Street
Wailuku, Hawai'i 96793

LOG NO: 2007.3020
DOC NO: 0804.HR04

Dear Leinae:

SUBJECT: Burial Site Component of a Data Recovery Plan for Site 50-50-04-6261
Features 1A, 1C, 2-8, 11 & 12, and Preservation Plan for Features 1B, 9, 10,
& 13 at Kuikahi Drive Extension, Wailuku Ahupua'a, Wailuku District,
Maui Island, TMK: 3-8-07: 151 Pors.

State Historic Preservation Division has reviewed your Burial Site Component of a Data Recovery and Preservation Plan for the above site and is happy to inform you of its acceptance.

Should you have any questions, please contact our Cultural Historian, Mr. Hinano Rodrigues, at (808) 243-4640.

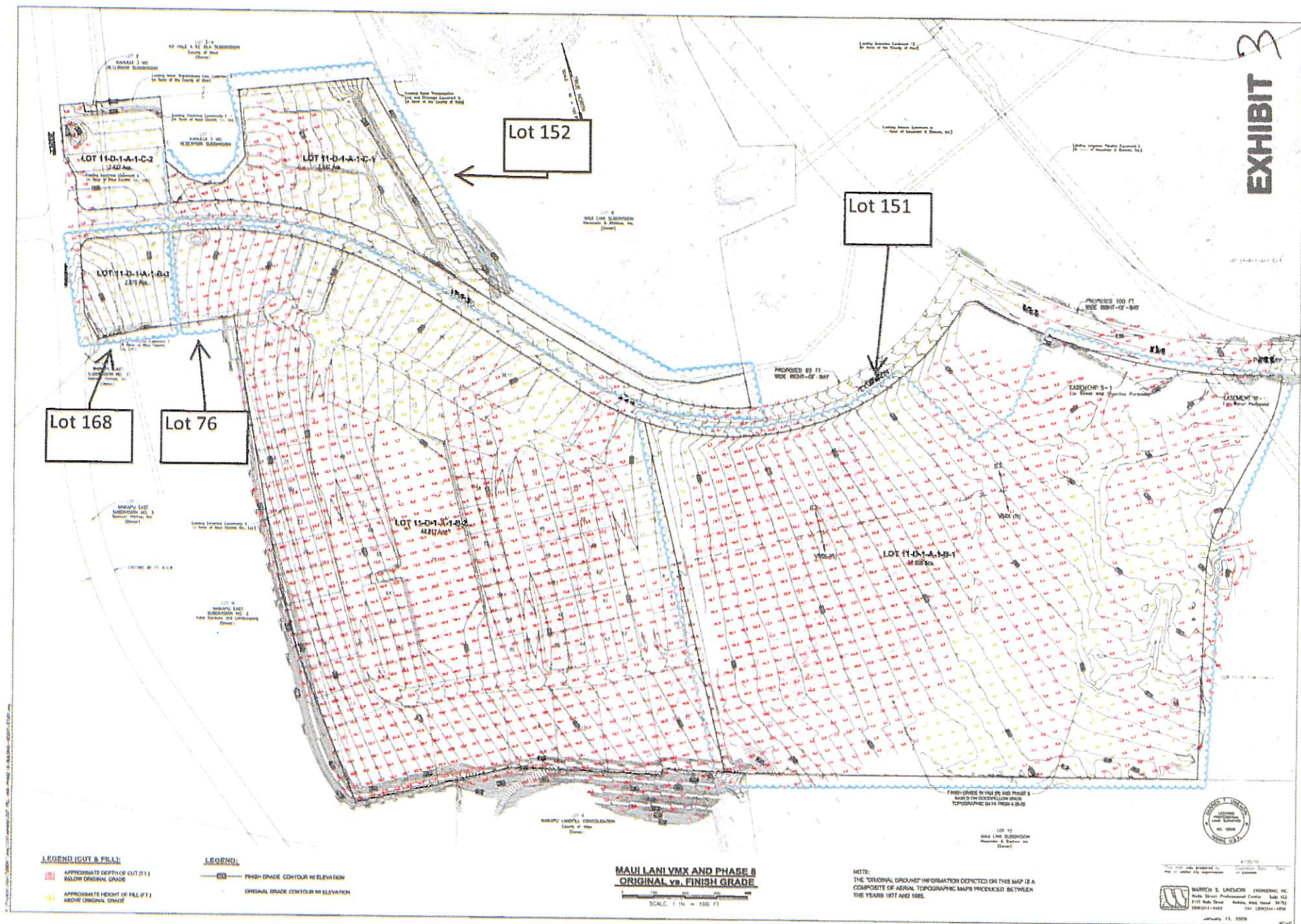
Sincerely,

Nancy McMahon, Acting Archaeology Branch Chief
State Historic Preservation Division

cc: Hinano Rodrigues, Maui Cultural Historian
Archaeological Services Hawai'i, LLC
Members, MLIBC

EXHIBIT 2

EXHIBIT 3



IN

Existing Water Transmission Line Easement A
(in favor of the County of Maui)

Existing Electrical Easements E-1
(in favor of Maui Electric Co., Ltd.)

LOT 1
KAHULUI 3 MG
RESERVOIR SUBDIVISION

LOT 11-D-1-A-1-C-1

7.537 Acs

Existing Water Transmission
Line and Drainage Easement, B
(in favor of the County of Maui)

-B-3

KUIKAPU

LC
 MAUI LANI
 Alexander &
 (O

11:52a

ASH

(808) 244-9592

p. 2

LONDA LINGLE
GOVERNOR OF HAWAII

RECEIVED

BY [signature] DATE 11/15/06

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCESSTATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENTROBERT K. MASUDA
DEPUTY DIRECTOR - LANDDEAN NAKANO
ACTING DEPUTY DIRECTOR - WATERAQUATIC RESOURCES
BOARDS AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES EDUCATION CENTER
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 8, 2006

Mr. Jeffrey Pantaleo
Archaeological Services Hawaii, LLC
1930 A Vineyard Street
Wailuku, Hawaii 96793LOG NO: 2006.3597
DOC NO: 0611MKJ1
Archaeology

Dear Mr. Pantaleo:

**SUBJECT: Chapter 6E-42 Historic Preservation Review – Archaeological Assessment Survey
For Maui Lani Residential Subdivision Phases 6D and 7.4 for Maui Lani Partners
Wailuku Ahupuaa, Wailuku District, Island of Maui
TMK (2) 3-8-007: por 131**

Thank you for the opportunity to review this report which our staff received on September 27, 2006, (Pantaleo and Rotunno-Hazuka 2006, *Archaeological Assessment Maui Lani Residential Subdivision Phases 6D and 7.4, Wailuku Ahupuaa, Wailuku District, Island of Maui, TMK 3-8-007: por 131*...Archaeological Services Hawaii, LLC, ms).

The assessment meets our minimum requirements, as set forth in H.A.R. 276-5 (a) and (c). Archaeological inventory surveys in the general vicinity have also yielded negative results, although human burials are frequently identified during the monitoring process.

The survey has adequately covered the project area documenting no historic properties. Subsurface testing (twenty backhoe trenches) were also negative for evidence of cultural deposits. The stratigraphy revealed a homogeneous deposit of silty sand, lithified sand and either gravelly or lithified basal deposits.

We concur with the mitigation recommendation that, although no historic properties were identified, archaeological monitoring during all ground altering activities is warranted. We will anticipate receipt of an archaeological monitoring plan specific to Phases 6D and 7.4.

We find this report to be acceptable. As always, if you disagree with our comments or have questions, please contact Dr. Melissa Kirkendall at (808) 243-5169 as soon as possible to resolve these concerns.

Aloha,

[signature]
Melanie Chinen, Administrator
State Historic Preservation Division

MK:kf

c: Bert Ratte, DPWEM, County of Maui, FAX 270-7972
Michael Foley, Director, Dept. of Planning, FAX 270-7634
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793

EXHIBIT 5

Apr-11-2007 11:19am From: STATE Historic Preservation

808 692 8020

T-161 P.001/002 F-679

To: Gary Kawano	From: Hist. Sites
Co./Dept.	Co.
Phone #	Phone # 692-8015
Fax # 244-0897	Fax #



APR 11 2007



PETER T. YOUNG
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KASOGLAW ISLAND RESERVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

April 2, 2007

Mr. Bert Ratte
Department of Public Works and Environmental Management
Development Services Administration
250 South High Street
Wailuku, Hawai'i 96793

LOG NO: 2007.0991
DOC NO: 0703JP21
Archaeology

Dear Mr. Ratte:

SUBJECT: Chapter 6E-42 Historic Preservation Review [County/DSA] -
Grading and Grubbing Permit Application for the Proposed Mass Grading of
Maui Lani Site 6-D (G T2006/0135) and Phase 7/ Increment 4 (G T2006/0136)
Wailuku Ahupua'a, Wailuku District, Maui Island
TMK: (2) 3-8-007:131(portion) and 3-8-007:162

Thank you for the opportunity to review the grading and grubbing permit applications for the mass grading of future development for the Maui Lani Site 6-D and Phase 7 Increment 4 Subdivision. The proposed Maui Lani Project Site 6D (2.0 acres) and Phase 7.4 (17 acres) are located within the Pu'uone sand dune complex, where there have been numerous human burials documented (various SIHP numbers). During any and all ground alterations related to the proposed Phase 6D and/or 7.4, at least one archaeological monitor will be assigned to each piece of ground disturbing equipment.

We have accepted an archaeological assessment that met our minimum requirements, as set forth in HAR 276-5 (a) and (c). The assessment adequately covered the project area documenting no historic properties. Subsurface testing (twenty backhoe trenches) were negative for evidence of cultural deposits. We concurred with the mitigation recommendation that, although no historic properties were identified, archaeological monitoring is warranted for all ground altering activities. We recommended an archaeological monitoring plan specifically designed for the two phases (LOG NO: 2006.3597/ DOC NO: 0611MK11).

We have recently accepted an archaeological monitoring plan for the two phases entitled (Rotunio-Hazuka and Pantaleo 2007, *Archaeological Monitoring Plan for the Development of Phases 6D and 7.4 Located at Maui Lani Development TMK: (2) 3-8-007:131 Pors. Wailuku Ahupua'a, Wailuku District Island of Maui...Archaeological Services Hawaii, LLC*). For clarification regarding the specific boundaries for one of the proposed projects within such a large parcel, we request that all future references/correspondence for Phase 7 increment 4 reflect the recently designated TMK (2) 3-8-007:162 (formerly portion of 3-8-007:131).

EXHIBIT

6

Mr. Bert Ratte

Page 2

Coordination meetings with the construction crew will be held prior to project initiation, SHPD will be notified on the onset and completion, and an acceptable report will be submitted to this office within 180 days of project completion. We believe it is unlikely that any historic properties will be affected with the implementation of the accepted archaeological monitoring plan (LOG NO: 2007.0986/ DOC NO: 0703JP19). If there are any questions or concerns, please don't hesitate to contact the SHPD, Maui Section at (808) 243-5169 or (808) 243-4641.

Aloha,

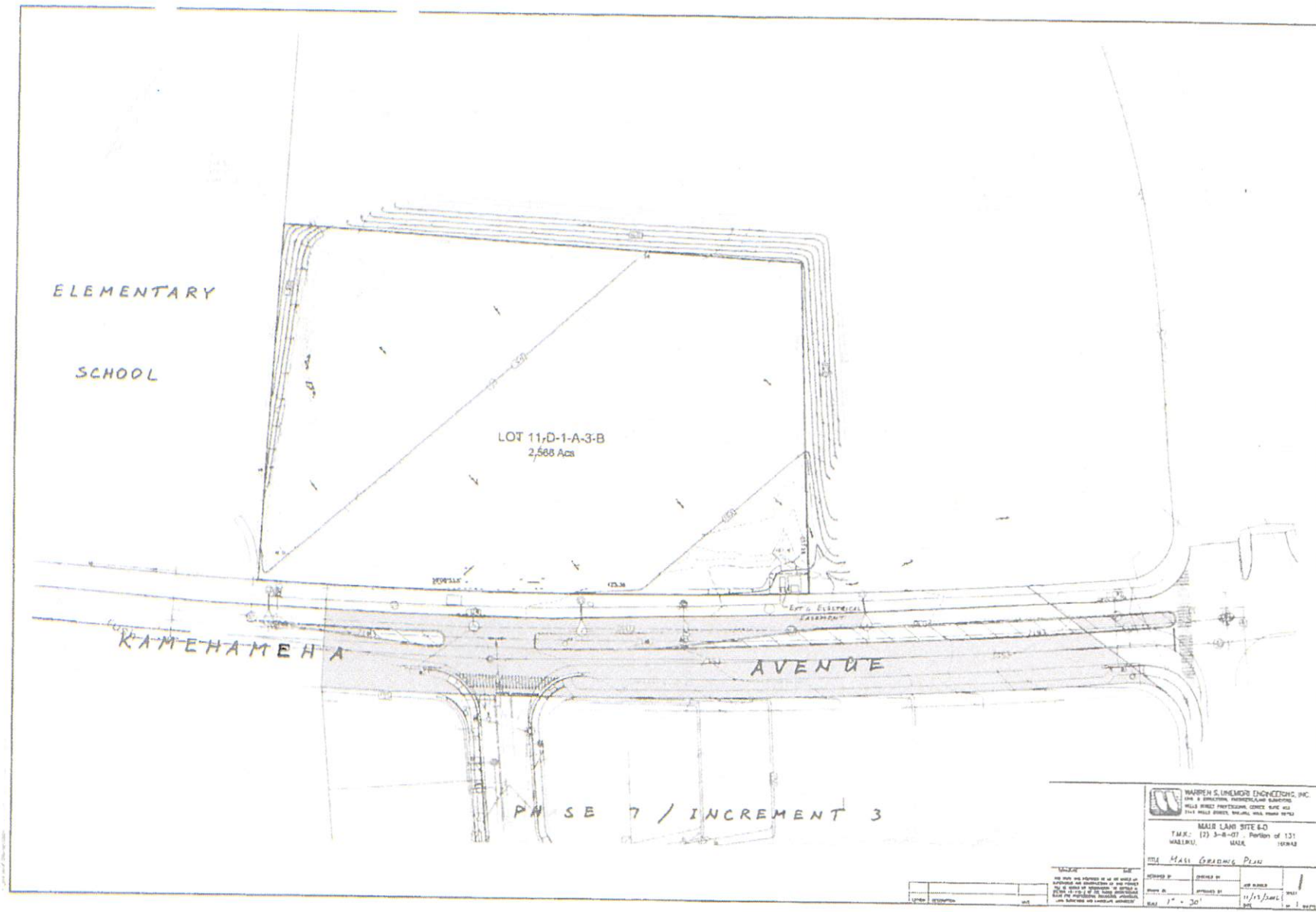


Melanie Chinen, Administrator
State Historic Preservation Division

JP:mk:kf

c: Mr. Jeff Hunt, Director, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793
Mr. Gary Kawano, FAX (808) 244-0897
SHPD, Culture and History, Mr. Hinano Rodrigues

APR 11 2007



LOT 11-D-1-A-1-B-3

2.070 Acs.

(in favor of Maui Electric Co., Ltd.)

WAIKAPU EAST
SUBDIVISION NO. 3
Spencer Homes, Inc.
(Owner)

Lot 168

Lot 76

12:10p

ASH

(808) 4-8592

P. 2

LINDA LINGLE
LANDMARK OF HAWAII



RECEIVED OCT 9 2006

PETER T. YOUNG
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
1000 KALANIANA'OLAH DRIVE, SUITE 1000
HONOLULU, HAWAII 96813-1000

DEAN NAKANO
ATTORNEY GENERAL

AGRICULTURE
HAWAIIAN AND OUTDOOR RECREATION
HAWAIIAN HISTORICAL SOCIETY
HAWAIIAN CULTURAL HERITAGE
HAWAIIAN LANGUAGE CENTER
HAWAIIAN MUSIC CENTER
HAWAIIAN THEATRE
HAWAIIAN VISUAL ARTS
HAWAIIAN ZOO

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

October 24, 2006

Mr. Jeffrey Pantaleo
Archaeological Services Hawaii, LLC
1930 A Vinoyard Street
Wailuku, Hawaii 96793

LOG NO: 2006.3500
DOC NO: 0610MK15
Archaeology

Dear Mr. Pantaleo:

SUBJECT: Chapter 6E-42 Historic Preservation Review -
Archaeological Assessment Survey for a Portion of
Maui Lani Residential Subdivision Phase 8B and Maui Lani Regional Park
Wailuku Ahupuaa, Wailuku District, Island of Maui
TMK (2) 3-8-007: portion of 131

Thank you for the opportunity to review this report which our staff received on August 18, 2006 (Pantaleo and Rotunno-Huzuka 2006, *Archaeological Assessment of a Portion of Maui Lani Residential Subdivision Phase 8B, and Maui Lani Regional Park, Wailuku Ahupuaa, Wailuku District, MTK 3-8-07 131 pors. Island of Maui*)...Archaeological Services Hawaii, LLC, ms.

The assessment meets our minimum requirements, as set forth in HAR 276-5 (a) and (c). The subject area is approximately 22 acres in size, and is within the Puuone sand dune deposits.

The survey has adequately covered the project area documenting no historic properties. Subsurface testing (22 backhoe trenches) were also negative for evidence of cultural deposits.

We concur with the mitigation recommendation for monitoring during all ground altering activities within the proposed project area. We understand that the project will be covered under an existing monitoring plan, and we will expect a completed monitoring report within 180 days of completion of the project as per the HAR statutes.

We find this report to be acceptable. As always, if you disagree with our comments or have questions, please contact Dr. Melissa Kirkendall at (808) 243-1285 as soon as possible to resolve these concerns.

Aloha,

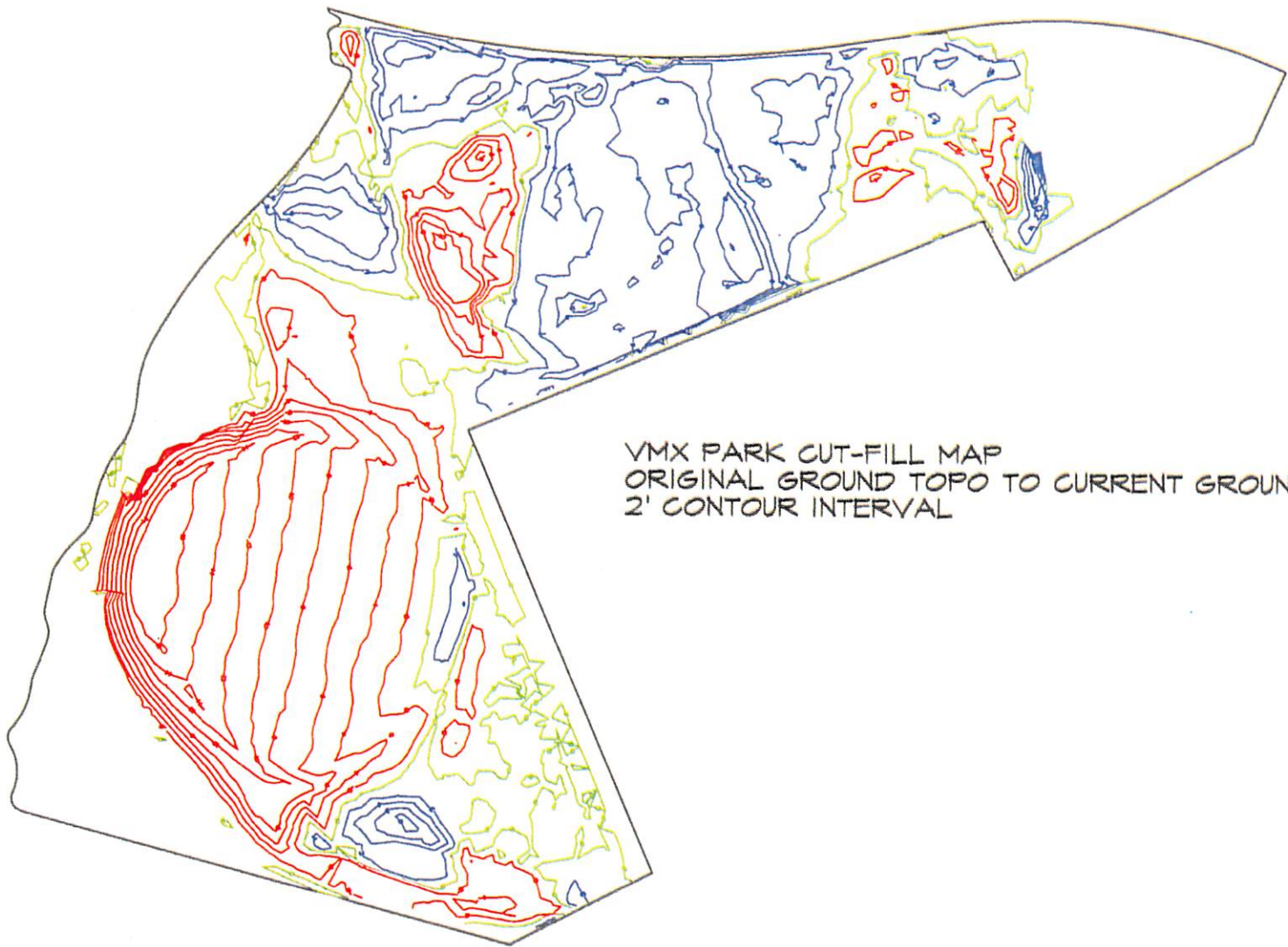
Melissa Kirkendall

Melanie Chinen, Administrator
State Historic Preservation Division

MK:kf

c: Bert Rattle, DPWEM, County of Maui, FAX 270-7972
Michael Foley, Director, Dept. of Planning, FAX 270-7634
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793

EXHIBIT 9



VMX PARK CUT-FILL MAP
ORIGINAL GROUND TOPO TO CURRENT GROUND TOPO
2' CONTOUR INTERVAL

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**HISTORIC PRESERVATION DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

WILLIAM J. AILA, JR.
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT

JESSE L. SOUAI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
KUNIAHUNA WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKULANI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 26, 2014

Jeffrey Pantaleo, M.A.
Archaeological Services Hawaii, LLC
Via email to: lisa@ashmaui.com

LOG NO: 2014.04885
DOC NO: 1411MD26
Archaeology

Aloha Mr. Pantaleo:

**SUBJECT: Chapter 6E-42 Historic Preservation Review-
Draft Archaeological Assessment Addendum for a Portion of Maui Lani Phase 9
Wailuku Ahupua'a, Wailuku District, Island of Maui
TMK (2) 3-8-007:135, 153 and 159 (pors.)**

Thank you for the opportunity to review the draft plan titled *Additional Archaeological Assessment Procedures at Portions of Maui Lani Residential Phase IX, Wailuku Ahupua'a, Wailuku District, Island of Maui, TMK 3-8-007: pors. of 135, 153, 159* (Rotunno-Hazuka, Pantaleo, Formolo and Guerriero October 2014), which we received in October, 2014. We previously reviewed an earlier version of this plan and requested revisions (Log No. 2010.1283, Doc no. 1011MD12).

The subject area of the survey is a combination of previously graded land and trees/brush situated on the eastern periphery of the Puuone sand dune. Twenty-two mechanical backhoe trenches were excavated, with no historic properties encountered.

The requested revisions have been adequately addressed. This AA meets the requirements of Hawai'i Administrative Rule § 13-275 and is accepted. Please send one hardcopy of the final document, clearly marked FINAL, along with a copy of this review letter and a text-searchable PDF version on CD to the Kapolei SHPD office, attention SHPD Library. Please contact me at (808) 243-4641 or Morgan.E.Davis@hawaii.gov if you have any questions or concerns.

Mahalo,

Morgan E. Davis
Lead Archaeologist, Maui Section

cc County of Maui
Department of Planning
via email to: Planning@co.maui.hi.us

County of Maui
Department of Public Works - DSW
via email to: Renee.Segundo@co.maui.hi.us

Ms. Annalise Kehler, County of Maui
Cultural Resources Commission
via email to: Annalise.Kehler@co.maui.hi.us

EXHIBIT ||

NEIL ASERCROVIE
GOVERNOR OF HAWAII



HISTORIC PRESERVATION DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
CHAIRMAN OF WATER RESOURCES MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM AL TAN
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CURVEWAYS
DIVISION OF WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKULANI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 26, 2014

Jeffrey Pantaleo, M.A.
Archaeological Services Hawaii, LLC
Via email to: lisa@ashmaui.com

LOG NO: 2014.04884
DOC NO: 1411MD27
Archaeology

Aloha Mr. Pantaleo

**SUBJECT: Chapter 6E-42 Historic Preservation Review-
Draft Archaeological Monitoring Plan for Maui Lani's Residential Subdivision, Phase 9
Wailuku Ahupua'a, Wailuku District, Island of Maui
TMK (2) 3-8-007:135, 153 and 159 (all, pors.)**

Thank you for the opportunity to review the plan titled *Archaeological Monitoring Plan for the Maui Lani Residential Phase IX, Wailuku Ahupua'a, Wailuku District, Island of Maui TMK: [2] 3-8-007: pors. 135, 153 and 159* (Rotunno-Hazuka and Pantaleo October 2013, revised December 2013), which we received in December 2013. We apologize for the delay in our reply.

This monitoring plan (AMP) was prepared at the request of Maui Lani Partners. The proposed project will include grading within a portion of approximately 30 acres. Monitoring will occur for all grading/filling activities including those associated with installation of all utilities within the subdivision, as well as lateral connection to main lines within the Maui Lani Parkway road. This AMP follows the review and approval of an archaeological assessment survey (Rotunno-Hazuka, et al. 2014; Log No. 2014.04884, Doc No. 1411MD26).

The subject area is bounded by Kuikahi Road extension to the south, an HC&S access road corridor and Waiale Reservoir to the west, and undeveloped parcels to the north. Maui Lani Parkway bounds the eastern border. Approximately 25% of the surface area has been impacted by prior grubbing of vegetation; grading for a former residential structure; baseyards; access roads; well sites; and utility pipe installations.

Excavations will range from 2-30 feet in depth, and all grading activities will be monitored full-time. One archaeological monitor per piece of ground-disturbing equipment is the protocol for this monitoring project.

The AMP meets the requirements of Hawai'i Administrative Rule § 13-279 and is accepted. In the Final version, please provide a clearer map for Figure 1, page 4. Please notify the Maui office, via email or fax, on initiation and completion of the monitoring project.

If this project extends beyond one year in duration, we request that annual interim monitoring reports be submitted, with a final report be submitted within 180 days after project completion. Please send one hardcopy of the final document, clearly marked FINAL, along with a copy of this review letter and a text-searchable PDF version on CD to the Kapolei SHPD office, attention SHPD Library.

EXHIBIT 12

Archaeological Services Hawaii, LLC
November 26, 2014
Page 2

Please contact me at (808) 243-4641 or Morgan.E.Davis@hawaii.gov if you have any questions or concerns.

Mahalo,

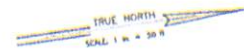
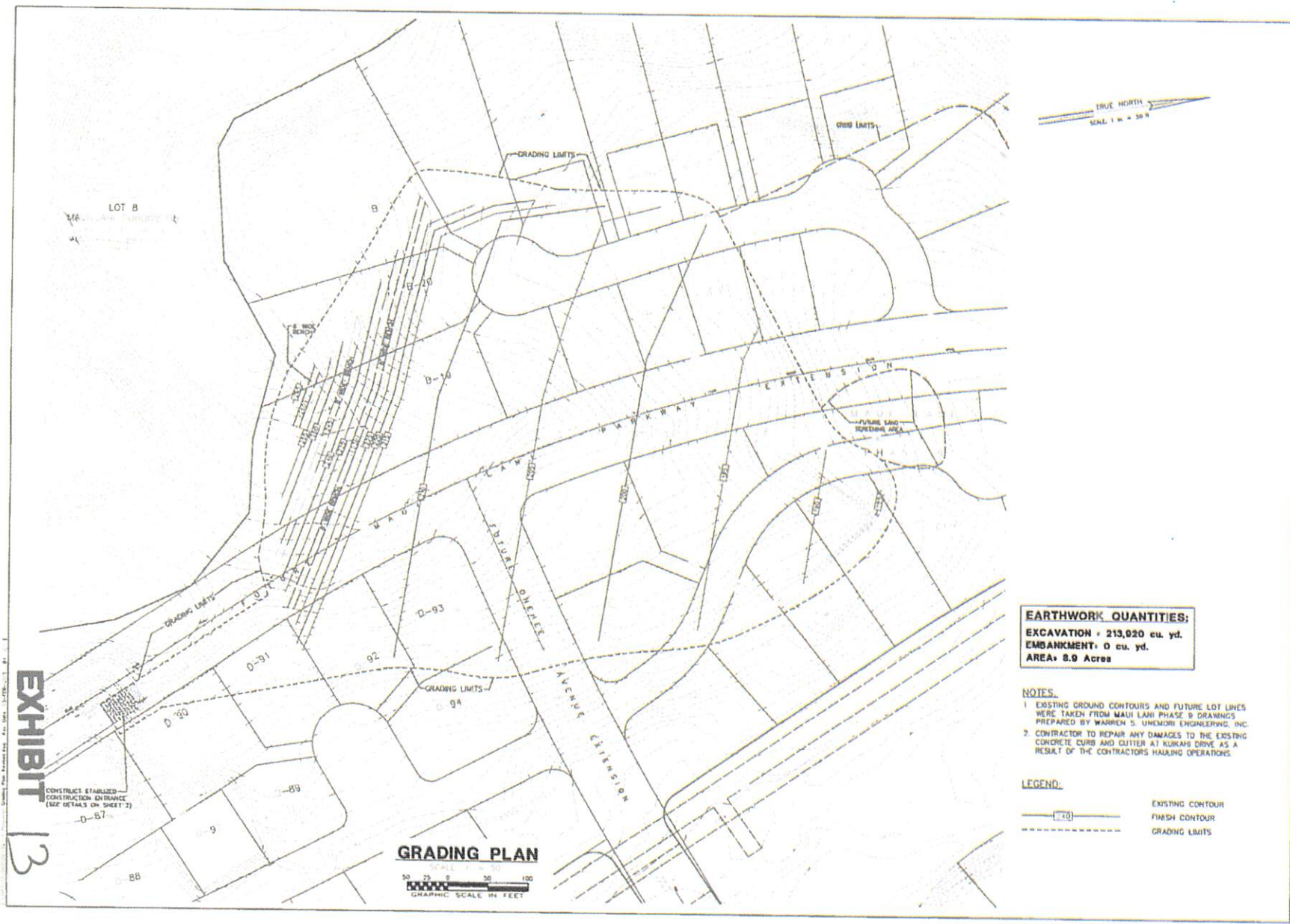


Morgan E. Davis
Lead Archaeologist, Maui Section

cc: County of Maui
Department of Planning
via email to: Planning@co.maui.hi.us

County of Maui
Department of Public Works - DSW
via email to: Renee.Segundo@co.maui.hi.us

Ms. Annalise Kehler, County of Maui
Cultural Resources Commission
via email to: Annalise.Kehler@co.maui.hi.us



lanaka
ENGINEERS, INC.
CIVIL & STRUCTURAL
ENGINEERS
LAND SURVEYORS
871 KOLU STREET
SUITE 201
WAILUKU, MAUI, HAWAII
PHONE NO. 242-6861

CONSTRUCTION PLANS FOR
MAUI LANI - PHASE 9 SITE GRADING
AT KAHULU, MAUI, HAWAII
Prepared for MAUI LANI PARTNERS
SAND EXCAVATION GRADING PLAN



EARTHWORK QUANTITIES:
EXCAVATION = 213,020 cu. yd.
EMBANKMENT = 0 cu. yd.
AREA = 8.9 Acres

- NOTES:**
- EXISTING GROUND CONTOURS AND FUTURE LOT LINES WERE TAKEN FROM MAUI LANI PHASE 9 DRAWINGS PREPARED BY WARREN S. UNEMORI ENGINEERING, INC.
 - CONTRACTOR TO REPAIR ANY DAMAGES TO THE EXISTING CONCRETE CURB AND CUTTER AT KUKAHU DRIVE AS A RESULT OF THE CONTRACTORS HAULING OPERATIONS.

LEGEND:

— EXISTING CONTOUR
- - - FINISH CONTOUR
--- GRADING LIMITS

REVISIONS

NO.	REVISIONS	DATE
01/20/14	REVISION PER SHEET 2	
02/11/14	REVISION PER DEL.	
03/11/14	REVISION PER DEL.	
04/11/14	REVISION PER DEL.	

1" = 40' (1" = 8' x 1/2" (1/2" = 1/4")
SCALE: AS NOTED
DESIGNED BY: H
CHECKED BY: K
DRAWN BY: H
DATE: JUNE 15, 2014
JOB NO.: 14-000

SHEET
3
OF 4 SHEETS

EXHIBIT
13

LINDA LINGGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING, ROOM 555
601 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DIAN DAVIDSON
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCE
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

July 30, 2004

Jeffrey Pantaleo
Archaeological Services Hawaii, LLC
16 South Market Street, Suite G
Wailuku, Hawaii 96793

LOG NO: 2004.2241
DOC NOC: 0407MK09

Dear Mr. Pantaleo,

Subject: Chapter 6-E-42 Historic Preservation Review of an Archaeological Monitoring Plan
Proposed Construction on an Agriculturally Zoned Parcel (formerly part of the
Ameron Sand Mining operation) for Mr. Dave Gleason,
Wailuku Ahupua'a, Wailuku District, Maui
TMK (2) 3-5-07: Por. 131

Thank you for the opportunity to review this plan which was sent to our office on 3 May 2004 (Rotunno-Hazuka and Pantaleo 2004, *Archaeological Monitoring Plan for the Proposed Construction of an Agriculturally Zoned Parcel, [TMK 3-5-07: 131] Pors., Wailuku Ahupua'a, Wailuku District, Island of Maui*. Archaeological Services Hawaii, LLC ms.). We have previously commented on this project as part of a Maui Land Use Plan Update and Related Project District Amendments (Log 2004.1633/Doc 0405CD49) and indicated that an inventory survey has not been conducted of this particular section of the project area. Ms. Rotunno-Hazuka (ASH, LLC) has indicated to us that the area specifically included in this monitoring plan has been subjected to considerable land alteration during Ameron Sand Mining operations. We believe, therefore, that monitoring is the recommended mitigation for this particular section (Please see attached map). Revisions to an interim monitoring report for finds to date on this section of the parcel have been submitted to our offices and are currently under review.

As indicated in the monitoring plan, reconnaissance level survey was conducted on the area in 1992. During monitoring for the Ameron Sand Mining operation three areas containing human remains were identified and accorded one site number (SIHP 50-50-04-5556). An interim monitoring report for Ameron is currently under review by this office. This monitoring plan has been submitted at the request of SHPD as a means of maintaining the current status of the project. This plan replaces any existing monitoring plans for this area of the subject parcel.

EXHIBIT 14

Jeffrey Pantaleo
Page 2

The plan conforms with DLNR/SHPD guidelines governing standards for monitoring and includes the following provisions. An archaeologist will be on site on a full-time basis, with the authority to halt excavation in the event that cultural materials are identified. Consultation with Maui SHPD will occur in this event, to determine acceptable course of action. If human burials are identified, work will cease, the SHPD Burial Sites Program, O'ahu SHPD, Maui SHPD, and the Maui/Lana'i Islands Burial Council will be notified, and compliance with procedures outlined in HRS 6.E-43 will be followed. Coordination meetings with the construction crew will be held prior to project initiation. An acceptable report will be submitted to this office within 180 days of project completion.

Please notify our Maui and O'ahu offices, via facsimile, at onset and completion of the project and monitoring program.

The plan is acceptable. If you have any questions, please contact Dr. Melissa Kirkendall at 243-5169.

Aloha,

Holly McEldowney
Holly McEldowney, Administrator
State Historic Preservation Division

MK: sky

cc: Michael Foley, Director, Department of Planning, County of Maui, FAX 270-7634
Bert Ratte, County of Maui, Land Use and Codes, FAX 270-7972
Glen Ueno, County of Maui, Land Use and Codes, FAX 270-7972

AUG 3 2004

DAVID Y. ICE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

February 18, 2015

Jeffrey Pantaleo
c/o Lisa Rotunno-Hazuka
Archaeological Services Hawaii, LLC
Via email to: lisa@ashmaui.com

Aloha Mr. Pantaleo:

**SUBJECT: Chapter 6E-42 Historic Preservation Review--
Revised Draft Archaeological Monitoring Plan
Maui Lani Regional Park -North Section- and Maui Lani Residential Phase 8
Wailuku Ahupua'a, Wailuku District, Island of Maui
TMK (2) 3-8-007:150 (por.) and 151**

LOG NO: 2015.00294
LOG NO: 2014.03753
LOG NO: 2015.00295
DOC NO: 1502JP14
Archaeology

Thank you for the opportunity to review the draft plan titled *Draft Archaeological Monitoring Plan for the Northern Section of Maui Lani Regional Park and Residential Phase 8 Situated in Wailuku Ahupua'a and District, Pu'ali Komohana Moku, Island of Maui TMK (2) 3-8-007:150 pors and 151* (Rotunno-Hazuka and Pantaleo Revised January 2015). We received the submittal on January 22, 2015. During former reviews, we've requested additional information (Log 2014.03728 Doc 1409JP08, Log 2014.04749 Doc 1409JP09, Log 2014.04749, Doc 1410JP07, and Log 2014.03753, Doc 1412JP25 etc.). We have recommended revisions and consulted regarding the submittal of the subject plan.

The total area covered under the archaeological monitoring plan (AMP) includes 27.8 acres. An accepted archaeological assessment report included a 14.4 acre portion of the subject area (Log 2006.3500, Doc 0610MK15). Nine backhoe test trenches were placed in the north section of the Residential Phase 8 project area, which consists of 13.4 acres. Numerous human burial features were documented on the subject parcels during prior archaeological monitoring for mass grubbing and grading activities. Our History and Culture Branch consulted and approved the Burial Components of a Preservation Plan and Data Recovery documents, as detailed on page 9 in the AMP.

The revised AMP meets the requirements as specified in Hawai'i Administrative Rules §13-279-5 and is accepted. For the final submittal, please clarify that if construction plans change, the plan will cover all future and or additional work specifically *within the 27.8 acre project area*, opposed to *within the parcel* (Page 2). The plan states that all personnel will be apprised of the existing burial preservation areas, which are currently marked by orange construction fencing.

Please send one hardcopy, clearly marked **FINAL**, along with a copy of this review letter and a text-searchable PDF version on CD to the Kapolei SHPD office, attention SHPD Library. We continue to request that our Maui office is informed, in writing, of the **initiation and completion** of the upcoming construction monitoring project. Please contact Jenny Pickett at (808) 243-5169 or Jenny.L.Pickett@hawaii.gov if you have any questions or concerns about this letter.

Mahalo,

Morgan E. Davis
Lead Archaeologist, Maui Section

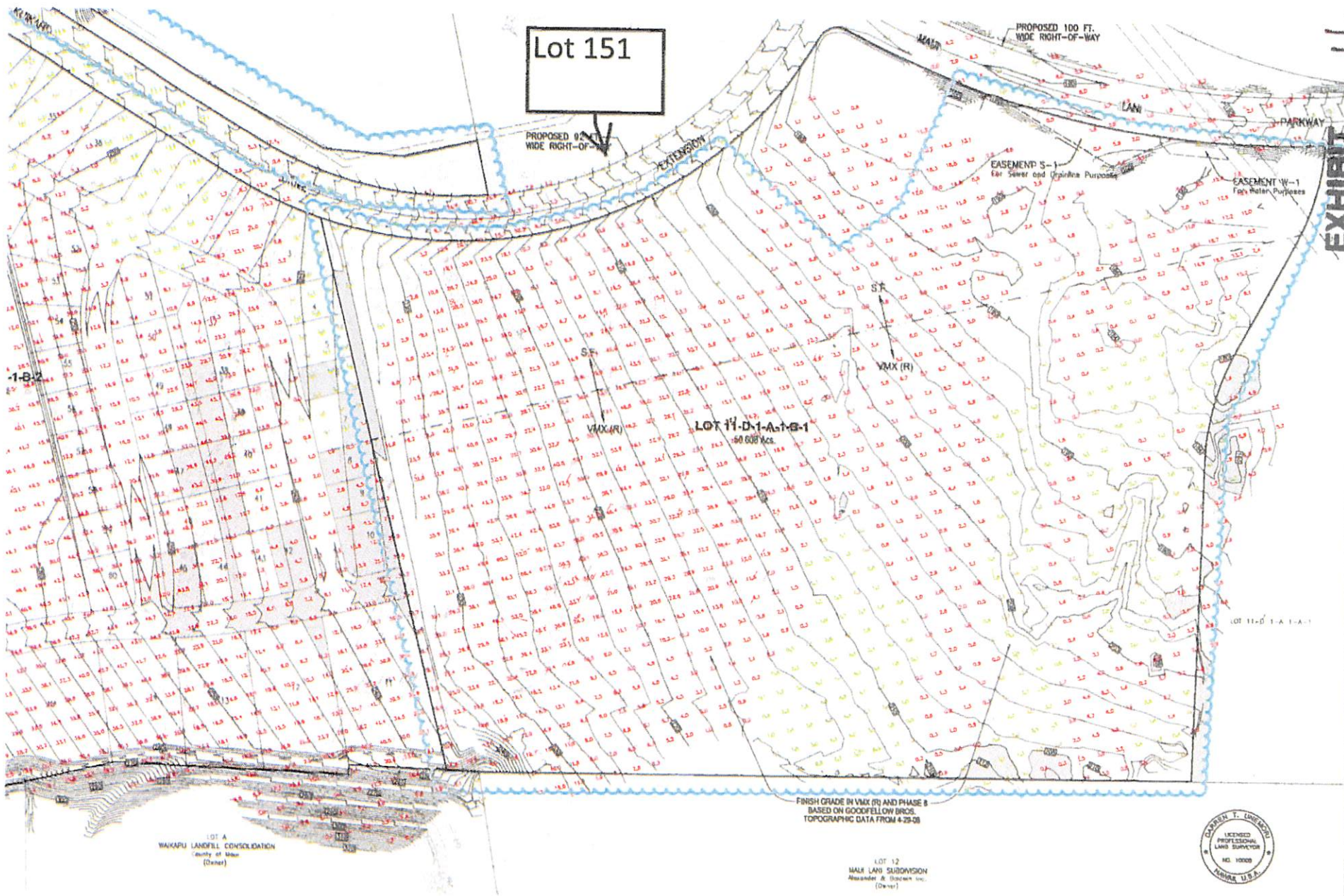
cc: County of Maui
Department of Planning
Planning@co.maui.hi.us

County of Maui
Department of Public Works - DSA
Renee.Segundo@co.maui.hi.us

Ms. Annalise Kehler, County of Maui
Cultural Resources Commission
Annalise.Kehler@co.maui.hi.us

Ms. Leiane Paci, Maui Lani LPaci@millsgroup.com

EXHIBIT 15



DAVID C. GOODE
Director



GLEN A. UENO, P.E., P.L.S.
Development Services Administration

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
DEVELOPMENT SERVICES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 29, 2017

RECEIVED

OCT 03 2017

WARREN S. UNEMORI ENGINEERING, INC.

Mr. Darren Unemori, P.E., P.L.S.
WARREN S. UNEMORI ENGINEERING, INC.
2145 Wells Street, Suite 403
Wailuku, Hawaii 96793

SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
TMK: (2) 3-8-007:135 & 153
SUBDIVISION FILE NO. 3.2378

Dear Mr. Unemori:

Preliminary approval was granted to the subject subdivision on September 29, 2017. Final approval shall be contingent upon compliance with the following conditions:

1. Submit a recommendation for final subdivision approval from Maui Electric Company (MECO). For further information, please contact MECO at 871-2390.
2. Requirements/comments from the State of Hawaii, Department of Transportation, Highways Division (DOT):

This subdivision will complete the Maui Lani Parkway improvements from Kaahumanu Avenue to Kuihelani Highway, thus improving the internal traffic circulation. We have no further comments to offer.

If you have any questions, please contact DOT at 873-3535.

3. Requirements/comments from the State of Hawaii, Department of Health:

We have no comments to offer.

If you have any questions, please contact Patti Kitkowski at 984-8230.

4. Submit a recommendation for final subdivision approval from the Department of Public Works, Engineering Division. For further information, please contact the Engineering Division at 270-7745.

EXHIBIT

17

Mr. Darren Unemori, P.E., P.L.S.

SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
SUBDIVISION FILE NO. 3.2378

September 29, 2017

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5. Submit a recommendation for final subdivision approval from the Department of Environmental Management, Wastewater Reclamation Division (WWRD). For further information, please contact WWRD at 270-7417.
6. Requirements/comments from the Department of Planning:
 - a. In the final plat notes section, include a note similar to the following:
 - 1) The subdivision contains the designations:
 - a) State Land Use URBAN;
 - b) Maui Island Plan URBAN;
 - c) Community Plan PROJECT DISTRICT;
 - d) County Zoning WAILUKU-KAHULUI PROJCT DISTRICT 1 (MAUI LANI) (Conditional Ordinance 1872) (with districts Residential SF-3, Public/Quasi-Public "Church use", Recreation/facilities "Golf Course use" and Open Space use); and
 - e) Flood Zone X.
 - b. Obtain the following approvals from the Department of Planning Current Division and submit a copy of the resulting approvals to the Department of Planning Zoning and Enforcement Division:
 - 1) A Project District Phase III Approval for this specific subdivision which includes the requested pedestrian/bikeway connection between Lots No. 25/26 and 27/28, and an approval for the revised road layout crossing through the middle of the Public/Quasi-Public church use area.
 - 2) An approved Change in Zoning (CIZ) Compliance Report, showing subdivision conformance with the change in zoning conditions of Ordinance 1872. To obtain this approval, submit to the Current Division a report containing verification that all conditions have been satisfied; if any conditions are not satisfied, include documentation showing your progress with a timeline for completion.
 - c. Lot No. 52, 53 169, 170, 172, and 180 shall be redesigned to comply with the project district land use categories and acres as shown in §19.78.060.A and Ordinance No. 3364.
 - 1) Ordinance No. 3364 contains the latest approved map identifying the Public/Quasi-Public "Church" use areas, and one of these church areas is a 2 acre location showing the Maui Lani Parkway running along the eastern side of this area; whereas, the current proposed subdivision now shows the Maui Lani Parkway crossing through the middle of this "Church" area, resulting in it being split into two separate "Church" areas. Also, the proposed subdivision shows only small portions (or no portion) in some of the six lots with topography suitable to be used as a "Church". The Department is concerned that the resulting separate "Church" areas are within the six lots and might not be of sufficient size and topography for each area to be used as a church. This would result in an inconsistency with the Council intent for this area to be used as a "Church".

Mr. Darren Unemori, P.E., P.L.S.

SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
SUBDIVISION FILE NO. 3.2378

September 29, 2017

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- 2) The Public/Quasi-Public "Church" area must be subdivided in a way that allows for the area to be developed for church use. This most likely means all of the Public/Quasi-Public "Church" use area must be combined into two separate lots (one on each side of the roadway); however, more than two lots could be created if the lots are designed to allow for a church to be located on each lot. The Public/Quasi-Public area within Lots 53, 169, 170, and 180, does not appear to have enough area to allow for a church to be placed on each of these zoning lots.
 - 3) The 18' wide stem for Lot 172 appears to be a too narrow for the type of two way traffic that a church would likely generate.
 - 4) FYI, dwellings are not a listed permitted use on the portion of these lots zoned as Public/Quasi-Public (§19.78.050); however, dwellings are a permitted use on the portion of these lots zoned as Residential SF-3.
 - 5) FYI, in accordance with §19.78.070.D, district boundary adjustments may be possible if that is something you want to consider.
- d. For any lot containing multiple zoning districts: In the map section of final subdivision plat, show a metes and bounds boundary line between each zoning district. In the notes section of the final subdivision plat add a note (1) indicating the square feet of each zoning district and (2) a note indicating that buildings must be located outside of the setback area between each zoning district.
- 1) FYI: Lot No. 180 currently contains Public/Quasi-Public "Church", Recreation/facilities "Golf Course" and Open Space zoning.
 - 2) FYI: Lot No. 52, 53 169, 170, and 172 currently contains both Residential SF-3 and Public/Quasi-Public "Church" zoning. More information is needed to determine if the Residential SF-3 area within Lots 52 and 172 comply with the SF-3 average lot width requirement of 40' (§19.78.020.B.3.b).
- e. Subtract the land area, of any private right-of-way between 12 and 24 feet wide which provides access to a lot, from the total area of the lot containing the right-of-way and include the net area on the subdivision map (the net lot area shall comply with the zoning lot area standards). The net lot area has not been identified for Lot No. 2, 16, 17, 20, 21, 24, 25, 28, 31, 34, 37, 38, 46, 76, 77, 80, 81, 82, 83, 85, 88, 89, 103, 110, 111, 120, 121, 166, 167, 172, and 175.
- f. A lot (without a lot number) appears to be located between lots 25/26 and lots 27/28. This lot does not appear to comply with the minimum lot area and lot width requirements for the Residential SF-3 district; however, Ordinance No. 4464 contains provisions to allow this lot to be approved as a "restricted use lot". The Department recommends this lot be designated as a "restricted use lot" for utility and pedestrian/bikeway purposes with an improved pathway connecting the two roads.

Mr. Darren Unemori, P.E., P.L.S.

SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
SUBDIVISION FILE NO. 3.2378

September 29, 2017

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- g. The current method of identifying Lot No. 176 – 182 as "Open Space" is confusing because a distinction needs to be made between the actual zoning district of these lots which are not all zoned as "Open Space" and what appears to be an owner statement of "Open Space", which does not change the zoning or the uses allowed by zoning. If the lots do not contain multiple zoning districts, remove the indication of "Open Space" on the map area of the subdivision plat and clarify what is intended in the notes section of the final plat. FYI, an owner statement of "Open Space" does not change the uses allowed by the actual zoning district of the following lots, but a Project District approval could be pursued to relocate the existing zoning districts.
 - 1) Lot No. 176, 177, 181 are zoned as Residential SF-3.
 - 2) Lot No. 180 contains areas zoned as Open Space, Recreation/facilities "Golf Course", and Public/Quasi-Public "Church".
 - 3) Lot No. 182 is zoned as Recreation/facilities (Golf Course).
 - 4) Lot No. 178 and 179 are the only lots completely zoned as Open Space.
- h. The following information shown on the bottom of the subdivision plat as "Lot Size Information" is not correct:
 - 1) Minimum average lot width for Residential SF-3 is 40' (not 35').
 - 2) Final land use for Lots 1 through 172 cannot all be Single Family Dwellings, because Lots No. 52 and 172 contain Public/Quasi-Public zoning which does not allow "single-family dwellings" as a permitted use.
- i. If the preliminary subdivision approval requires street tree planting and irrigation in accordance with 12.24A.070(D) MCC, submit a copy of the approved Subdivision Landscape Planting Plan. This application is available at: <http://www.mauicounty.gov/index.aspx?NID=1574>
- j. Submit a statement indicating whether grading will be done as part of this subdivision. If yes; provide a PDF copy (on a compact disk) of the approved grading/elevation plans.
- k. Countywide Policy Plan, Maui Island Plan, and Community Plan review:
 - 1) Previous Project District approvals have concluded that the overall Wailuku-Kahului Project District 1 (Maui Lani) is consistent with the Countywide Policy Plan and Community Plan. The consistency requirement for this subdivision can be satisfied by obtaining an approved Project District Phase III approval for this specific subdivision which includes the requested pedestrian/bikeway connection between Lots No. 25/26 and 27/28, and an approval for the revised road layout crossing through the middle of the Public/Quasi-Public church use area.
- l. Indicate when the tract master plan for this area will be completed (see §19.78.070.A – General standards for development)?

If you have any questions, please contact Paul Critchlow at 270-7253.

Mr. Darren Unemori, P.E., P.L.S.

**SUBJECT: MAUI LANI PHASE 9 SUBDIVISION
SUBDIVISION FILE NO. 3.2378**

September 29, 2017

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7. Requirements/comments from the Department of Water Supply:

The applicant must comply with the applicable sections of the Maui County Code. These include:

- a. Maui County Code, Chapter 14.12, "Water Availability Rule" concerning a long term supply of water for the subdivision.
- b. Maui County Code, Chapter 14.05, "Subdivision Water System Requirements" to provide an adequate water system for fire protection, domestic, and irrigation service.
- c. Maui County Code, Chapter 14.13, "Water Meter Issuance Provisions for the Upcountry Water System" concerning the Department's deferring action on this application if new water meters are not available for the subdivision.

The applicant should contact the Department of Water Supply to discuss the specific requirements for subdivision. Requirements may include the construction of water system improvements for adequate fire protection, domestic, and irrigation service.

If you have any questions, please contact the Department of Water Supply at 270-7835.

8. Requirements/comments from the Department of Parks and Recreation:

The master developer has satisfied the parks and playgrounds requirements as reflected in Resolution No. 14-17.

If you have any questions, please contact Robert Halvorson at 270-7387.

9. Requirements/comments from the Department of Fire and Public Safety:

At this time, the Fire Prevention Bureau would request a water supply for fire protection and fire department access roads.

Water supply for fire protection shall have a minimum flow of 1,000 gallons per minute for a two hour duration with hydrant spacing a maximum of 350 feet between hydrants. Dead-ends shall have a hydrant within 175 feet.

Service roads to proposed properties shall have a clear width of 20 feet. Any dead-end roads or cul-de-sacs shall have a clear width of 32 feet, and if greater than 150 feet in length, shall be provided with an approved fire apparatus turn-around. All turns and required turnarounds shall have an outside turning radius of 35 feet. The maximum grade for the service roads shall not be greater than 14%. Subdivisions with more than twenty parcels shall provide multiple access roads as approved by the AHJ.

Mr. Darren Unemori, P.E., P.L.S.
SUBJECT: MAUI LANI PHASE 9 SUBDIVISION
SUBDIVISION FILE NO. 3.2378

September 29, 2017

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Once construction of buildings are planned, there shall be at least one hydrant within 500 feet of any building to be constructed.

If you have any questions, please contact Parrish Purdy at 876-4697 or parrish.purdy@mauicounty.gov.

10. Requirements/comments from the Department of Housing and Human Concerns (DHHC):

No exemptions. The subdivision of 62.581 acre lot into 172 single-family houselots for residential use. It needs a Residential Work Force agreement with DHHC prior to final approval.

If you have any questions, please contact DHHC at 270-7805.

11. Comply with Section 18.12.040(B) of the Maui County Code. Submit a statement regarding the water system to be installed. If the proposed subdivision will be served by the County's water system, the subdivider shall provide a receipt of payment of a water meter reservation from the Department of Water Supply (DWS) verifying that the subdivision will receive water source and service from said department. Should a private water system be proposed, the subdivider shall provide written verification of a long-term, reliable supply of water from the Director of DWS in accordance with Chapter 14.12 of this code.

For further information, please contact DWS at 270-7835.

12. In accordance with Section 18.12.030(E)(13.a.) of the Maui County Code (MCC), submit a letter from all governmental agencies with an easement, lease or license affecting the land subdivided consenting to the preparation and recording of the final plat. If there are none, please indicate this in writing.
13. In accordance with Section 18.12.040 MCC, submit a tax clearance certificate (issued by Department of Finance, Real Property Assessment Division) to show written proof that all taxes and assessments on the tract are paid to date. An "Application for Tax Clearance for Subdividers" form can be obtained from the Real Property Assessment Division website. NOTE: The tax clearance certificate shall be valid at the time of final subdivision approval.
14. Dedicate the roadway lots to the County. Submit the original and one copy of an executed warranty deed to the County. In addition, if applicable, submit a copy of a recorded "Partial Release of Mortgage" document.
15. Submit a completed State of Hawaii, Department of Taxation, Exemption from Conveyance Tax form (Form P-64B) for the dedication of the road widening lot.

Mr. Darren Unemori, P.E., P.L.S.

**SUBJECT: MAUI LANI PHASE 9 SUBDIVISION
SUBDIVISION FILE NO. 3.2378**

September 29, 2017

Page 7 of 9

16. In accordance with Section 18.20.030 (Pavement of streets), improve the proposed subdivision roadways to the provisions of the subdivision ordinance for roadways within the urban district.
17. Submit documentation that the road right-of-way width and pavement sections are in compliance with Sections 18.16.050 (Minimum right-of-way and pavement widths) for the roadway between Lots 132-152.
18. Design and construct the drainage facilities to the requirements of the Department of Public Works. A detailed final drainage report and site specific erosion control plan shall be submitted with the construction plans for review and approval. The drainage report shall include, but not be limited to, hydrologic and hydraulic calculations, and the schemes for disposal of runoff waters. The site specific erosion control plan shall show the location and details of structural and non-structural best management measures. The drainage and erosion control plans shall provide verification that the grading and all runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties.
19. Comply with Section 18.20.135 (Post-construction stormwater quality best management practices) MCC, wherein it states, "Post-construction stormwater quality best management practices, as may be required by the director, shall be implemented for all subdivisions.
20. Comply with Section 18.16.090(A) MCC, wherein it states "...The staggering of streets making "T" intersections shall be so designed and adjusted with curves and diagonals that jogs are not less than one hundred fifty feet measured along the centerline of the through street. ...".
21. Comply with Section 18.16.260 (Through lots) MCC.
22. Obtain street name approval from the Public Works Commission and show street names on the construction plans and final plat.
23. In accordance with Section 12.24A.070(D) MCC, submit an application for "Landscape Planting Plan" for subdivisions to the Department of Planning for review and approval. The application can be obtained at: <http://www.mauicounty.gov/index.aspx?NID=1574>.
24. In accordance with Section 18.12.040 (A) MCC, submit a complete title report issued by a licensed title company showing all persons vested with record title in the land subdivided.

Mr. Darren Unemori, P.E., P.L.S.

SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
SUBDIVISION FILE NO. 3.2378

September 29, 2017

Page 8 of 9

25. If improvements are required, submit construction plans and drainage and soil erosion control reports for review and approval by the applicable agencies. In accordance with Section 18.24.010(D) MCC, a construction plan review fee (\$200/lot) shall be paid upon submission of the construction plans.

When the construction plans are approved, post construction requirements will be noted on the construction plan approval letter. The post construction requirements will need to be completed prior to final subdivision approval.

Contact the Development Services Administration, Civil Construction Section at 270-7242 if you have any questions or for the appropriate number of plans and reports to submit.

26. Submit fifteen prints of the final plat in accordance with Chapter 18.12 (Final Plat) MCC. The final plat shall include all revisions addressing the comments noted on the enclosed preliminary plat. The final plats shall be folded into 8 1/2" x 11" sized sheets.

Condition nos. 11 and 24 shall be submitted prior to or in conjunction with the final plat.

27. Submit a digital copy of the final plat to the standards of the Real Property Assessment (RPA) Division. If you have any questions, please contact RPA at 270-6225.

The preliminary plat was not routed to the State of Hawaii, Historic Preservation Division (SHPD) for review. The subdivider must comply with all requirements of SHPD. The Department of Public Works may in the future request review and approval of SHPD for subdivision final approval, construction plan approval or other types of permit applications. For further information, please contact SHPD at 243-5169.

Please review the enclosed sheet titled "Planning for Mail Delivery, A Guide for Hawaii Developers" from the United States Postal Service. For further information, please contact the local Growth Coordinator at (808) 423-3908.

Within one year from the date of preliminary approval of the subdivision, the final plat must be filed unless an extension of time is granted.

Please be forewarned that applications for an extension of time shall be made in writing to the Department of Public Works. Therefore, a time extension request must be made no later than September 29, 2018. In addition, a "good cause" reason for any time extension shall be stated in the request. Time extension requests which are not in compliance with both of these requirements, will result in the subdivision being deemed null and void.

If you have any questions regarding this letter, please contact Lesli Otani of our Development Services Administration at 270-7252.

Mr. Darren Unemori, P.E., P.L.S.
SUBJECT: **MAUI LANI PHASE 9 SUBDIVISION**
SUBDIVISION FILE NO. 3.2378

September 29, 2017
Page 9 of 9

Sincerely,

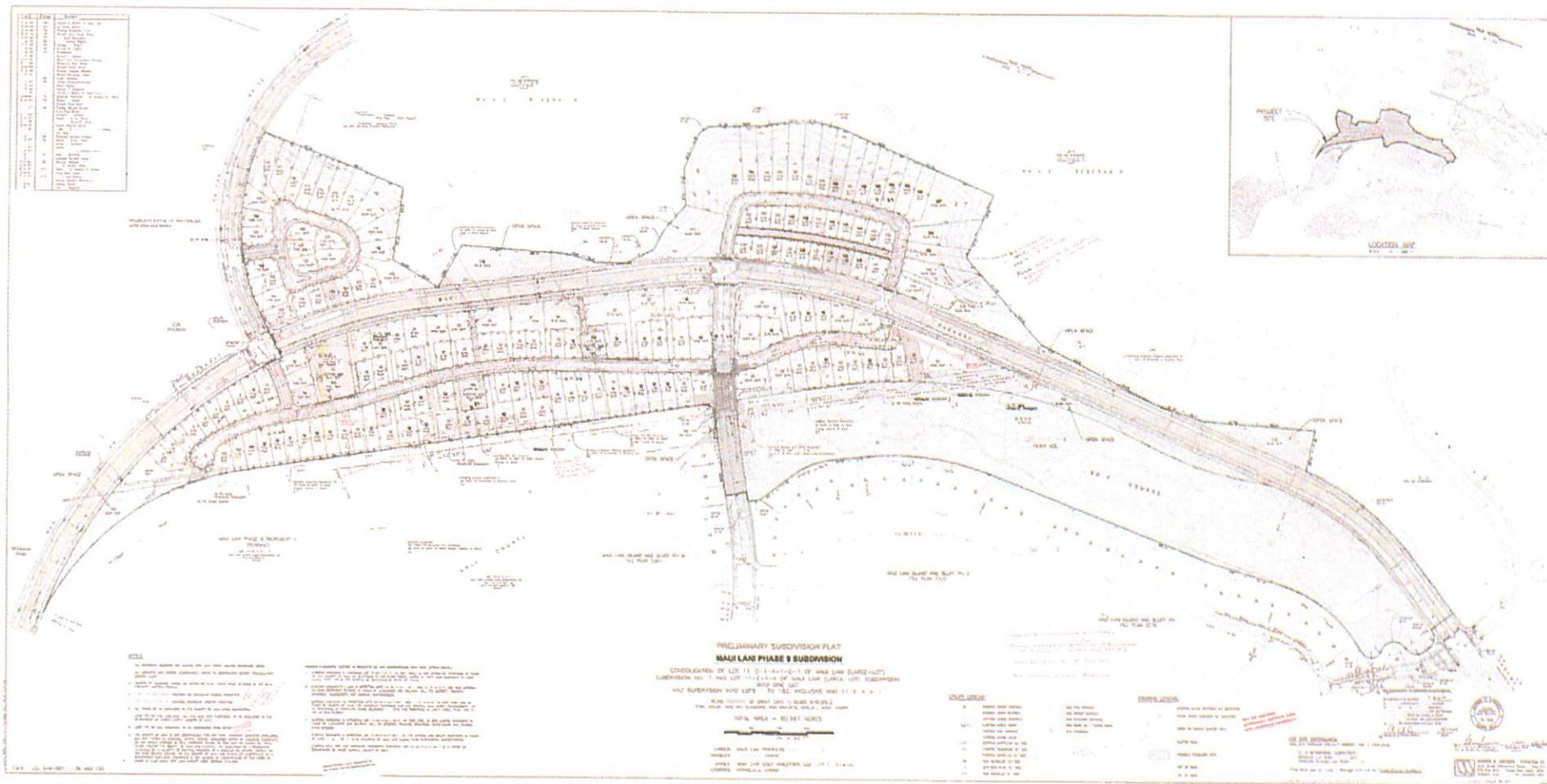


For DAVID C. GOODE
Director of Public Works

Enclosures: Preliminary Plat
Planning for Mail Delivery, A Guide for Hawaii Developers

Ilo S 10SAISubdReg313#2378-1 pre doc

c: Dept. of Finance, Real Property Assessment Div. (unmarked preliminary plat only)
Dept. of Finance, Tax Map Div. (unmarked preliminary plat only)
Dept. of Environmental Management, Wastewater Reclamation Division
Dept. of Water Supply
Dept. of Planning
Dept. of Parks and Recreation
Dept. of Housing and Human Concerns
DOT, Highways Division
State Dept. of Health
Maui Electric Company



PLANNING FOR MAIL DELIVERY

A Guide for Hawaii Developers



Centralized equipment installed by Developer

Introduction

The US Postal Service and Hawaii's Developers are in business to serve the needs of an expanding population.

For Developers, there are many phases of planning involved for new buildings and residences. The US Postal Service also needs planning to serve the expanding population with daily mail delivery.

The US Postal Service in Honolulu has a Growth Management Program Coordinator to assist you in planning mail service.

We offer guidance in establishing the mode of delivery, and the type and location of mailbox receptacles for your project. Contact the local Growth Management Coordinator for assistance.

Delivery Mode

The preferred mode for both residential and business customers is at a central location. "Centralization" is now the key to providing mail delivery in a secure, cost effective and beneficial manner.



Centralized equipment at Shopping Mall

Advantages of Developer/Builder Purchased Centralized Delivery Equipment

- Centralized delivery equipment is neat, uniform, and can be placed in a framework designed to blend with and maintain the aesthetics of the surrounding community.
- In many situations, with the use of centralized delivery equipment, the USPS may waive the "50% improved" requirement in new developments. This means delivery service may be established prior to 50% of residents moving in to a new development.

- Centralized delivery equipment provides the advantage of individually locking compartments for each customer, which affords additional security and privacy in comparison to unlocked curbside mailboxes. Parcel lockers and a secure outgoing mail receptacle are also included for customer convenience.



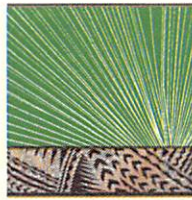
Centralized equipment installed by Developer

- Centralized delivery equipment purchased by the developer or builder can be installed in a number of attractive ways, including additional structures, lighting and landscaping.



Custom Box installed by Developer

Contact the local Growth Coordinator for more information at (808) 423-3908.



PLANNING
CONSULTANTS
HAWAII, LLC

URBAN & REGIONAL PLANNING

Land Use Planning • Sustainability Services • Community Planning • Development Permits

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2017 DEC -8 PM 3:33

OFFICE OF THE
COUNTY COUNCIL

December 8, 2017

Mr. Mike White, Council Chair
Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

Dear Mr. White:

Ref: A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER
20.40, MAUI COUNTY CODE, DECLARING A MORATORIUM ON
SAND MINING OF CENTRAL MAUI INLAND SAND

SUBJECT: REQUEST TO REMOVE TMK NUMBERS (2) 3-6-002:001 AND (2) 3-6-
002:003

Dear Council Chair White and Councilmembers,

It has recently come to the attention of Waiale 905 Partners LLC that the above-referenced parcels, which have a combined acreage of approximately 806.23 acres, have been included on a list of parcels that may be subject to the above-referenced moratorium.

Based upon a review of the Geologic Map State of Hawaii, Sheet 7 - Island of Maui, it appears that *only a very small area* of Qdo quality sand, which is described by the USGS as being Calcareous Sand that is mostly consolidated, may appear on the property (See Exhibit 1). These formations of potential sand deposits are located on lands that are proposed to be preserved in perpetuity through a conservation easement for agricultural use.

2331 West Main Street, Wailuku, HI 96793 • Ph. 808-244-6231

msummers@planningconsultantshawaii.com
www.planningconsultantshawaii.com

Mr. Mike White, Council Chair
Maui County Council
Ref: Moratorium on Sand Mining
Subject: Request to Remove TMK Numbers (2) 3-6-002:001 and (2) 3-6-002:003
December 8, 2017
Page 2

The great bulk of the affected parcels show potential QTao formations. These formations are described by the USGS as being alluvial lithified sand and gravel deposits. It is our understanding that the Qdo formations formed the basis for the mapping of the moratorium area and it is the quality of sand found in the Qdo formation that is of principal concern to the County's objectives.

We are concerned that the current draft of the above-referenced moratorium ordinance could produce negative impacts to the property owner because the moratorium would extend across the entirety of the subject parcels, rather than the very limited area that is identified as being the formation of concern.

We therefore sincerely request that the Council remove parcels (2) 3-6-002:001 and (2) 3-6-002:003 from the list of lots to be included in the proposed sand mining moratorium bill or limit the area subject to the moratorium to just the areas of land identified as potentially having Qdo formations.

Also submitted for your review is a letter dated September 22, 2017 from the State Historic Preservation Division approving an Archaeological Inventory Survey (AIS) that surveyed an approximate 244-acre portion of TMK Number (2) 3-6-002: portion of 3. This area is proposed for development as part of the Waikapu Country Town project (See Exhibit 2). The entirety of the AIS will be provided under a separate cover.

Thank you very much for your consideration of our request. Should you have any questions, please contact me at (808) 269-6220 or by e-mail at msummers@planningconsultantshawaii.com.

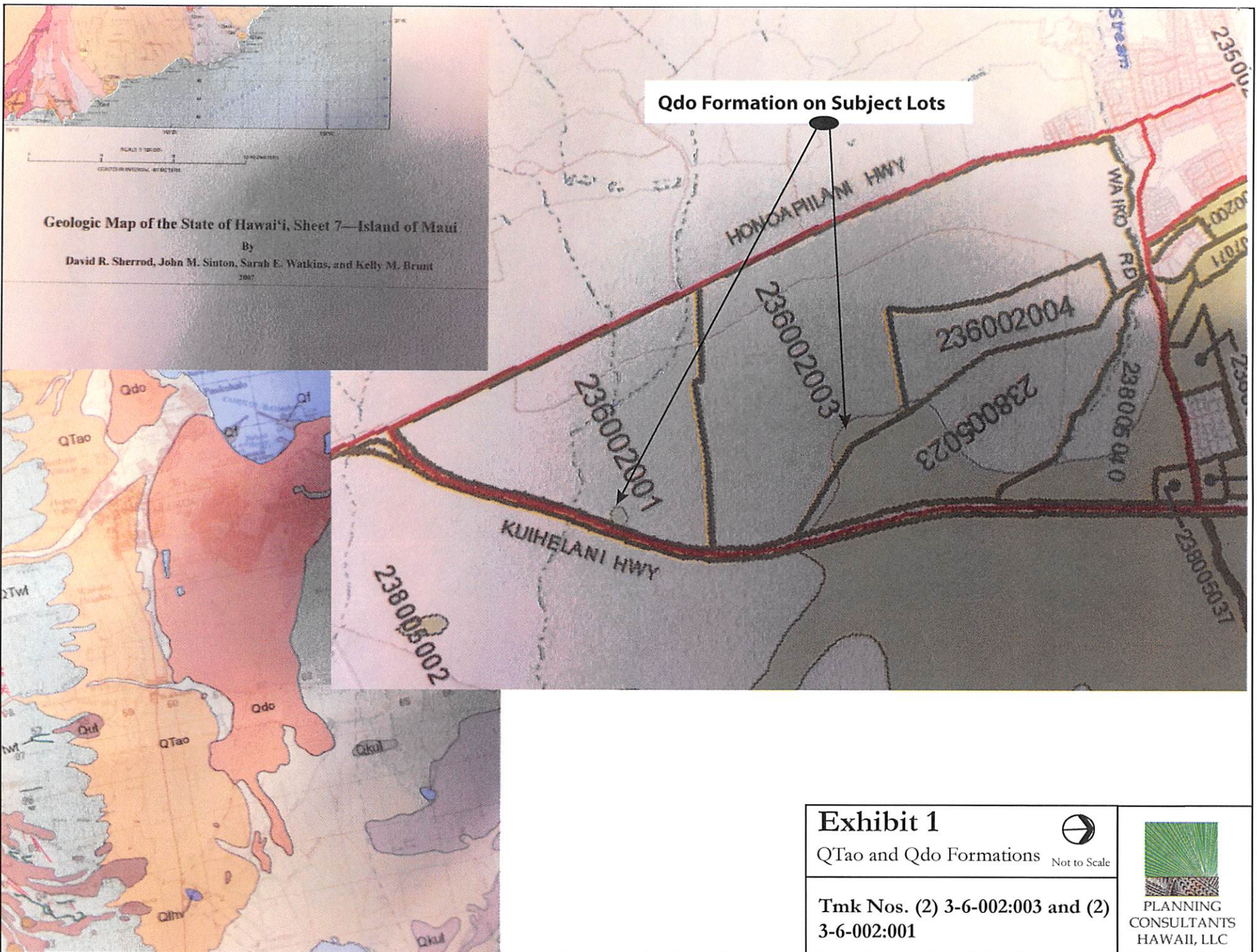
Sincerely yours,

A handwritten signature in dark ink, appearing to read "Michael J. Summers", with a stylized flourish at the end.

Michael J. Summers
President

Attachment

c: Mr. Michael Atherton
Mr. Albert Boyce



DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

September 22, 2017

Michael Atherton
Waikapū Partners LLC
1670 Honoa'pi'ilani Highway
Wailuku, HI 96793
Email: athertonisland@gmail.com

IN REPLY REFER TO:
Log No. 2017.02060
Doc No. 1709MBF15
Archaeology

Dear Mr. Atherton,

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Archaeological Inventory Survey Report for Several Parcels of Land
Situated within Waikapū Ahupua'a; Wailuku District Pū'ali Komohana Moku
Waikapū Ahupua'a, Wailuku District, Island of Maui
TMK: (2) 3-6-002:003; (2) 3-6-004:003, 006, 007**

Thank you for the opportunity to review the subject submittal titled, *Draft Archaeological Inventory Survey Report for Several Parcels of Land Situated within Waikapū Ahupua'a; Wailuku District Pū'ali Komohana Moku; TMK: (2) 3-6-002:003; (2) 3-6-004:003, (2) 3-6-004:006; and (2) 3-6-005:007* (Guerriero et al., September 2017). Revisions to the archaeological inventory survey (AIS) report were requested by the State Historic Preservation Division (SHPD) on August 10, 2017 (Log No. 2013.5793, Doc No. 1708MBF04). The revised report was received by the SHPD on September 15, 2017.

Under contract to Waikapū Partners, LLC, Archaeological Services Hawai'i, LLC (ASH) conducted an archaeological inventory survey (AIS) of approximately 503 acres. The original AIS was initiated by the developer in advance of the project, and the draft AIS report was attached to a draft environmental impact statement (DEIS) submitted to the SHPD on October 3, 2013; no record was found that SHPD reviewed the DEIS.

Waikapū Partners, LLC has landholdings for the subject project totaling 1,576 acres. As stated above, only 503 of the 1,576 acres are covered by the AIS. The remaining 1,073 acres within a portion of TMK: (2) 3-6-002:003 and (2) 3-6-004:003 are currently in small-scale agricultural production, and will remain as such, within the State Land Use Agricultural District. The 1,073 agricultural acres are not covered under this AIS report.

Furthermore, 800 of the 1,073 acres of the current small-scale agricultural land will be preserved in perpetuity for small-scale agricultural use. SHPD stipulates that the applicant shall address any impacts to historic properties related to the 1,576 subject project and that SHPD shall have the opportunity to comment should (1) future development be proposed within the agricultural lands outside the preservation easement, requiring an entitlement change or Special Use Permit (SUP); or (2) there is a change in the scope of work for the 503 acres or if any projects are proposed within the remaining 1,073 acres that were not surveyed, allowing SHPD the opportunity to determine whether a supplemental AIS is warranted to identify the presence or absence of historic properties, including burials, and to ascertain the extent, significance, and potential adverse effects that future development may impose.

The testing strategy of the original AIS consisted of a partial-extent pedestrian survey, and subsurface exploration with 150 randomly-placed, mechanically-excavated test trenches. Four historic properties were identified and

Exhibit 2

designated with State Inventory of Historic Places (SIHP) site numbers: Sites 50-50-04-7881, 50-50-04-7882, 50-50-04-7883, and 50-50-04-7884. These four sites are comprised of nineteen component features, most of which are related to sugarcane cultivation. One previously identified historic property, known as the Waihe'e Ditch (Site 50-50-04-5197), is extant in the survey area. Features 1-18 of Site 50-50-04-7881 consist of concrete-lined ditches, sluice gates, and dirt culverts with concrete-lined headwalls. Site 50-50-04-7882 is a moderately deteriorated "L-shaped" retaining wall. Site 50-50-04-7883 is a World War II-era bunker, and Site 50-50-04-7884, Features 1-3 are described as secondary deposits of historic materials recorded at three separate localities within the survey area. The subsurface testing strategy did not identify any buried historic properties. A preservation plan (PP) will be developed for Sites 50-50-04-7881 (irrigation features) and 50-50-04-7883 (bunker).

Pursuant to Hawaii Administrative Rules (HAR) §13-284-6, intended for the evaluation of significance of documented historic properties, Sites 50-50-04-7881, 50-50-04-7882, and 50-50-04-7884 are assessed as significant under Criterion d, as they have yielded, or have the potential to yield, significant information pertaining to the history of the area. Site 50-50-04-7883, the World War II bunker, is considered significant under three criteria: Criterion a, association with an important historical event; Criterion c, distinctive characteristics of construction; and Criterion d, possessing significant information pertaining to the history of the area. The WWII bunker, is quite unique in that it is one of the last remaining examples of this type of architecture in relatively good condition, on the island of Maui. The draft AIS report indicates that the proposed project will affect the historic scatters associated with Site 50-50-04-7884, and likely also Site 50-50-04-5197 (Waihe'e Ditch). In addition, it is noted that portions of the project area are located within an area which may contain human burials; burials have been documented in the area.

The draft AIS report indicates one or more historic properties will be affected by the subject project, the project effect recommendation is "Effect, with agreed upon mitigation commitments". The agreed upon mitigation commitments are (1) data recovery in the form of archaeological monitoring, (2) preservation of Sites 50-50-04-7881 and 50-50-04-7883, and (3) if Site 50-50-04-5197 is impacted, it will be further documented through architectural documentation; the nature of the architectural documentation will be determined in consultation with the SHPD.

The SHPD concurs with the site significance assessments and a project effect determination of "Effect, with agreed upon mitigation commitments". SHPD also concurs with archaeological monitoring, stipulating that archaeological monitoring shall be conducted for all ground disturbing activities.

The revised draft AIS addresses the issues and concerns raised in our earlier corresponds and now meets the minimum requirements specified in HAR §13-276-5. **It is accepted.** Please send two hardcopies of the document, clearly marked FINAL, along with a text-searchable PDF version, to the Kapolei SHPD office, attention SHPD Library.

As stipulated in HAR §13-275-7, when SHPD comments that a project will result in "effect with agreed upon mitigation commitments," then detailed mitigation plans shall be developed for SHPD review and acceptance prior to project work commencing. **SHPD looks forward to receiving an archaeological monitoring plan (AMP) meeting the requirements of HAR §13-279-4 and a preservation plan meeting the requirements of HAR §13-277.**

You may contact Dr. Matthew Barker Fariss at matthew.b.fariss@hawaii.gov, or at (808) 243-4626, for any questions regarding this letter.

Aloha,



Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

Mr. Atherton
September 22, 2017
Page 3

cc: County of Maui Planning
Planning@co.maui.hi.us

Michael Summers
msummers@planningconsultantshawaii.com

County of Maui Cultural Resources Commission
Annalise.Kehler@co.maui.hi.us

Lisa Rotunno-Hazuka
lisa@ashmaui.com

County of Maui Public Works
public.works@mauicounty.gov

DLNR Land Division
Russell.Y.Tsuji@hawaii.gov

Lorene Maki
Lorene.K.Maki@hawaii.gov

SUPPORT FUNDING the removal of dead trees along Piiholo Road, County Communication 17-486

Joseph Kohn <weareoneent@msn.com>

Tue 12/12/2017 10:04 AM

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

I strongly support funding for the removal of dead trees along Piiholo Road (County Communication 17-486)
Thank you for your very kind attention.

Joseph Kohn MD
Founder, We Are One, Inc. - WAO
1268 W Hiahia Pl
Wailuku, HI 96793-9762
808-359-6605
Joseph@WeAreOne.cc
www.WeAreOne.cc

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COUNTY CLERK

County Communication 17-486 - Tree Removal on Piiholo Road

Marta Greenleaf <greenleaf.maui@yahoo.com>

Tue 12/12/2017 12:02 PM

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

Dear Maui County Councilmembers,

I am writing testimony on the subject of adding an emergency fund of \$1,000,000. to the County budget to facilitate the removal of the more than 400 dead eucalyptus trees in the county owned rights of way along Piiholo Road before any more falling trees cause property damage, injury or death this winter.

As noted in the emergency proclamation, dead trees pose an imminent danger of death, injury, and property damage to our residents and visitors using Piiholo Road, warranting preemptive and protective action. This is a serious threat and I request that this funding gets approval immediately.

Thank you,
Marta Greenleaf
310 Hoopalua Dr.
Makawao, HI 96768

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2017 DEC 12 PM 12:16
OFFICE OF THE
COUNTY CLERK

🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...



funding to remove dead and hazardous

LM

Lucia Maya <luciakmaya@me.com>

Today, 3:55 PM

County Clerk ▾



🔄 Reply all | ▾

Inbox

To Whom It May Concern:

as a resident of Makawao, I strongly urge the council to fund the removal of the dead and hazardous trees on lower Pi'iholo Rd. They present a danger to drivers on this road, especially in the winter storms and need to be removed as quickly as possible. They've already created damage and injury and we do not need to wait for any more disasters before we act.

Thank you for your time.

Aloha,
Lucia Maya

36 Miner Pl
Makawao, HI 96768
808-866-8246

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2017 DEC 12 PM 4: 09
OFFICE OF THE
COUNTY CLERK

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✕

2017 DEC 14 AM 7:59

Piiholo tree removal

DH

dotty higa <dottyhiga@gmail.com>

Yesterday, 9:37 AM

County Clerk ✕

OFFICE OF THE
COUNTY CLERK

🔄 Reply all | ▾

Inbox

Dear County Council,

Aloha, my name is Dorothy Higa, I live on Piiholo road, and have lived here for 29 years. I have to work today and I am unable to attend the meeting.

The Eucalyptus trees on Piiholo have become such an agonizing nightmare. I personally have to drive up and down the road numerous times taking grandchildren to school, coming back, going to work, picking kids up, heading to appointments and every day that there is wind or too much rain we have a tree or two or three fall down. I have gotten home just minutes and a tree will have fallen on the very same spot I just passed. It is starting to cause anxiety, should you drive fast should you drive slow, should you just go around and add another 40 minutes on your commute. There are so many other trees that can fall as well not just the dead ones at the bottom. The fact that someone could die or be injured from a falling tree causes so much anxiety. Should someone be on the way up or down for a visit or for a delivery and get hit by a tree how will you suffer through that for the rest of your life. In the midst of the storms when crews and police come out to deal with the fallen trees they are risking their lives being under the other hundreds that have potential to fall. This is a problem that has escalated and needs to be addressed as soon as possible with enough funds to take care of the problem once and for all.

Sincerely yours,
Dorothy and Karl Higa
1561 Piiholo Road

Reply all | ▾ Delete Junk | ▾ ...

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Highway Fund/Pi'iholo Road, County Communication 17-486

2017 DEC 14 AM 7:59

LL

Lars Lind <mauimartha@hawaiiintel.net>

Yesterday, 5:17 AM

County Clerk ▾

OFFICE OF THE
COUNTY CLERK
Reply all | ▾

Inbox

Aloha Maui County Council,

My name is Martha Lind. My husband and I live at the 4 mile marker off of Pi'iholo Road.

I am urging you to pass the emergency funding to remove the dead trees on Pi'iholo Road and to have them removed as soon as possible. We drive up and down Pi'iholo almost every day. We are constantly looking around while driving to see if a tree is falling while driving up Pi'iholo, which in itself is dangerous as we are not fully concentrating on driving while looking for falling trees. Last week the car in front of my son slammed on its brakes as a huge tree fell across the road. A few seconds later and that tree would have fallen on my son's car. The trees need to be removed before someone is seriously injured or killed.

I appreciate your prompt attention to appropriating the funds for this important and very necessary project.

Sincerely,

Martha Lind
39 Naniuka Place
Makawao 96768
(808) 572-8306

📧 Reply all | ▾ 🗑 Delete Junk | ▾ ...

RECEIVED

2017 DEC 14 AM 7:59

OFFICE OF THE
COUNTY CLERK

Piiholo tree removal

RF

renata freitas <freitasre@hotmail.com>

Tue 12/12, 6:30 PM

County Clerk ▾

📧 Reply all | ▾

Inbox

December, 10th 2017

Renata Mock
40 Naniuka Pl.
Makawao, 96768

To whom it may concern at the Council Meeting scheduled to December 15th, 2017 about the

Budget Amendment and Emergency declaration submitted for the Piiholo Tree Removal work.

My Name is Renata Mock I reside at 40 Naniuka Pl. more specifically 4 miles up Piiholo Rd. I have been living here for 12 years. Trees coming down on the road during the rainy/windy season was always a concern. Once in a while we would have to go around and thats ok. However, last year with the beetle's infestation at the bottom of the road hundreds of trees died and now they are falling all the time. Driving to and from school with kids has become stressful and I fear for the safety of my family, friends and neighbors. Road closures and power outages have become an enormous inconvenience.

I am writing to ask for the approval of the emergency budget to remove these trees. The community is ready to help and support the work that should already be done. Please take in to consideration that this is a school bus route. The Olinda community will be relieved when this situation is given the attention it deserves.

I appreciate your time in considering my request.
Sincerely,

Renata Mock

TO: The Maui County Council
DATE: 12/13/17
RE: Communication 17-486 – Tree Removal on Piiholo Road
FROM: Lee Stein, 44 years of driving Piiholo Road daily

RECEIVED

2017 DEC 14 AM 7: 59

OFFICE OF THE
COUNTY CLERK

Honorable Council Members,

I ask for your swift support in funding the removal of the hundreds of dead and regularly falling trees lining Piiholo road. I drive this road, often more than once a day and have begun to begin to pray as I both leave and return home from Waiahiwi road. I consider this journey a sort of "running the gauntlet" and wonder each time if my life is at risk.

Having lived on Waiahiwi Rd for more that 4 decades, I have witnessed many changes in my neighborhood. However, the most alarming change has resulted from the sad death of these trees that fall more and more frequently as their roots loosen from wind and rain. My neighbors and I have grown accustomed to the increasingly frequent losses of electricity, phone and internet over the years. But as one of these trees fall almost weekly, we are all clearly aware that is only a matter of time for one or more individuals to be gravely injured or killed.

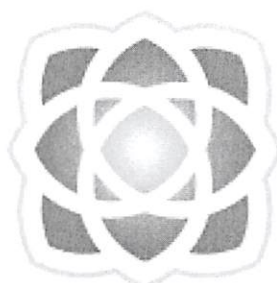
Please make this funding the priority that is deserves.

Mahalo, Lee Stein
572-1944
384 Waiahiwi Rd.

RECEIVED

2017 DEC 14 AM 7:59

OFFICE OF THE
COUNTY CLERK



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

Testimony on CR 17-167—IEM-33

Re: Moratorium on Sand Mining of Central Maui Inland Sand
Friday, December 15, 2017

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

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

The Maui Chamber of Commerce opposes the current proposed ordinance to establish a moratorium on sand mining of Central Maui inland sand. We believe the protection of Maui sand is important and were deeply concerned (along with our members) about the exportation of Maui sand off island. We have always supported stopping the exportation of sand off island through this process, but this bill has strayed away from that original intent. The bill has gone from originally being focused on preventing off island exportation, to protecting cultural and burial sites, to now being more about preventing construction as mentioned during the last Council meeting. As we have testified before, if the intent of the bill was just to prevent the exportation of sand off island, then moving sand to different lots on Maui shouldn't be problem and we still feel that should be allowed.

Further, we have yet to see the justification for imposing a moratorium. We have testified numerous times that the Council should revisit the suggestion from Corporation Council to strengthen the definition of "resource extraction" instead of issuing a moratorium, that there is no longer an urgent need to halt sand exportation as the company has agreed to stop, and that the bill does not currently contain a clear purpose, plan, timeframe, and goals. We feel more work should be done to explain the reasoning for the moratorium, the goals and a realistic plan for achieving those goals and this should be included in the bill.

Finally, we understand the County is not required to notify property owners who are on the list of affected areas of the proposed moratorium. We also heard that some property owners were coming forward at the last County Council meeting to request being taken off the list as they had the necessary requirements. We feel that since property owners were not notified, they should be able to submit the required documents and be taken off the list completely. They should not have to request a waiver which includes a resolution approved by two-thirds vote.

Therefore, we ask that you please reconsider the moratorium, look at alternate ways to address resource extraction and update the Maui Inland Sand Resource Quantification Study, and allow for property owners to be removed from the list with required documentation.

We appreciate the opportunity to testify on this matter.

Sincerely,

Pamela Tumpap
President

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

County Communication 17-486 - Hazardous Tree Removal on Piiholo Rd.

Erik Fredericksen <xamanekresearchesllc@gmail.com>

Wed 12/13/2017 2:46 PM

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

RECEIVED

2017 DEC 14 AM 8:01

OFFICE OF THE
COUNTY CLERK

Honorable Maui County Council Members,

Aloha, my name is Erik Fredericksen. I am writing in support of County Communication 17-486 - Hazardous Tree Removal on Piilani Road. I have been an upcountry resident for 50 years. While numbers of the eucalyptus trees along Piiholo road have always been too close comfort, the plain fact of the matter is that 100 or so of them have been dead for 1-2 years. As decay sets in, they will inevitably fall. The bulk of these trees overhang portions of Piiholo Road near and below the Piiholo Zip-line. Simply put, these dead trees pose an imminent public safety threat. Many Piiholo residents have had close calls, including my mother-in-law, Clara Reeve. This very dangerous situation must be decisively addressed, in order to avoid the tragic consequences of a dead tree (or large branch) falling directly onto a passing motorist, cyclist or pedestrian.

In closing, I urge the Council to take decisive action and fund the removal of the hazardous trees along Piiholo Road.

Sincerely,

Erik Fredericksen

Xamanek Researches LLC

P.O. Box 880131

Pukalani, Maui, Hawaii 96788

808.572.8900

County Communication 17-486 – Tree Removal on Piiholo Road

Chuck Chimera <cgchimera@gmail.com>

Thu 12/14/2017 7:49 AM

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

RECEIVED
2017 DEC 14 AM 8:17

OFFICE OF THE
COUNTY CLERK

Dear Members of the Maui County Council,

I am writing to urge you to support the emergency appropriation for the removal of dead hazardous Eucalyptus trees on lower Piiholo Road. I am a husband and father of a pre-K son, and I am required to commute to work on Piiholo Road. I am increasingly alarmed by the condition of the dead and dying trees, and at the risk I and others are subjected to as we drive along the road. Robert Turner is extremely lucky to be alive after the near miss he experienced with a falling Eucalyptus earlier this year, and I fear that I or someone else will not be so lucky the longer this project is delayed. Please act quickly and provide the necessary funds to avert a future, and preventable tragedy.

Mahalo for addressing this emergency crisis.

Sincerely,
Charles Chimera
Makawao

🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...

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✕

Trees on Piiholo Rd

2017 DEC 14 AM 8:18

Y

yarrowmw@aol.com

Today, 6:41 AM

County Clerk ✕

OFFICE OF THE
COUNTY CLERK

🔄 Reply all | ▾

Inbox

To Council Members,

I live on Waiahiwi Rd off of Piiholo Rd.

Every time I drive to & from home on Piiholo Rd... I worry one of the trees will fall. I am hyper alert to this very real possibility.

Not long ago while driving home I came upon a fallen tree crashed into a truck.... just barely missing the driver.

Why wait until tragedy happens... as it surely will with these trees??

Please make Piiholo Rd. a safe road to travel by removing these dead trees!

Mahalo for protecting our community.

Yarrow Walsh

384 Waiahiwi Rd

Sent from my iPhone

Reply all | ▾ Delete Junk | ▾ ...

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2017 DEC 14 AM 8:18

Funding removal of trees on Piiholo

RW

Robin Winn <robinwinnma@gmail.com>

Yesterday, 10:37 PM

County Clerk ▾

OFFICE OF THE
COUNTY CLERK

Reply all | ▾

Inbox

I urgently request that you approve funding for the removal of the dead trees on Piiholo. I drive by them every day and feel the imminent danger for myself and the other cars on the road. The cost will be less than the financial and human life cost of a waiting-to-happen death.

Thank you for taken the wise step to remove these trees now.
Robin Winn

Sent from my iPhone

📧 Reply all | ▾ 🗑 Delete Junk | ▾ ...



County Communication 17-486 – Tree Removal on Piiholo Road

M

melissachimera@gmail.com

Today, 8:28 AM

County Clerk ▾



📧 Reply all | ▾

Inbox

Dear County Council members,

I am writing to support the removal of trees along the road. The dead snags overhanging the road are an extremely dangerous and potentially deadly situation waiting to happen.

Sincerely,
Melissa Cimer, Makawao

Melissa Michelle Chimera
P.O. Box 1502
Makawao, Hawai'i U.S.A. 96768
www.melissachimera.com

RECEIVED
2017 DEC 14 AM 8:53
OFFICE OF THE
COUNTY CLERK

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



GLEN A. UENO, P.E., P.L.S.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

RECEIVED
2017 DEC 14 AM 10:33
OFFICE OF THE MAYOR
COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

December 14, 2017

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

For Transmittal to:

Honorable Mike White, Council Chair
Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROVED FOR TRANSMITTAL

Mayor

12/14/17
Date

Dear Chair White:

**SUBJECT: COUNTY COMMUNICATION 17-486 RELATING TO
EMERGENCY REMOVAL OF DEAD TREES ON PIIHOLO ROAD**

The purpose of this letter is to provide an update on the bids received for the proposed subject project. The Department of Public Works was asked to execute this project should funding be approved, and we have put together a scope of work and yesterday received bids.

We determined that there are 60 trees within the County right-of-way (from the Piihola zipline entrance down to the end of the grove of dead Eucalyptus trees) which we numbered with white paint. Attempts to number the trees within Piihola Ranch's property was abandoned due to the proximity of the adjacent gulch, but a visual count estimated about 300, all located within 35 feet of the edge of pavement. Piihola Ranch has agreed in principle, to allowing us to use their property to lay down the County trees and their trees so as to reduce hauling costs to the landfill. Accordingly, we bid the project in two alternatives:

- Bid Alternate A: Removal of 60 Eucalyptus trees located along Piihola Road in the vicinity of TMK: (2) 2-4-012:080, within the County right-of-way. Trees

Honorable Alan M. Arakawa
For Transmittal to:
Honorable Mike White, Council Chair
December 14, 2017
Page 2

are to be cut to one to two feet (1-2') stumps. Trees to be removed are numbered with white paint or are identified by marking on the pavement. Remove all green waste each day to the Central Maui Landfill.

- Bid Alternate B: Cutting down approximately 360 Eucalyptus trees located along Piihola Road in the vicinity of TMK: (2) 2-4-012:080, within 35 feet of the edge of pavement. Trees are to be cut to one to two feet (1-2') stumps. All green waste and fallen trees are to remain on the property identified by TMK: 2-4-012:080.

Alternate A's low bid was \$342,420 and Alternate B's low bid was \$448,818, both low bids were from C. Hayes Excavation.

In the last six to eight (6-8) weeks, our Makawao Baseyard has responded to eight (8) trees falling in this grove of dead trees, and another Eucalyptus tree fell near Mile Marker 3 (above the grove area). The cost to the Highway Fund to remove and dispose of the trees averaged \$2,000 per tree, depending on the size of the tree, number of branches, and whether it entangled with utility lines. While our crews are quick to respond, we must acknowledge that they are working in typically very dangerous conditions where more trees can fall at any time. In fact, during one of the callouts, another tree did fall and the crew was essentially sandwiched between the two fallen trees. Motorists waiting for our crews, as well as MPD are also potentially in harm's way while they wait for the tree to be removed.

The proposed work will also cause Piihola Road to be closed from approximately 8:00 a.m. to 3:30 p.m., with the bid specs requiring all work to be done within 60 days. Alternative B is anticipated to have fewer road closure days, or possibly more single-lane closures, as trees will be mostly felled away from the roadway.

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Here are some photos of the recently fallen trees on Piiholo Road and the dead trees:



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Honorable Mike White, Council Chair
December 14, 2017
Page 4

Rowena Dagdag-Andaya will be available for your December 15, 2017 Full Council meeting and potentially some key staff members. We appreciate the Council's immediate consideration of this item.

Sincerely,



DAVID C. GOODE
Director of Public Works

DCG:jso

xc: Keith A. Regan, Managing Director
Kaala Buenconsejo, Director of Parks and Recreation
Rowena M. Dagdag-Andaya, Deputy Director of Public Works
John R. Smith, Highways Division Chief
Kristilee Ono, Engineer
s:\david2\transmittals\mike white_emergency removal of dead trees on piiholo road

Dead tree removal Piiholo Road

Mimi Tackaberry <mimiboyumberry@gmail.com>

Thu 12/14/2017 1:38 PM

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

Dear Council members:

My name is Mimi Boyum Tackaberry and I live at 798 Piiholo Road, just mauka of the Piiholo Zipline, and the half-mile stretch of the most threatening of the dead eucalyptus trees.

As I wrote recently to the Maui News, I have personally witnessed fallen trees and I drive that stretch knowing that it is only a matter of time when, not if, the next tree will come crashing down.

The recently placed sign at the bottom of the road says "drive with caution watch for falling trees." That made me wonder, what am I supposed to do if a tree starts to fall - speed up? Skid to a stop? Swerve off the road? Hope the Council follows through with funds to preemptively remove them?

I would like to take credit for having paid Donald DeCoite two years ago to remove 11 of the dying trees on County property when he was cutting them down on my own property - but I have to admit, at the time my motive was that the trees were an eyesore; now they would be part of the menace to all the residents of east Olinda.

I wrote the piece in the Maui News to go on record that this is an unnecessary danger. The dead trees will eventually all fall down and the expense of taking care of them one by one will be a hundred-fold what it would cost to preemptively remove them. The cost would be horrific if there were to be loss of limb, or life.

Aloha, Mimi Boyum Tackaberry
283-1333

Sent from my iPhone

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🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...



SUPPORT OF: County Communication 17-486 – Tree Removal on Piiholo Road

BB

Bryan Berkowitz <bryan@bryanberkowitz.com>

Today, 2:30 PM

County Clerk ▾



🔄 Reply all | ▾

Inbox

Aloha,

I am a resident of Makawao and live on Pi'iholo Rd. I also work on Pi'iholo Rd. The dead and dying Eucalyptus trees are a public safety threat. We have already seen one instance where a falling tree struck a moving vehicle and it is only a matter of time until it happens again. These trees continually knock down power and phone/ Internet lines making it difficult to carry on with daily life and business.

I fully support the County Communication 17-486 – Tree Removal on Piiholo Road.

Mahalo for your efforts.

-Bryan Berkowitz

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COUNTY CLERK



HŌKŪ NUI
M A U I

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2017 DEC 14 PM 2:18
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COUNTY CLERK

RECEIVED

December 14, 2017

To: Maui County Council

Re: County Communication 17-486 - Tree Removal on Pi'iholo Road

Hōkū Nui Maui strongly supports allocating funding to remove the dead trees on Pi'iholo Road. This is an extremely dangerous situation for residents, businesses and visitors that travel on Pi'iholo Road, and the problem is appropriately addressed by utilizing public funds to protect the public safety.

Our farm border runs up Pi'iholo Road and we are very concerned about the safety of our farm employees and animals. Additionally, a number of our farm families live on Pi'iholo Road, and we fear for their safety every day. We are also mindful of the economic cost to our farm, as the expense of repairing damage to our fence line from falling trees from the other side of the road is significant.

We urge you to allocate this funding to rapidly ensure the safety of the public first and foremost.

Sincerely,

Erik Frost, Owner

Hōkū Nui Maui | Regenerative Farming Community

P.O. Box 1347 Makawao, Maui, HI 96768
www.hokunui.com



RECEIVED
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OFFICE OF THE
COUNTY CLERK

December 14, 2017

To: Maui County Council

Re: County Communication 17-486 - Tree Removal on Pi'iholo Road

We strongly support allocating funding to remove the dead trees on Pi'iholo Road. This is an extremely dangerous situation for residents, businesses and visitors that travel on Pi'iholo Road, and should be resolved immediately. The problem is appropriately addressed by utilizing public funds to protect the public safety.

We live at 1215 Pi'iholo Road; my parents, son, brother and myself. We as a family also own the 258 acres at 186 Pi'iholo Road. We collectively travel up and down the road many times a day and I am very concerned about the safety of my family. Additionally, a number of our farm families live on Pi'iholo Road, and I fear for their safety every day. I have personally spent 10s of thousands of dollars removing hazardous branches from eucalyptus trees lining Pi'iholo Road and my property at 1215 Pi'iholo, although those trees are technically on County property.

I urge you to allocate this funding to rapidly ensure the safety of the public first and foremost.

Sincerely,

Karin Frost, Owner

Piiholo Road trees

Jennifer Brittin <JenniferB@eomaui.com>

Thu 12/14/2017 3:46 PM

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

Aloha,

I am a long time resident of Piiholo Road, and I am scared for my life every time I drive up Piiholo Road. I have had branches fall on my car, on my fences, and on my cottage. The trees at the bottom of Piiholo are now an immediate danger, and if they are on county land, a lawsuit waiting to happen. Please get the dead trees cut down before someone is killed.

Jennifer L. Brittin-Fulton
Employers Options
Largest Women Owned Business on Maui
111 Hana Hwy # 111
Kahului, Hawaii 96732
808 877 6555



RECEIVED
2017 DEC 14 PM 3:51
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Testimony on Bill no. 117

Jennifer Noelani Ahia

1/5/2017

Aloha. I would like to speak about the sand mining moratorium. In particular, I am here to speak about the Maui Lani Phase 9 permit that was first issued in December of 2014. That permit is already in violation and yet it has just been rubberstamped for renewal.

There are three major violations already attached to this faulty permit. The first violation is one of resource extraction. The county Department of Planning issued a notice to Maui Lani Partners in early May of 2017. Second, the volume to be graded listed on the permit has already been exceeded. The engineer for Maui Land, Mr. Tankaka, testified under oath, in *Malama Kakanilua vs. Maui Lani Partners*, that the amount graded exceeded was greater than what the permit allowed. Third, the permit application has "no known burials" checked. Since the original permit was applied for, there have been several burials found and yet there has been no further review in the renewal of this permit.

The Maui County Dept of Public works said they know nothing of burials, they are not responsible of burials, they point the finger at SHPD, and they have NO process to recind or revoke a permit. Is this true for all permits in Maui County? Can they all be violated with no recourse?

If this permit exempts Maui Lani from this legislation, then we just spent eight months to create another loophole for Developers. Maui Lani Partners Sand Mining was the primary reason the legislation was brought forth in the first place. Although Maui Lani denied in this chamber that they sand mine, it was established in *Malama Kakanilua vs. Maui Lani partners* that Maui Lani and Bill Mills group share the same address where all the checks go. They are related.

The timing of this permit situation reeks of internal collusion and corruption. Was this the plan all along to appease developers and create loopholes for them. Was it intentional to stall the passage until Maui Lani had their permit renewed.

This is A'ole Pono, This is not the will of the people. Queen Lili'uokalani said "The voice of the people is the voice of GOD." It's time to do the right thing and fix this mess.

Mahalo Nui

December 15, 2017

TO: Chairman Chairman Mike White
Vice Chair Robert Carroll
Maui County Council Members

SUBJECT: CR 17-193

Recommending **ADOPTION** of resolution to authorize settlement of Claim
301547579300001 of Barbara Cabalo for \$25,399.08.

Please accept my written testimony for CR 17-193.

On July 26, 2015, the County of Maui water main break, which took three hours to shut off, caused severe damage to the property of Barbara Cabalo, at 877 Maikai St., Haliimaile.

I have recently visited the home of Barbara Cabalo and was surprised to see its condition. To date, no repairs have been done due to pending claims approval. In my humble opinion, I don't think anyone should live in a damaged home and wait over 2 ½ years to get their house fixed because of slow claims processing. Given the time period, I also believe that this lady has been patient enough and the cost of repairs are now probably more than estimated.

Please approve and expedite settlement of claim number 301547579300001 of Barbara Cabalo, in the amount of \$25,399.08. It will be greatly appreciated.

Thank you for the opportunity to submit testimony.

Sincerely,


Maggie Kramp