

**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION COMMITTEE**
Council of the County of Maui

M I N U T E S

Council Chamber

September 13, 2016

CONVENE: 1:31 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Don S. Guzman, Chair
Councilmember Elle Cochran, Vice-Chair
Councilmember Don Couch
Councilmember Stacy Crivello (arrived at 1:34 p.m.)
Councilmember Riki Hokama
Councilmember Michael P. Victorino (left at 2:07 p.m./returned
at 2:46 p.m.)
Councilmember Mike White (arrived at 1:50 p.m.)

STAFF: Sharon Brooks, Legislative Attorney
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone
conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via
telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone
conference bridge)

ADMIN.: Jeffrey Ueoka, Deputy Corporation Counsel, Department of the
Corporation Counsel
Mike Molina, Executive Assistant, Office of the Mayor
Roxanne Teshima, Special Events & Grants Coordinator,
Department of Parks and Recreation
Danilo F. Agsalog, Director, Department of Finance
Rowena Dagdag-Andaya, Deputy Director, Department of Public
Works
William Spence, Director, Department of Planning

OTHERS: Francine Aarona, Director, Paia Town Association
Noelani Sugata, Executive Director, Paia Town Association
Richard Moss, Quartermaster, Veterans of Foreign Wars of the
United States Wilbert Wah Hutom Post 3850
Zandra Amaral Crouse
Danny Kanahele, Post Commander, Veterans of Foreign Wars of
the United States Wilbert Wah Hutom Post 3850
Rick Egged

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR GUZMAN: . . . *(gavel)* . . . Good Afternoon. This is the Economic Development, Energy, Agriculture, and Recreation Committee. I'm Don Guzman, the Chair of the Committee. Before we begin, I'd like to ask anyone who has a cell phone to please put it on silence mode. I'll introduce today's Members - today we have Elle Cochran, the Vice-Chair of the Committee.

VICE-CHAIR COCHRAN: Aloha. Good afternoon.

CHAIR GUZMAN: Good afternoon. Don Couch.

COUNCILMEMBER COUCH: Aloha. Good afternoon, Chair.

CHAIR GUZMAN: Mike Victorino.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR GUZMAN: And Riki Hokama. And for our Staff we have Legislative Attorney, Sharon Brooks, as well as our Committee Secretary, Pauline Martins. For our Executive Staff we have Mike Molina from the Mayor's Office, Roxanne Teshima from the Department of Parks and Recreation and our Deputy Corporation Counsel is Jeff Ueoka. Before we begin, anyone who would like to testify, please sign up in the lobby. And when you testify you'll have three minutes to testify on the items on today's agenda only. I'm gonna go ahead and check in with our District Offices before we begin in the Chambers. Hana Office, are you present?

MS. LONO: Yes. Good afternoon. This is Dawn Lono at the Hana Office.

CHAIR GUZMAN: Ms. Lono, is there anyone wishing to testify?

MS. LONO: There is no one wishing to testify at this time.

CHAIR GUZMAN: Thank you. And Lanai Office, are you present?

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

CHAIR GUZMAN: Thank you, Ms. Fernandez. On Molokai Office?

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

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: Thank you, Ms. Alcon. Turning our attention to the Chambers, is there anyone wishing to testify? Please call the first testifier.

MS. BROOKS: Thank you, Chair. The first testifier is Francine Aarona, followed by Noelani Sugata.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. AARONA: Okay? Aloha. My name is Francine Kekahuna Aarona and I live at 37 Ae Lane where I was brought up by my grandmother, Lily Kekahuna. Our ohana, including myself, has lived there for more than 80 years. On the map of Paia Town, it shows Kekahuna subdivision. So it is my kuleana that I share an interest in helping the community deal with the many changes that they are facing day to day. With those changes, SID would be good for Maui, especially in Paia. It would also provide funding for a person that would take care of coordinating services, such as rubbish removal and maintenance, working with MPD on safety issues, et cetera, beautification projects, such as working with our County to obtain a parcel that will be soon be up for bid by Maui Electric. The bus stop sits directly in front of this parcel as well as a crosswalk to the parking lot. That parcel could serve as a safe waiting area for our residents and tourists who uses the bus system to get around. A farmer's market could be created to allow our residents and visitors to enjoy. As a member of the PTA board I know the importance in having a paid person to be available to answer the concerns of the community. Currently the PTA is having to get creative to keep our current programs running. I'm sure that we can fulfill the needs of Maui, like Oahu and Kona. Mahalo for your consideration. Aloha.

CHAIR GUZMAN: Thank you very much. Members, do you have any follow-up questions? Seeing none, thank you very much for your testimony.

MS. AARONA: Thank you.

MS. BROOKS: The next testifier will be Noelani Sugata, followed by Richard Moss.

MS. SUGATA: Aloha, Councilmember Guzman and Committee Members. My name is Noelani Sugata and I am the Executive Director for the Paia Town Association. We are in strong support for Bill EAR-36 relating to special improvement districts. Currently, four SIDs exist: three on Oahu and one on Hawaii Island. Paia would like to be the fifth. Our mission is to preserve the vitality and historic integrity of the Paia Town and provide a unified voice that leads and manages the town center for the benefit of the entire community. Currently, our membership has grown to include businesses, landowners, and residents. We will be having an annual meeting on September 28, 2016. We hope to engage with our community to listen to their concerns and discuss ways to make our town better. During the last year, with funds

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

from the Office of Economic Development and membership dues, the association started a rubbish removal and maintenance program, sponsored the Paia mural, purchased a new place marker, partnered with like-minded organizations and held two annual events. A special improvement district would provide a self-funding mechanism in order to make improvements for our community. Allowing for SIDs to exist provides small towns like Paia to create self-sufficient, long-term funding instead of relying on grants that you may or may not get. We are trying to think of creative ways to raise funds in order to continue providing the services we did this past year. However, we feel the best way to do financial support services is for Paia to be a SID. I humbly ask the EAR Committee to support special improvement districts for Maui County. Thank you.

CHAIR GUZMAN: Thank you. Members, any-follow up questions? Seeing none, thank you very much for your testimony. Next?

MS. BROOKS: The next testifier is Richard Moss, followed by Zandra Amaral Crouse.

MR. MOSS: Aloha and good afternoon, Committee Members. My name is Richard Moss. I'm the Quartermaster of VFW Post 3850 and before you today is a amendment to our lease agreement for the Post to be at our current location in Kihei. And we have some of our members here today and we're just here to support the lease that's in front of you that has, I think, a couple of revisions; one is an extension of the term and one is a reduction in the annual rental fee. So we're just simply here to support the lease that's before you that you will be acting on today. Thank you very much.

CHAIR GUZMAN: Thank you very much. Any questions or follow-ups for the testifier? Seeing none, thank you very much.

MS. BROOKS: The last testifier in the Chamber is Zandra Amaral Crouse.

MS. AMARAL: Good afternoon, Councilmembers. I stand before you in support of the resolution that's been put before you from the VFW for the extension of the lease and the lowering of the rent. The VFW Hall in Kihei not only serves the VFW, we hold many parties there for families who want to lease the hall at a minimal rate and, as you know, there's very few places in Kihei that service families. It's also a really, it's a gathering place for our veterans; not only when we hold our meetings, but they'll just go down there and kukakuka, hang out together and talk story and heal their wounds. I humbly ask that I know that the needs on Maui are wide as I was before you for the Housing Committee this morning and I thank you for passing that but I humbly ask you to support our veterans. These are men and women who fight for us. Many give their lives for us and it's a place where families and friends can gather and we can hold each other's hand when we need to, cheer each other on when we need to, or simply have a place to call our own. And I am a member of the VFW 3850 so I humbly ask that you support our veterans in this matter. Thank you.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: Thank you. Members, any follow-up questions? Seeing none, thank you very much for your testimony.

MS. CROUSE: You're welcome, Chair. Thank you.

CHAIR GUZMAN: Thank you.

MS. BROOKS: There are no more testifiers in the Chamber.

CHAIR GUZMAN: Okay, thank you. Members, being that there's no more testifying or persons who'd like to testify, I'd like to close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR GUZMAN: Thank you. Public testimony is now closed.

. . . END OF PUBLIC TESTIMONY . . .

**EAR-65 FIRST AMENDMENT TO LEASE GRANTING AN EXTENSION OF TIME AND
REDUCTION IN RENT FOR THE VETERANS OF FOREIGN WARS VETERANS
CENTER AND COMMUNITY ACTIVITIES SITE LEASE (CC 16-169)**

CHAIR GUZMAN: Members, turning to your first item on today's agenda. The Committee is in receipt of County Communication 16-169, from Mayor Alan M. Arakawa, transmitting a proposed resolution entitled Authorizing the First Amendment to Lease Granting an Extension of Time and Reduction in Rent for the Veterans of Foreign Wars Veterans Center and Community Activities Site Lease. The purpose of the proposed resolution is to authorize the Mayor via this and authorize him to execute this first amendment to the lease. Apparently it will extend the lease term by an additional 30 years for a new term to expire June 30, 2056. And number 2 is to reduce the annual rent from \$100 to \$1. The Committee may consider whether to recommend adoption of the revised proposed resolution, with or without revisions, or the Committee may also consider filing of County Communication 18-169 and other related actions. Members, the VFW lease covers two parcels as indicated. It's set aside by Executive Orders 4087 and 4342, composing of a total of 2.278 acres, for the veteran's center and community support activities. I have here with us on the floor the VFW Post Commander Danny Kanahele who would like to say a few opening remarks if you'd like.

MR. KANAHELE: It's on now? Okay. First of all I'd like to thank you folks for having us over here. And giving us the chance to ...(inaudible)... emotions about so we can serve the people at our Veterans of Foreign Wars place. I believe we are the only veterans organization that work with the public of the Maui County today besides the Veterans Council. But I believe we do the most work with the public churches, Boy Scouts, Girl

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

Scouts. You name it, we got it, and we do it. We help the people. We go out, we help people at their homes. We help people come and go if we can. If we got the time we will do it. Majority of the time myself and my members we share a good, healthy home and membership with the public and I love them all. Guys I get very much and to the Council thank you folks very much.

CHAIR GUZMAN: Thank you very much, Commander. Also we have Mike Molina from the Mayor's office, if you'd like to present an opening comment or statement from the Mayor's office?

MR. MOLINA: There we go. Good afternoon, Mr. Chairman and Committee Members. First of all, thank you for, you know, taking this matter up expeditiously and also to South Maui Councilmember Couch who's met with some of the VFW members to hear their concerns about this. Of course the request is to extend the lease agreement up until June 30 of 2056 as well as reduce the rent from \$100 to \$1 a year, annually. Now the VFW has been on the property since the late 1940s. The property as mentioned earlier was conveyed from the State to the County and is currently managed by the Parks Department. The VFW have used this site in Kihei for veteran's activities and also as a venue for the public to use for family get-togethers, such as reunions, graduation parties, and also for nonprofit raising events and also as a sleepover and activity site for many youth organizations. And recently being sensitive to the tax dollar for needed maintenance of the area, the VFW took the initiative and reached out to the community and various businesses and individuals for donations of funds, materials, and labor. The community responded in kind and today the VFW hall and outdoor benches have a fresh coat of paint, a new fence and new signage have been installed. Improvements have been made to the driveway and outdoor cooking pit and excessive debris have been removed from the property. It is certainly a place the County of Maui and our veterans can be very proud of. The VFW continues to fundraise with two annual luaus a year and now a pancake breakfast. So as much as possible they try to be self-sustaining and to provide and maintain the area as much as possible. And as Commander Kanahele mentioned, the VFW does other things in the communities which also includes a lot of educational outreach, promoting patriotism and democracy in our public and private schools. And with regards to the fee reduction to \$1 a year, it would be consistent with that of some of our other nonprofits who pay the same amount for a year for property that's leased from the County. The Administration would humbly ask for your approval of these proposals to support the veterans of the VFW, many of whom have served our country on battlefields in Europe, Korea, Vietnam, Iraq, and Afghanistan. Thank you, Mr. Chairman.

CHAIR GUZMAN: Thank you, Mr. Molina. Do we have any comments in regards to the lease agreement from the Parks Department?

MS. TESHIMA: We'd like to recommend approval on the proposed lease. They've been really, if you look at the property, it's really beautifully maintained and taking pride in what they do. They've been really good to the public as far as providing a place for them to

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

enjoy and use and also providing public access on their property. So we do recommend the approval of the extended term and reducing the fees on this lease.

CHAIR GUZMAN: Okay. Thank you. Before I open it up for the Members on the floor, I have one question on the, I know this is via Executive Order from the State, that's how we were able to, I guess, have jurisdiction over the property. Does the Bureau of Land and Natural Resources need approval on this lease, Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I believe we already got that approval. We're ready to go. Just need the Council now. Thank you.

CHAIR GUZMAN: Okay. Thank you. Members, I'd like to open up the floor. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you for bringing this up expeditiously as Mr. Molina said. I had, you know, I worked on getting the actual EO, the first EO, 'cause they were doing it, leasing it from the DLNR one month at a time and that was one of their requests way back in 2004. So we got that, then they found out that some of their land, some of their structures is on a little piece of land so they added the second parcel. It's a good asset for the community and I fully support it and as they said they've cleaned it up and it looks really good. I think almost everybody here has been there since the clean-up and has seen that it's in much better shape now so I fully support this. Thank you.

CHAIR GUZMAN: Thank you. Any other comments from the Members or questions? Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you, Chair. And so I guess the current lease won't expire for another ten years? Is that right?

CHAIR GUZMAN: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. The current lease expires in 2026; however, this is an amendment to the lease so it'd be just extending the term to 2056.

VICE-CHAIR COCHRAN: Okay.

MR. UEOKA: This is amending the existing lease.

VICE-CHAIR COCHRAN: Alright. So I mean, okay, I just thought it was ready to expire or soon that's why we're here to extend and I'm all for extension, of course, and definitely for dropping the cost from 15 down to \$1. I mean we gave a for-profit entity \$1 a year lease for 60 years so I mean to our veterans of course that's a given. So I completely support that. But I was looking at a map here, I think through the State maps, and it shows like the two properties as was stated where the existing building is on there's like a rectangular shape, then the rest of it becomes the second parcel but there's a

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

line that says beach and then the whole property line juts out from the beach so is that into the ocean? Or is it just...I know it's a very sandy area so is it considering, I guess, I mean the sand's like right where the stage is too so I mean is the beach just very inland, runs inland?

CHAIR GUZMAN: I see that.

VICE-CHAIR COCHRAN: 'Cause I'm looking at the boundary lines and thought oh if that's the beach line then the rest is ocean?

CHAIR GUZMAN: Do you have any reply or response to that --

VICE-CHAIR COCHRAN: What page is that?

CHAIR GUZMAN: --Mr. Molina or Mr. Ueoka?

MR. UEOKA: If I may, Chair?

CHAIR GUZMAN: Yes.

MR. UEOKA: I believe, I'm not sure on where the property line ends. It just depends on when the last time a shoreline survey was conducted. But the VFW essentially has, I believe, up to the high-water mark. That's the end of the State, where the State land would stop for this purpose.

VICE-CHAIR COCHRAN: Okay.

MR. UEOKA: Thanks.

VICE-CHAIR COCHRAN: I think Mr. Couch is chomping at the bit to --

CHAIR GUZMAN: Oh, Mr. Couch, I'm sorry.

VICE-CHAIR COCHRAN: --share.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Yeah, that line has nothing to do with where the high-water mark is. If you recall the area, there's a parking area and then a line of trees and then the sand. It's my understanding they have to at least the line of trees and even that's a little, you know, not exactly where, sure that line is but it's at least out to the line of trees at the beach side. So that whole area from, all the way from Waipuilani all the way up is a big beach reserve that the County has the Executive Order too now so this is a piece of that.

CHAIR GUZMAN: Does that answer --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: --your question, Ms. Cochran?

VICE-CHAIR COCHRAN: Yeah. No. Thank you.

CHAIR GUZMAN: Okay.

VICE-CHAIR COCHRAN: I was just trying to decipher the lines on this map and what it meant. But thank you.

CHAIR GUZMAN: Thank you. Any...oh, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. Like Ms. Cochran, it interests me with 10 years remaining on a lease you're already coming in with one 30-year extension. What is driving this?

CHAIR GUZMAN: Mr. Molina or Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Hokama, when we originally did this lease there were a bunch of delays due to the EO needing to be expanded, et cetera, and at the time the GRC was still the recommending body so when we processed the lease originally we took the GRC's recommendation of 15 years, \$100 a year. When we went through BLNR and all of that process because it's EO'd land. When we came to this body the question was raised why only 15 years, why \$100 and our response essentially was could we please just pass it like this and we promise to...

COUNCILMEMBER HOKAMA: Who's asking you that question?

MR. UEOKA: The body. The Council requested it of the Parks Department, Mr. Molina and myself to why it was like that and we just basically said at this time because we already went through BLNR, any amendments would be difficult so we preferred and we asked this body to just pass it with the 15 years and \$100 a year and we would work with the parties to come in with this amendment and years later here we are. Thank you.

COUNCILMEMBER HOKAMA: Well I thought the GRC did its job because we know that under fair market rental this is worth \$371,000 a year. Okay. So I'm just wondering if they were proposing a project that for financing they needed additional length of the lease or other things that would drive this request 'cause that's what normally we get - there's a financial component to the request. So this afternoon this Committee can be assured that is not one of the drivers? How much is the Department spending on this property per year on the maintenance and ops?

CHAIR GUZMAN: Department?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

September 13, 2016

MS. TESHIMA: I don't...because it's a leased property we expect the lessee to maintain it on their own with their own funds and we don't give them any grants to do it so the revenue that they derive from renting the facility helps them maintain the facility and...

COUNCILMEMBER HOKAMA: Defray those costs?

MS. TESHIMA: Yeah.

COUNCILMEMBER HOKAMA: Thank you for that. Chairman, you know, I understand, my father was a vet also, Korean War. I understand the service given and what we try to do. We're the only County I believe that waives property taxation on active duty servicemen, men and women. So we do our best to support our residents that give service to our country and this County. I have no problem, from my point of view, Chairman, to ask DLNR to convey this to VFW direct. Why go through us as a channel? They've used this from day one. They're gonna continue to use this, as I understand now, to 2056, why do we need to be in the picture? Let the State and the DOD or whatever, National Guard or State National Guard go straight and let this gentlemen and women do what they doing? Why go through us as a third party and go through unnecessary bureaucratic red tape? I think they can just go straight from the State to them as a grantee and eliminate all this minutia that we gotta go through to make an approval. So I would ask you to consider that as an option of request that we just ask DLNR to grant this directly to VFW Maui. Thank you, Chairman.

CHAIR GUZMAN: Thank you, Mr. Hokama. We could send, as a Committee, a letter to DLNR and see what they say. You know, as you know, Members, I think the State has difficulty in releasing their lands and I think we've had in the past requested for EO, Executive Ordered lands, to be released and somehow they want to hold onto those. But we'll make an effort and I'll sign off on a letter requesting.

COUNCILMEMBER HOKAMA: 'Cause, Chairman, DLNR already does land management. They already lease out State property for-profit businesses/entities to make revenue for the department. I don't see why they cannot do a similar type of agreement with VFW Maui to have them maintain the property at their, what they're currently doing, they raise their funds, they take care the, they malama the building and the land. Allow them the same opportunity but just deal directly with who is the landowner, the State of Hawaii.

CHAIR GUZMAN: Right.

COUNCILMEMBER HOKAMA: So to me it's something doable, Chairman, and I think it makes better sense than going through this process. Thank you.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: Yeah. I would agree, if the State is willing to convey the entire property in fee simple. But if at some point our letter indicates to them that we don't want to be responsible for that land, maybe, you know, the VFW will be in the same position they were prior to us when they had to do one-month lease agreements with the State. So we'll draft it in a way that tries to make it seem reasonable. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I can answer that completely. That was the intent in 2004 trying to get the lease and that's why the members of the Post came to the Administration. The State DLNR suggested this method. They said otherwise it was not gonna happen. It would still be month-to-month. So they said if they wanted a long-term lease then they should Executive Order it to the County and then the County can do the lease. So that's why we went that route.

CHAIR GUZMAN: Alright. So we'll send a letter just, you know, if they're willing to convey it in fee simple to the VFW. I mean if...and if they say no then that's fine. We'll just continue with what we're doing. But anyway, Members, do you have any other questions? Oh, Ms. Cochran? Oh, Ms. Baisa, did you...okay?

VICE-CHAIR COCHRAN: Where is our State rep? Or you have a sign for Mr. Ornellas.

CHAIR GUZMAN: I don't think he --

VICE-CHAIR COCHRAN: Is he...

CHAIR GUZMAN: --was able to make it today.

VICE-CHAIR COCHRAN: I think he was I guess requested to be here but I guess --

CHAIR GUZMAN: Yeah, he was requested to be here --

VICE-CHAIR COCHRAN: --unable to attend.

CHAIR GUZMAN: --but maybe the weather.

VICE-CHAIR COCHRAN: Just checking. Thanks.

CHAIR GUZMAN: But that's okay. So that being said is there any other questions?
Mr. Victorino --

COUNCILMEMBER VICTORINO: Yeah. Thank you, Chair.

CHAIR GUZMAN: --do you want to say a few words?

COUNCILMEMBER VICTORINO: How often...I guess this is a question for you, Danny. How many events do you guys, beyond your events, how often do you utilize that facility for

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

other groups? You know, I know there's been political events, there're weddings, there's other usage of that property that you guys allow, that you as the VFW allow. So how many events occur during a year that you allow on that property? Or is there any limit? You need the microphone. Sorry, Danny.

MR. KANAHELE: It depends on the people who come by and rent it.

COUNCILMEMBER VICTORINO: Okay.

MR. KANAHELE: Because majority of the time we get the Boy Scouts, Girl Scouts and we serve the public schools because we also have an ocean walk that we do during the day; that happens about two to three times a week.

COUNCILMEMBER VICTORINO: Okay.

MR. KANAHELE: And for events for, for events that we have for the public and for our people it kind of varies but --

COUNCILMEMBER VICTORINO: Okay.

MR. KANAHELE: --maybe two to three times a month. For the weekend it might be taken, hopefully.

COUNCILMEMBER VICTORINO: Okay.

MR. KANAHELE: So we can keep up our finance and that's what our finance come from.

COUNCILMEMBER VICTORINO: Right. And we thank you for that because again opening it to the public schools and to the youth groups and others, the kupunas, and I've seen you guys do that and --

MR. KANAHELE: Yes, sir.

COUNCILMEMBER VICTORINO: --that's very thankful for that. And that's why, Mr. Chair, I can support. You know, you can go write letters to DLNR and all that and the State and you know how long that might take.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: You know, you could be a great grandfather by the time that gets done. No offense. So with that being said, I'd rather do what we can here, give them that lease at the \$1 a year, get them taken care of and then let's work on it later because I hate to hold this up for that issue and it may take a long time and, you know, some of us may not be around by the time that becomes whatever the results may be. So unfortunately nobody from DLNR are here today to address this question.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: I'll leave it in your hands to find us the answers. Thank you, Chair.

CHAIR GUZMAN: Thank you. Members, any other questions? Seeing none, the Chair will entertain a motion to adopt the revised proposed resolution entitled Authorizing the First Amendment to the Lease Granting an Extension of Time and Reduction in Rent for the Veterans of Foreign Affairs...sorry, excuse me, the Veterans of Foreign Wars Veteran Center and Community Activities Site Lease; incorporating the revisions as indicated; and the filing of County Communication 16-169.

COUNCILMEMBER COUCH: So moved, Mr. Chair.

VICE-CHAIR COCHRAN: Mr. Chair, I second.

CHAIR GUZMAN: Moved by Mr. Couch...

VICE-CHAIR COCHRAN: Mr. Chair, I second the motion.

CHAIR GUZMAN: Moved by Mr. Couch, second by Ms. Cochran. Any further discussion? Seeing none, I just would like to say that it is our great honor to pass this through and we truly, truly appreciate and are very thankful for all your services that you've done for us in this new generation and in the generation beyond. My father also served, he's also a VFW. Also my grandfather, so a long line of everybody's who's lived in this County has touched, you've touched the lives of each and every one of us so it's our great pleasure to pass this on. So all those in favor, say "aye".

COUNCILMEMBERS VOICED AYE.

CHAIR GUZMAN: All those opposed say "no"? We have nine "ayes," zero "noes." Motion carried.

COUNCILMEMBER COUCH: Seven.

CHAIR GUZMAN: Oh sorry.

COUNCILMEMBER COUCH: Seven.

CHAIR GUZMAN: Seven. Excused is --

COUNCILMEMBER COUCH: No, non-voting.

CHAIR GUZMAN: Non-voting, I apologize. Seven "ayes," no "noes," motion carries.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

September 13, 2016

**VOTE: AYES: Chair Guzman, Vice-Chair Cochran,
 Councilmembers Couch, Crivello, Hokama,
 Victorino and White.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: ADOPTION OF RESOLUTION AND FILING OF
 COMMUNICATION.**

CHAIR GUZMAN: Thank you.

EAR-36 SPECIAL IMPROVEMENT DISTRICTS (CC 15-165)

CHAIR GUZMAN: Next, Members. Thank you very much. Moving on to the next item on today...

Note: Mr. Kanahele shakes hands with Chair Guzman.

CHAIR GUZMAN: Thank you. Thank you. So if we can ask those that are supposed to be on the floor for the next item. We'll go ahead and proceed on. So, the Committee is in receipt of item, of County Communication 15-165, from the Council Chair Mike White, transmitting a proposed bill relating to Special Improvement Districts. This is on the agenda EAR-36. Also the correspondence dated May 13, 2016, from the Department of Corporation Counsel, transmitting a revised proposed bill entitled A Bill for an Ordinance Amending Title 3, Maui County Code, Relating to the Special Improvement Districts. The purpose of the revised proposed bill is to authorize the County, by ordinance, to establish special improvement districts to provide for and finance supplemental services and improvements. Also, is correspondence dated September 2, 2016, to the Director of Parks and...Public Works and Finance Director and Planning Director, requesting comments on the proposed bill. The Committee may consider whether to recommend passage of the revised proposed bill on first reading with or without revisions and also the Committee may consider the filing of County Communication 15-165 and other related actions. Members, you have before you the proposed bill to authorize the creation of the special improvement district. We

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

did take a look at this at the last meeting we held on this subject matter that I believe the spring. Some concerns were raised regarding the possible downsides of tax increment legislation. Additionally, some Members asked for various departments to weigh in with their thoughts on the proposed legislation. To help clarify the issues, I've passed out a general memorandum describing the law of the special improvement districts in Hawaii, including the current Maui County ordinances at Article 3, Title 14, Maui County Code - which, I understand, has never been implemented. Additionally, we have invited the Directors here; I believe we have representation from the Public Works Department, Finance, and the Planning Department as well. Mr. Agsalog is here as well for the representation of the Finance Department. We have Mr. Rick Egged and he is the founding president of Waikiki Beach Special Improvement District Association [sic] and the president of the board of the Waikiki Beach Special Improvement District. Under his leadership, the Waikiki Improvement Association developed an Agenda Waikiki, an action plan for Waikiki revitalization, and supported the Kuhio Beach Park Avenue improvements in 2001. The WIA launched the Waikiki Business Improvement District - the first business improvement district in Hawaii. Mr. Rick Egged was also the founding president from 2001-2014. He worked to revitalize the Waikiki signage ordinance, as well as rezone the commercial areas, rewrote the Waikiki publication rack ordinance, and also addressed homeless issues in Waikiki. He is here today to present, to give us a presentation of the workings or the procedures and some of the details that went along with the special improvement district in Waikiki. So I'd like to introduce Mr. Egged and have him present his, I guess he has a short PowerPoint. Thank you very much. You have any opening statements before you begin?

. . . BEGIN PRESENTATION . . .

MR. EGGED: Thank you, Chair, Members of the Committee. Appreciate the invitation today to talk to you about special improvement districts. Actually, I was originally hired by the Waikiki Improvement Association to...one of the first things they asked me to do was to help them set up a special improvement district for Waikiki. And at the time, there was no legislation that allowed such things in Hawaii. So first task, and I think, Mike, you were on the, in the Legislature at the time, first task was to get the legislation, at the State level, approved which we were able to do. This first slide just talks about what is a business improvement district or a special improvement district. It's an area that's set aside for additional services where the...primarily, usually these things come from the community and as I'm sure that sounds like the similar situation here where your Paia community has come forward and requested this consideration of the Council with the idea that some additional services need to take place in a primarily, in a business district. And so the...okay and then so this was the legislation that passed at the State level and interestingly enough these kind of things are not a slam dunk in Hawaii because Hawaii as I'm sure you're very much aware of is a very centralized, has a very centralized government. And so this ability that was delegated to the counties by the State Legislature is something that I'm glad to hear

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

you're considering, one, 'cause I think it's an underutilized tool. For Waikiki, why did we look at having a special improvement district? We were facing a lot of challenges. Remember this is back around 2000, the Japanese bubble had burst, the Japanese numbers were declining, we were looking at a lot of difficulties in our aging Waikiki. And I remember, but this is what it looked like. And we had built this reputation, even among our own community, as being a "tourist trap;" residents getting to the point where they prided themselves by saying well I never go to Waikiki anymore. And this was the reason. So the first and actually if you look on their website now they have a new logo, this was the original logo, set up a business improvement district for Waikiki. And here it was real interesting the way we originally structured this because the blue area and the central area was actually the service area where we were taking care of the sidewalks, the landscaping, and providing the hospitality services; whereas the outlying area, which actually was still being assessed, didn't get the direct services. So what happened was we set up different levels of assessment because on the theory that the service area, the Kalakaua-Kuhio corridor, the value of keeping that area in good shape benefitted all of Waikiki, not just the businesses in that particular area. So in June of 2000 we established the first special improvement district in the State and the way we did this was we actually passed the law, the ordinance that enabled such districts in Honolulu, at the same time the two bills moved forward in tandem with just being very careful that the ordinance establishing special improvement districts passed first because, obviously, you couldn't have a district without the enabling legislation. The governance here of the Waikiki Beach...the Waikiki Business Improvement District Association, the idea is to have a good board of directors. So the board of directors both represents the property owners and the businesses that maybe just are leasing property within the area so there's two levels of directors. An A director, which is a property owner, and a B director, which is a business that may just lease the property, and they have equal status. They all get a vote on the board. And, of course, the long-term goal is to improve the business climate and the livability of the area where a special improvement district is established. The funding is done by a property tax surcharge or assessment. And in the first district, again, it was split based on proximity to the services. These were the precincts. And the whole idea was to be able to provide better services to keep the sidewalks clean and shiny and to provide the hospitality information services. In fact, I think it was the first, when we first did our first go-around, we picked up 40,000 pieces of gum off of the sidewalks in Waikiki. And this is the primary service area and so you can see the difference, for example, you know, before we did the original power washing in Waikiki, I always thought sidewalks were gray. Turns out they're not. If you power wash them, then they look clean or at least tan. And so the, yeah...the other big thing is even just spills - when you get a lot of traffic on a sidewalk and people have a spill, if you don't have a method for making sure that gets cleaned then it can take a long time before it does. These are just some of the different activities. And then the Aloha Patrol Officers, this is the hospitality and information core that patrols Waikiki. They work for the district and they also do a beach patrol. And this in conjunction with HPD's efforts, we were able to dramatically reduce beach crime which was one of the primary issues in Waikiki. And we also, there's one of the things

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

September 13, 2016

that has helped really dramatically reduce crime in Waikiki is the street cameras and the Waikiki Business Improvement District Association Aloha Ambassadors actually monitor the cameras in the police station because policemen their most use, utility to us is out on patrol, not sitting behind cameras and so, believe it or not, we had the cameras before we had the business improvement district. And before the business improvement district nobody was actually even looking at the cameras so they were providing some, hopefully some evidence and some ability to go back and check for a crime but nobody was actively looking at it. By monitoring it we're able to notify the police department immediately of issues. And then the idea is to provide information and this again actually takes some of the burden off of the police department. We monitor, very closely, the different sidewalk activities that take place in Waikiki that often become a problem. This is the kind of questions that get asked for patrol officers. And just recently we've been very successful at getting the State to agree to help improve Waikiki Beach. We know that Waikiki Beach is the single most important natural asset in the State, actually. It's a major playground, not only for our visitors, but the people of Hawaii. It has tremendous cultural significance and yet that beach is eroding; we're losing it. If we don't do something about it then we can lose a very valuable asset. We cooperated with the Hawaii Tourism Authority to do a study on how valuable the beach actually was and we're able to determine through asking visitors how likely they were to come without a beach that it really meant about \$2 billion a year in visitor expenditures to us. And so we knew we needed a comprehensive beach maintenance plan. We've been doing ad hoc projects with DLNR. This is the last one we did. This was the beach before we pumped sand in from offshore or recycled the sand. This is the before picture. This is the after picture. So you can see we can make a dramatic difference by maintaining our beach. So the original proposal was to create the beach management district. We've done that. We've set up the district association. We also contracted with the UH Sea Grant to provide technical assistance. And this fall we'll be providing funds to do the Royal Hawaiian Groin which I'll talk about in a minute. This is the original budget so this assessment differently from the original BID. This is a flat 7.6 cents per 1,000 of all the commercial properties, not residences, but commercial properties only. And this is the boundaries of the district; which these are actually the legal boundaries of Waikiki special district by law as well. We've again worked with the Sea Grant, UH Sea Grant to bring on board this coordinator and we're now working on, with DLNR creating a Waikiki Beach management plan. The first project is to replace the Royal Hawaiian Groin which was originally constructed in 1927. You can see the groin at the bottom of this picture. It holds that entire beach in place all the way to the Kuhio Beach basins, which is...I don't know if this works here...so this is...don't, there we go right there...that's the Kuhio Beach basins. The Royal Hawaiian Groin is...

UNIDENTIFIED SPEAKER: It doesn't work on there.

MR. EGGED: Doesn't work? Oh okay. Well, anyway, so the Royal Hawaiian Groin is at the bottom of the picture. And this is sort of the condition, this is the condition of the groin now. Those sand bags are actually holding it up. And so we expect to begin

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

replacing that groin in 2017. So this is what has happened so far. We get the ordinances passed in 2015. We set up the non-profit association in June, passed in May, set it up in June and the initial assessment went out in August. Now this sounds like everything's happening really fast but in reality it took us about two years to get to the point where we could set it up. And so that's a real brief overview of the two special improvement districts in Waikiki. And I'm happy to answer any questions with how it works. I talked briefly with the Chair prior to the meeting and I think the real key to getting this setting up and working properly is to work with the Maui Finance Office, whoever sends out the property tax billing. 'Cause the way this works is that in Honolulu is that each property owner receives this as a line item on his property, his or her property tax, and so it then it's treated like the property tax; it's secondary in terms of for example if it's not paid then obviously property tax has to be paid first, but the assessment comes in second. So again I kind of zipped through that because I am very cognizant of how valuable all your time is so but I'm happy to answer any questions if you have any.

. . . END PRESENTATION . . .

CHAIR GUZMAN: Thank you very much, Mr. Egged. I would like to ask the various departments to come down onto the floor - Planning and also Public Works. Before we begin and open up the floor for questions, I would like to ask Mr. Ueoka to go through the general memorandum that was drafted and give us some explanation. I know that a lot of constituents as well as maybe some Members don't really have a full concept of what a special improvement district is and what that it is in fact in our ordinances currently and it has never been used. And what is the difference between what we have before us, this new proposal, and what is the difference from our existing legislation and just kind of go through some of the nuts and bolts of the proposal. If you could, Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I'm not overly familiar with the existing improvement districts in Title 14. The main difference, my understanding, is why you want a special improvement district versus what's existing in the Code right now is special improvement districts allow for maintenance. Community facilities districts and the existing improvement districts only allow for special improvements and it's not specifically stating that you can do maintenance-type; this would be security, extra janitorial services type activities. That's the primary difference between the existing and why we would wanna add in the SID. Chair, you wanted me to go through the entire bill?

CHAIR GUZMAN: Yeah. If you...not the entire bill. Why don't you just give us a snapshot of what the important components are? For instance, how do we assess these properties and what is it being used for? Is there specific purposes that some of these, I guess, an incremental percentage of the taxes that will be imposed on a, I guess, an area that

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

has been designated as the improvement district, boundaries, things like that. Just a brief overview of what exactly is a special improvement district.

MR. UEOKA: Okay. Thanks, Chair. So I guess if this bill passes and the framework and enabling legislation exists then, as it was explained earlier, an ordinance would be passed creating the special improvement district and boundaries will be set and everything. And my understanding is the improvement district would come to this Council with a budget and from there the Council would set a rate for the real property tax for that year for just for the special improvement to cover their costs. And it would be collected by the Department of Finance, as mentioned, with the real property tax. I guess the difference is because it's part of your real property tax, everyone who's in the improvement district has to pay. If you don't pay, we have the power of real property tax foreclosure to collect the money. I guess to just give a general overview is difficult. It's a rather detailed bill. We essentially, when drafting it, took what Honolulu had done and I believe the Big Island did the same thing so it's very complicated and it'll take some time to, you know, really get a better understanding of it as you're working through it. But it's doable, by all means, and of course, it's been done. Does that help, Chair? I'm not sure.

CHAIR GUZMAN: Yeah. Why don't we have Mr. Egged try to fill in some of the blanks.

MR. EGGED: Yes, I think that's an accurate description. I mean basically this is the same language as in Honolulu's ordinance which we had originally proposed back in 2000 and was passed in 2001. And it works very well. Essentially, everybody pays their property tax and everybody pays the assessment. It's very rare that we have to try to collect from somebody. And again that's done by the County. And the value of the assessment the way the system works is the original assessment is done by the, before the councils, public hearing. I noticed that the language for how it's approved is the same as it is in Honolulu. So essentially everybody, we have to actually notify everybody who's being assessed by mail that this assessment is being considered and usually again the County Clerk does that. And to oppose it, it has to be done in writing and there's two levels that have to be achieved to pass it. In other words, it has to have less than 50 percent opposition, both in terms of numbers of parcels and in values of the parcels. And we wrote it that way specifically so that the small property owners couldn't say well this was jammed down our throat by big guys 'cause their property's worth more and therefore they get more votes than we do. And the same time, the large property owners can't say that well this was jammed down our throats by the little guys because they have one property, one vote even though their property's worth way less than ours. So the way to satisfy that, we said you have to meet both criterias; you have to have 50 percent of the total parcels or less than 50 percent of the total parcels protesting and less than 50 percent of the total value protesting. And so I think that the key is...and obviously you would hope that any community that brings this to you would have a broad level of support within the community. And that was certainly what my councilmembers in Honolulu told me; they said, Rick, we like this idea but make sure that there's no major opposition. And

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

as it was, only 5 percent protested. So it was very universally accepted and I think if you asked any business in Waikiki today if this was a good idea, you'd be hard-pressed to find somebody who told you it wasn't. And so, yes, it is an additional tax, I mean, you can call it an assessment, but in reality there's no question about it when you must pay, it's a tax. But you get specific, the property gets specific services for it and the other major difference is that the budget and the operations are controlled within the district. So then going forward the following year, they don't have to come back to the Council and ask for the assessment again. It continues on year after year and there's, in our district legislation, you know, there's a 10 percent buffer; in other words, you can increase the budget up to 10 percent without coming back to the County Council. But if you did, if you increased it beyond that you would have to get permission from the County Council or if you added any additional services that weren't allowed in your district plan. See what you're, the bill before you today it sets up the enabling legislation. You don't have a district plan yet before you. I think there's one proposed that is being discussed but you don't have that legislation yet. Is that correct, Chair? Yes. So the actual services performed within the district have to be one of the services that's listed as potential under the special improvement district and again your list is exactly the same as the one in Honolulu. And the only thing that's different which isn't on your current list is we just recently in 2015 added beach improvements and because that was a need in Waikiki and wasn't on the original list, wasn't foreseen when we did this back in 2000, but it makes a lot of sense today. But I think that the key is once you've got it set up, it'll work well. It'll be a little bit of work for your Finance Department to set it up. And because you have to essentially you have to have a list and usually including in the district, in fact that's the required under your legislation that you would have to provide the district as it was trying to...as it proposes legislation to be set up would have to give you a list of all the parcels that would be included within the district. And then those parcels again, as I had said earlier, would be notified that this is under consideration and so then have the opportunity to protest it before the Council before it was enacted. Trying to think of what other, some of the mechanics that were involved in it but I don't see any particular reason why it should be that difficult to do. I mean, it will be a little bit of a chore to set it up. But and we also worked with Kona when they set up their district and my understanding is that it's working well in Kona as well.

CHAIR GUZMAN: Yeah, so, Members, I did have Staff prepare a memorandum which is very useful and I think each of you have it and it goes through a very simple explanation of the improvement district; or at least the special improvement district. One of the issues that I may bring up is that these special improvement districts have to be, I guess, married with an association. Is that correct?

MR. EGGED: The association has to be created then that follows your enabling legislation. And again, your enabling legislation is the same as ours so you would then incorporate a non-profit improvement district association that would then operate the district. And their board of directors would have to be set up in keeping with the enabling legislation. So the idea is to make sure that all the stakeholders are

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

represented from the board. And then the board itself would administer it and then make a decision on budget and the like.

CHAIR GUZMAN: But via the ordinance, the purpose, or at least the additional assessments, the taxes that are being incremented or imposed on that district boundary, those purposes are already within the ordinance like, for instance, security, trash pick-up, things like that. They couldn't, on a whim, decide what the monies would be used for.

MR. EGGED: Correct. They would have to be one of the purposes outlined in your enabling legislation which you're considering now. And that first district plan, if later for example, they wanted to come back and expand services, that would have to go through the same process. You'd have to come back to the Council, you'd have to again notify all of the property owners that you're planning to expand services. So the whole idea is that you want to make sure there's a public process involved in operating and governing the district as well. So although they can continue on without much red tape in terms of going back to the Council, any change would have to be approved by the Council.

CHAIR GUZMAN: Okay. So if there is a special improvement district and the boundaries are identified, like a certain neighborhood, and it's agreed upon or voted upon that's the boundary. The percentage of increase that would be, I guess the assessment, that would be determined by the Council?

MR. EGGED: They would repropose it in their district plan and that would have to be approved by the Council.

CHAIR GUZMAN: Okay. So basically for Members who are trying to understand this so for a special improvement district, let's say for instance everyone gets taxed the same throughout the County, but an additional tax assessment would be added on to those properties in that district boundary. And a percentage of that monies would be used for certain purposes, let's say security or whatever the purposes are designated within the ordinance.

MR. EGGED: As part of their district plan, they would have to tell you exactly what those services they're going to provide are. They would give you the initial budget and then the assessment rate, which you would have to approve or not. I mean, that would be up to the Council. And going forward, the way the legislation is written, they would have to, they have to report to the Council annually as to how much money they collected, what did they use it for, and so that essentially becomes a check. That is a public document, if they were to be using those funds for something other than what is allowed by law, they could be challenged. They have a certain amount of latitude to increase the assessment or the budget, but if it, in our situation, if it goes beyond that 10 percent then you would have to come back to the Council and request approval. Usually there's also, as property values go up, therefore they end up with more money so we've rarely had to increase the assessment because as values go up you end up

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

with more funds that you can use for those purposes that are in your district plan. Again, you cannot deviate from your district plan which has to get approved by the Council and has to go through this process of protest by all the property owners because again you're not setting up a separate organization that is free to do whatever it wants. It's only allowed to do those very specific services. And those services have to be part of your enabling legislation. If they're not then you would have to change the enabling legislation to allow for those services like we had to do with the beach improvements. So I think this is a, it's really good tool. They're used for all kinds of things all across the mainland. If you look at some of the things that are allowed there you can see why. I mean, they're used to do parking, additional parking in business areas. Their security and cleanliness are two of probably the most prominent ones. Some communities use them for marketing. It doesn't tend to be something we do here because we have the Maui Visitors Bureau, the Oahu Visitors Bureau to do most of the marketing for us. But sometimes they're used, for example some communities have a big festival season that is very popular in that particular region of the country so sometimes an improvement district will operate such a festival, for example. And so there's a number of different things you can do just as long as you've gone through the process of making sure that those uses are approved by the Council, by the Mayor, by the community because the community will be able to protest the enactment of such a district.

CHAIR GUZMAN: I have one question before I open it up to the Members. One more additional question. In our HRS, it speaks about enabling these special types of...is an enabling statute that allows the counties to create these special improvement districts. And it also talks about the ability to use bonds and for some of these purposes and for the assessments to be able to pay off the debt of those bonds. Have you done that in your case scenario on, in Waikiki or...

MR. EGGED: It's allowed by the law and we tried to make the original enabling legislation broad enough to cover anything we could think of. You know that's why it allows that but to my knowledge, that's not been used in Hawaii.

CHAIR GUZMAN: Okay. It hasn't been used, the bond portion. Okay.

MR. EGGED: It could be but it has not yet been used in Hawaii. By the way, I read the --

CHAIR GUZMAN: Would this affect our bond rating?

MR. EGGED: memo that your Staff prepared.

CHAIR GUZMAN: I'm sorry.

MR. EGGED: By the way, I read the memo that your Staff prepared, I thought it was a very good job --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: Okay.

MR. EGGED: --of snapshotting, you know, giving a brief overview. So there was no inaccuracies.

CHAIR GUZMAN: Okay. Thank you. With this...one last question, will this affect our bond rating if we used it as a in that process of..

MR. EGGED: Yeah. I'm not a bond expert so I can't say but because this would have to be a bond that would be, I think it would be more like a special purpose revenue bond because it would have to be covered by this very specific funding source. And usually, at least at the State level, a special purpose revenue bond does not affect the State's overall bond capacity because the revenue comes from a different source.

CHAIR GUZMAN: Okay. Thank you. I'd like to open up the floor to any questions starting with Mr. Hokama and then followed by Mr. Couch.

COUNCILMEMBER HOKAMA: Chairman, thank you. I'm a skeptic, so I've heard this under Mello-Roos and everything else since the 1980s and I still have my problems with this from a financing. So I'm not a proponent today, Chairman. I wanna know from our departments what are the challenges regarding potential implementation, additional cost factors, overhead time because I expect that to be all reimbursed. So can I get comments from Finance?

CHAIR GUZMAN: Yeah. Why don't we go down the line? Mr. Agsalog?

COUNCILMEMBER HOKAMA: Because I don't know why we would have issues of collections. If that's gonna be a potential problem, more I'm gonna fight this.

CHAIR GUZMAN: Mr. Agsalog?

COUNCILMEMBER HOKAMA: Mr. Agsalog?

MR. AGSALOG: Thank you, Mr. Chair and Members of the Committee. I apologize for the delay of my response. I had sit down with my staff for the letter that you have sent to our Department dated September 2nd, I think it was. We tried to get it out on Friday, but it didn't get to you so again I apologize, Mr. Chair, for that. But there's two sections of the one that I have sent and that's all we could come up at this time. The first portion of it is more operational which we have some questions because we are new to the proposed bill. The proposed bill, as we read it, we become a collection agency for the special district. That's just there's no question about that. We're going to be a collection agency. We'll remit the, as a Department of Finance as I'm saying, so if the enabling legislation going to be will follow our billings and all that, it's not much work for us. It's just more reports that we have to do which, I think, our system, the new system that this body gave to us, can do it. The challenge is going to

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

be would be training our people how to get these reports accordingly. And this is going to be based on the legislation that his body will create. There's nothing that is impossible. It takes resources though to implement them. I am not experienced with this special districts but I can almost sure that I will be returning more questions from the taxpayers when this takes effect because I do that now. I return a lot of calls to taxpayers when they have questions on their assessment, their billings, and at the same time the staff will be trained also with regards to this particular section. There's also an area where, and please take this, this is my own concern, my own sentiment, it's Danny Aagsalog's . . . *(inaudible)*. . . bias, it's not a position of the Administration. I haven't had time to discuss it with the Mayor. So my concern on this is that this promotes a social class between the can pay and cannot pay. If the other associations will come to this body and ask you can we have a special district for the Makena association and you have to explain to them why you cannot get it, they want a gated community, they want a security guard or whatever then I think that just one. Okay. I have heard the presentation today that the board decides how this money is spent. The money that you approve as a tax, it's my own belief as just a taxpayer, the only people that can use or appropriate that money are the elected officials who raise the taxes, not a board that is elected by just their members. That's the way I see it, but again this is my own bias. Okay. So there will be places that this is very useful and I think Waikiki is one of them. This is a high-rise area. This is not a Paia Town. Okay. If you're talking about Paia, if they did it \$75,000 to raise in Paia, you have to raise their rates 10 percent, not 7.6 as presented there. That's just a quick one. Okay. Because I kind of looked at the proposed Paia special district, right now they contributing \$700,000. If they want \$75,000, it's 10 percent increase on the rates. Okay. That's just that quick. And we could go on and on. Again, this particular section is a big departure of what we do. We help each other's community, not getting a special one because we can afford it. The small district that they can afford to scrape the floor and mop the sidewalks is a small area, but you know what, that is a high-value area. A one penny increase on the rate will amount to something; not a Paia one because Paia is more flat, it's not a vertical type of district. So again there are places where this special districts has been successful but my initial reading on this, and I don't have any experience on this personally, started in California but now they're trying to get rid of it. Chicago has the most special district. Their financial burden is so much. There was a question with regards to bond rating. I have presented our bond ratings the past five years; simple presentation, plain vanilla. We tell them our tax burden. When this thing are enacted, I have to give them reports of what's the tax burden of Paia, what's the tax burden for the other rest of the community. So it's a little bit more work for me to do this presentation or maybe it will not be me anymore because I have two more years here, hopefully, to do this but I can see that there are some things that needs to be done. And bond raters will take notice of the tax burden that we put in the community. Again, I emphasize, this is Danny Aagsalog's bias with regards to this. It's not the position of the Administration and I'd be more than happy to answer any more questions you might have.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

COUNCILMEMBER HOKAMA: So, Director, and we appreciate, you're very clear. That was your own personal comments, not the Department's or the Mayor's. Have you, how long would it take to get one financial assessment on should we implement, what would it take to make it work? How many more positions, potential positions? How much additional man hours you think would take? Because for Council, I can tell you, we don't have enough time to keep doing budgets, okay? We need to do our finance responsibilities as a Committee; which is the accountability portion. So, for me, I'm more concerned about impact on us doing the rest of our responsibilities that are given by Charter already. And, you know, and I need you to respond, you know, what is the best interest for our County. I could care less about Honolulu or Big Island. Okay? We are concerned about Maui County. That's my kuleana. Okay? So that's how I want you to respond.

MR. AGSALOG: Mr. Chair? Thank you for the question. I probably won't be able to give you a timeframe to do the cost study to do so. I just want to give you one example, Honolulu. And I know you said you don't care about Honolulu, but this is the basis. Honolulu - the State collects the Honolulu GET tax. They take 15 percent. So maybe that's the way we should do it too. We'll take percentage of what we collect.

COUNCILMEMBER HOKAMA: When you say Honolulu, who takes the 15 percent?

MR. AGSALOG: Honolulu for the transit, 15 percent.

COUNCILMEMBER HOKAMA: The City and County takes 15 or the State of Hawaii?

MR. AGSALOG: The State of Hawaii because they are the one that collecting the GET tax, the additional GET tax, surcharge for the trans, the rail.

COUNCILMEMBER HOKAMA: Okay.

MR. AGSALOG: They take 15 percent of the collection. I'm not saying that that's what we should do but that's what the State of Hawaii did to the rail transit. So again please I'm just kind of doing this because I don't have any experience on this.

COUNCILMEMBER HOKAMA: Yeah. Yeah. For us, though, we're more concerned about the impacts if we move this forward. We want to be, at least, informed of what it would take to implement if we support this idea because it's going to be the total tax base that's pays for that, not just one district or an area of a district. The whole County's going to pay for the overhead of the Department.

MR. AGSALOG: Mr. Chair, and also here at the 3.70.190 Item D - the Director of Finance may deduct from the special assessment collected the administrative expenses incurred in the collection. I think that's already clear there. But I think the answer to your question is that our presenter mentioned that they have only 5 percent they didn't approve or something like that in Waikiki. If we have 5 percent that do not

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

September 13, 2016

approve here, that's 5 percent more that I will be putting in phone calls or my staff will be answering the questions because they didn't approve this. So I, you know, it's very difficult but these are just my concern. Okay. Operationally that's the concern that I have discussed with my staff. And again, I wish I had more time to discuss it with them. I think we will come up with some more but again because if we have the resources to implement this, I think everything can be done. Everything is doable with the resources available. Again, it'll still be the taxpayers money. As I have mentioned earlier this is a tool or well, it was mentioned if this is the tool, the way I look at this is another credit card for the County of Maui to use but the same source based of taxpayers. You know, they have to just pay from that. But that's just my own bias again. It's a tool. It's a tool for us to use. And the other thing, and I will emphasize, should be the elected officials that use the money they raise; not a board because now we become a collection agency for other areas that want to do this.

COUNCILMEMBER HOKAMA: Are you aware or, Mr. Ueoka, are you aware of other already allowed IRS options to allow this association to look at similar achievements but through already other means that the tax code allows for either non-profits, humanitarian giving? Because why wouldn't the Chamber of Commerce be able to do this within their own membership? Collect their money from their members and spend their money according to their bylaws? Why would they need a County ordinance? Don't they have other means that the tax code allows them to have this type of opportunities?

MR. UEOKA: Chair? Thank you, Chair. Yeah, Mr. Hokama, I don't see anything that prohibits that. I believe the power of having it in the ordinance or having an ordinance and a district established by ordinances, like Director Aagsalog mentioned, you have the County of Maui real property tax as your collection agency. It's assessed as real or similar to real property tax and the Department of Finance has the same very powerful collection authority so I think that's the advantage for and whether or not this body thinks that's a good idea, that's a policy matter. But that's the difference, I would say. Thank you, Chair.

CHAIR GUZMAN: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. To the question on the bond, if you look at Page 24 3.70.470, it says the County's general credit shall not secure any bonds issued hereunder and it also says for the debt limit calculation that bonds issued under this article shall be excluded from any determination of power of the County to issue general obligation bonds or funded debt for the purposes of Section 13, Article 7 of the Constitution of the State of Hawaii. So I don't see how that that would affect the credit because it's a special assessment for that one area. My biggest concern before we go too much further is in, on Page 8, 3.70.090, the institution of proceedings. The way I read it and I may be wrong, Part B, it says essentially 25 percent of the people in the district can vote this in and make it a valid tax; that's...is that...am I reading that wrong, Mr. Ueoka?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

September 13, 2016

MR. UEOKA: If I may, Chair?

CHAIR GUZMAN: Yes.

MR. UEOKA: Yeah, Mr. Couch, I believe that's to institute the proceedings. You'd still need to go through the ordinance and the protest process. So 25 percent could get it started, but if you add a 50 percent protest, it would fail.

COUNCILMEMBER COUCH: Fail. Okay.

MR. UEOKA: And in regards to your bond issue, I believe, yes, it wouldn't be the County's general credit but as Director Agsalog stated for our bond rating and again we are not bond raters but it would be an additional burden on the taxpayers regardless of its, whether or not it's under the credit of the County, it would still be an additional burden on the taxpayer therefore when they look at it, they look at our rates and our valuations and all of that so it would play in. To say it wouldn't play in at all, I don't know if that would be a complete true statement. The debt calculation for the Section 13, Article 7, I believe that's where the, we can't exceed like 10 percent or something, there's a percentage so it just wouldn't factor into that. But we can't say for sure that it wouldn't affect bond rating either way. Thank you, Chair.

COUNCILMEMBER COUCH: Okay. Yeah, I just wanted to point that out that maybe yeah it might be there as a burden on those particular taxpayers but that would be something maybe that we can ask certainly the City and County if they're, when they go give their presentations, do they have to include that or Big Island, I mean that would be a question I would ask if it affects their bond rating when they talk to the raters as well. Yeah. There are pluses and minuses to this as there are to everything and I agree with the concern that Mr. Agsalog had. There was a place in Kihei having some issues that we thought about doing this at the time but they just couldn't afford it so if it's a place that couldn't afford it then they're left out; as opposed to another place that might be able. So maybe Paia could afford it but as Mr. Agsalog said if those numbers are correct, they're gonna have to do at least 10 percent and that gives them 70 grand so that's not a lot, and for a 10 percent increase in their individual taxes. I'm willing to look through this. I like the idea if we can institute some sort of, I wanna say fairness but, some sort of balance that can happen wherever the people wanna be able to do it. Thank you, Chair.

CHAIR GUZMAN: Thank you. Any other...Mr. White followed by Ms. Cochran.

COUNCILMEMBER WHITE: Thank you, Chair. Couple of questions. I think one of the distinctions is that the, using the Chamber option - why can't the Chamber do this - well the Chamber can't make people pay dues, they can't make people join, they can't make people do anything. I look at this opportunity as being similar to what happens in Kaanapali, Wailea, Kapalua, and Makena where there was enough foresight of the

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

developers to make it possible, have covenants that say if you're gonna buy property here you are going to participate in the Kaanapali Beach Operators Association which takes care of security, maintenance, et cetera. If you're going to buy property here, you're going to participate in the Kaanapali Beach Resort Association which is the marketing arm. So as property owners there we are required to put in X amount of dollars for marketing, X amount of dollars for facilities and security, you know, maintenance and security. So I view this as a bill that simply allows other areas to organize in the same way. It's too late for them to do, you know, covenants that require people to do that. But it's not too late for us to provide a method by which they can choose their own needs or ways of addressing their own needs, whether it be security, whether it be marketing, whether it be something else, that they feel is important. And the reason I'm kind of comfortable with allowing each community to make their own decision, is I understand the fact that maybe some can afford it, some can't but I'd like to think that there are ways in which we can allow the communities that we lean on the most for the most taxes, like Paia has a much higher rate of, you know, tax rate or much higher values and then therefore higher taxes than other areas. Those that we're leaning on more to have some ability to organize and do things to help themselves to be able to provide a better engagement with the visitor, better engagement with the residents and provide for themselves in ways that they're not able to do now to lift themselves up, do a better job for everyone that comes to their establishments and in doing so better be able to afford the taxes that are driven by their values. Those values are totally out of their control, but the ability to do things for themselves is not out of their control. This is simply a mechanism by which we're allowing them to take care of business on their own without having to come back to us. Yeah, they are coming back to us, but they're coming back to us with a budget that we can say yes or no so the onus is on them to do something with their board and with their budget that makes sense for their area and come and justify it before the Council. That's what you've got to do in Waikiki and if you look at the broad expanse of payers into the Waikiki fund, it's, if I understood your presentation right, it's all of Waikiki that's paying into it and yet the services are only in the central core and but that is uplifting all the neighborhoods and uplifting the experience of the residents going back into Waikiki. Mr. Egged didn't mention whether the residents have returned to Waikiki but I'm assuming that at least some of them are. So I think this is a mechanism that makes sense for us to make available. Not every community is gonna want to go through the process but it's something that I think is important for us to consider. And I need to also point out that this is not approving Paia to do it. This is simply providing the structure within which Paia or someone else can come in and try to see if they can put together the community support that will drive the eventual setup itself so I think it's more than worth our consideration and I would like to hear from Mr. Egged, Mr. Aagsalog made a comment that I saw in some of the testimony that California is now trying to get rid of these types of situations. Do you have any thoughts on why they're trying to go in the other direction?

MR. EGGED: Well, I don't think that's a general discussion in California. There's just some discussion in certain districts. There are over a thousand of these across the country

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

and I think actually New York has the most - has over 40 in different neighborhoods in New York. And the only two districts that I've known of that I think Mr. Agsalog was referring to are in California where they decided to not continue. And I think that's actually a good thing. The fact that that's happened means that people if they're not happy with it they can change their mind, they can stop doing it.

COUNCILMEMBER WHITE: Right.

MR. EGGED: You know, and I think that the whole key is that the initiative for this comes from the community. So if the community comes to the Council and is looking for this ability, the enabling legislation you're considering now will allow that to be possible. And I think that the question of well who's approving this assessment, this tax, it should be the elected officials. That final authority, as you pointed out, Chair White --

COUNCILMEMBER WHITE: Is with us.

MR. EGGED: --is with the Council. And in the end it's a self-assessment. The way we always describe it is in the business is a self-assessment. And 50 percent or more...now you could say that, you know, that still means that 50 or 60 percent of the businesses are forcing it on the other 30 or 40 percent that don't like it but we've not, we have never experienced...I think that when we did the beach district, we had a little bit more protest, a little bit more protest, so I think the highest was at about 7 percent. In general, there's a lot of support for being able to have this, to do this collective action. The other thing I want to point out again 'cause it's really a critical point is only the commercial property is being assessed. So residents do not pay anything and yet they do accrue some of the benefits. And yes we do have a lot of residents that have come back to Waikiki and I think it's because one of the reasons is that they feel like Waikiki is a place that they can again be proud of. You know, it's well-kept, well-maintained, it's very secure and as a result, to a degree, with what's happened with the business improvement district. So I just wanted to comment on that. The question of whether there's a reimbursement - the original BID that was, and if you look at them across the country, often there is a overhead cost that the county or the city, whatever is the taxing authority applies. I don't think it's fair to look at the State's tack on to the City's GET percentage for rail because that was a really, an arbitrary figure. But if you had a figure that was tied specifically to the cost of doing it on the County level, I don't think that's unfair. City and County of Honolulu did not impose it for the original BID because they wanted to encourage businesses in the area to agree to additional fees in order to fund additional services and so that's why that came about in that fashion. Now when we did the beach district, we did, there is a provision in our beach district enabling legislation which I think you may have received a copy of as well which allows the setup fee that the County can charge and a ongoing fee which cannot exceed 5 percent of the total collected or the actual costs, whichever is less.

COUNCILMEMBER WHITE: Thank you. And I'd like to hear Mr. Spence's perspective on...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: I, actually, I have Committee of the Whole at 3 o'clock, Members, and I want to get to Ms. Cochran real quick, her question before...I'm going to have to defer this matter. I'm sorry there was some Committee of the Whole issues that need to be presented to you folks and so I'll have Ms. Cochran ask that quick question and then if you don't mind I'm gonna have to defer this matter for the next go-around.

VICE-CHAIR COCHRAN: Thank you, Chair. And yeah, quick question. No, but actually it had, I had a question for Director Spence because I read his correspondence back to you, Chair, and I like the ideas and I guess he threw out some various concepts as in such as Kahana Bay Beach nourishment, that's an ongoing issue up in the Kahana/Napili area. And then perhaps the Upcountry water meter infrastructure points. You know, I thought something small like Hui F Road, can those people put hui in together there and create their little special area district.

CHAIR GUZMAN: So why don't we have Mr. Spence...

VICE-CHAIR COCHRAN: So, Mr. Spence, comments about your thoughts?

MR. SPENCE: Okay. Thank you, Mr. Chairman and Ms. Cochran. I know that as Mr. Egged had said these are fairly commonly used on the mainland for special needs. We do have Title 14, which is specific for facilities, and now this particular one that could be for services. I know there's some, as particular to Kahana Bay, you know, there's talk of needing to build facilities and then there's gonna be ongoing maintenance for that and I don't know which area this Title 14 would be most applicable to but there is some discussion with the property owners already about forming a district specifically to take care of their erosion needs. And I think this is a perfect tool for that. And I, I mean I can appreciate the additional work and resources needed to administer something like this. My feeling is that we underutilize this kind of tool to help people out where there are special needs and, of course, and where there is an ability to pay back that assessment. So I just, I look at this, I haven't looked at other models, I haven't looked at Waikiki. I just question if it has to be as complex as this is. I mean certainly there have to be safeguards as far as issuing bonds but collecting money and all that I don't know; it seems like there could be something simpler. But that's all, Mr. Chairman.

CHAIR GUZMAN: Thank you, Mr. Spence. I'm so sorry, Ms. Cochran.

VICE-CHAIR COCHRAN: No. No. That's okay.

CHAIR GUZMAN: But I'm gonna need to --

VICE-CHAIR COCHRAN: Yeah, further discussion, that's fine.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CHAIR GUZMAN: --adjourn this meeting. And without objections defer this matter. We'll follow up as a Committee to other detailed questions for the Department as well as going through the ordinance itself. This is one of a few other meetings we'll have on this matter so that everybody can weigh in and make the changes or express their concerns or issues. So without objections, I'll defer this matter.

VICE-CHAIR COCHRAN: No objections.

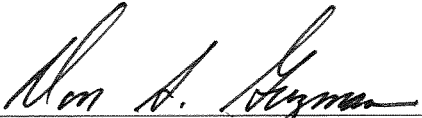
CHAIR GUZMAN: Thank you.

ACTION: DEFER.

CHAIR GUZMAN: Members, this will conclude today's agenda. I do thank everyone for being here, especially Mr. Egged who has wealth of knowledge and flying in this crazy weather that we've had. So thank you very much and meeting is adjourned.
... (gavel) ...

ADJOURN: 3:08 p.m.

APPROVED BY:



DON S. GUZMAN, Chair
Economic Development, Energy,
Agriculture, and Recreation Committee

ear:min:160913:kt

Transcribed by: Kimberly Tabon

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

September 13, 2016

CERTIFICATE

I, Kimberly Tabon, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 3rd day of October, 2016, in Kahului, Hawaii

A handwritten signature in cursive script, appearing to read "Kimberly Tabon", is written over a horizontal line.

Kimberly Tabon