

# **INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**November 28, 2016**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 1:32 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Elle Cochran, Chair  
Councilmember Riki Hokama, Vice-Chair  
Councilmember Robert Carroll  
Councilmember Don S. Guzman  
Councilmember Mike White

**EXCUSED:** VOTING MEMBERS:

Councilmember Gladys C. Baisa  
Councilmember Stacy Crivello

**STAFF:** Shelly Espeleta, Legislative Analyst  
Raynette Yap, Committee Secretary

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

**ADMIN.:** Michael Miyamoto, Deputy Director, Department of Environmental Management  
Stacia Ash, Recycling Specialist & Project Manager, Department of Environmental Management  
Rob Parsons, Environmental Coordinator, Office of Economic Development  
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel  
Stuart Stant, Director, Department of Environmental Management  
Frederick Redell, Energy Commissioner, Office of Economic Development  
Patrick Wong, Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Sarah Bryan  
Jennifer Cox  
George Burnette  
Dexter Yamada, President, KYD, Inc.  
Malia Cahill  
Cheryl King  
Adriane Raff Corwin, Sierra Club Maui Group Coordinator  
Marge Bonar  
Jennifer Noelani Ahia

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Joe Ritter  
Alicia Rittenberry  
Sunny Savage Luskin  
Brett Gobar, Surfrider Foundation  
Pamela Tumpap, President, Maui Chamber of Commerce  
John Fitzpatrick  
Gretchen Losano, Board of Directors, Styrophobia  
Lauren Blickley, Rise Above Plastics Coordinator, Surfrider Foundation  
Michael Gach  
Mahina Martin, MECO  
Ellen Nashiwa, MECO  
Jeff Walsh, Director of Business Development for Hawaii, Anaergia  
*Plus (29) others*

**PRESS:**     *Akaku Maui County Community Television, Inc.*

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CHAIR COCHRAN:    *... (gavel) ...* Aloha, will the meeting of the Infrastructure and Environmental Management Committee please come to order. The time is about 1:32 in the afternoon. It is Monday November 28, 2016. And before we begin, please silence all cell phones or any noise-making devices at this time. Joining me here today is Committee Vice-Chair, Mr. Riki Hokama.

VICE-CHAIR HOKAMA: Good morning, Chairman.

CHAIR COCHRAN: Aloha. And also Chair of the Council, Mr. Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COCHRAN: Aloha. And Mr. Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. Excused for today's meeting is Ms. Gladys Baisa and Ms. Stacy Crivello, and Vice-Chair of the Council, Don Guzman will be joining us shortly. From our Administration we have...we have let's see Stuart Stant, Director of Environmental Management here and it looks like also Deputy Director Michael Miyamoto, Richelle Thomson; Deputy Corporation Counsel --

MS. THOMSON: Good morning, Chair.

CHAIR COCHRAN: --here on the floor but in the gallery, we have Corporation Counsel Mr. Pat Wong also available. And here we got mister...Vice-Chair of the Council Don Guzman. Aloha, Mr. Guzman. Thank you--

COUNCILMEMBER GUZMAN: Good afternoon.

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CHAIR COCHRAN: --for being here. Good afternoon. And it looks like Stacia Ash--I thought I saw here...oh, sorry there you are, Ms. Ash--Recycling Specialist with Environmental Management. Mr. Rob Parsons, Environmental Coordinator for Administration, and we will...oh, also Energy Commissioner from Office of Economic Development, Fred Redell, if I'm pronouncing that correctly Redell, joining us, too. And for IEM-5 Lauren Blickley which was a task force member and also let's see from MECO we have Ellen Nashiwa and I think, oh, and there's Ms. Mahina Martin also in the gallery. So we have a quite few resource people today here, Members, and public so we have a lot of expertise at-hand. Legislative Analyst, Shelly Espeleta, Committee, Secretary Rayna Yap. And let me check in with our District Offices. In Hana, Ms. Lono, are you there? Are we on?

MS. LONO: Hello.

CHAIR COCHRAN: Hi, Ms. Lono.

MS. LONO: Good afternoon, Chair, this is Dawn Lono at the Hana Office.

CHAIR COCHRAN: Aloha, Dawn. Thank you for being there. On Lanai, Ms. Fernandez, are you there?

MS. FERNANDEZ: Good afternoon, Chair, this is Denise Fernandez on Lanai.

CHAIR COCHRAN: Thank you. Ms. Alcon, on Molokai?

MS. ALCON: Good afternoon, Chair, this is Ella Alcon on Molokai.

CHAIR COCHRAN: Thank you, ladies, for being there. And so, Members, we have three items today. IEM-5 is Polystyrene Disposable Food Service Containers; IEM-68 Authorizing County to Enter a Site Lease Related to an Electricity Generating Facility at Wailuku-Kahului Wastewater Reclamation Facility; and 3, list of IEM communications I will be recommending to be referred to the Council Chair for the term beginning January 2, 2017. So at this time, Members, I will open up the floor for testimony. And anyone wishing to testify, please state your name, any organization you may be representing, and you have three minutes to provide your testimony. And can we...can you call the first testifier?

**. . . BEGIN PUBLIC TESTIMONY . . .**

MS. ESPELETA: Madam Chair, the first testifier signed up for IEM-5 is Sarah Bryan, followed by Jennifer Cox.

CHAIR COCHRAN: That's okay, you don't need to run.

MS. BRYAN: Hi, I'm the one with the screaming baby, too, so I'm going first. I'm Sarah Bryan and I'm here to testify in support of the ban on the foam to-go boxes and

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other food containers. I think that this is a wonderful thing that we should do. Other places have done it successfully. We've shown through the brown paper bag initiative here that we can do these kinds of things and be an example for other places in the world. So I think we should take this opportunity to do the right thing. So that's it. Thank you.

CHAIR COCHRAN: Thank you very much. Members, any need for clarification of her testimony? Seeing none, take care. Thank you. Next testifier.

MS. ESPELETA: The next testifier is Jennifer Cox testifying on IEM-5, followed by George Burnette.

MS. COX: Aloha, my name is Jennifer Cox and I support the proposed bill to prohibit the use of disposable polystyrene products by food providers in Maui County. I will be e-mailing my testimony later today so you may have it for reference. In this discussion it is important to keep in mind that plastic in itself is not inherently evil. It is the way we humans have been using and abusing the conveniences of plastic that have made the material such a hot environmental issue. So here's hoping the focus on education and litter prevention continues to be a part of the discussion. At the heart of the issue is the fact that as a society we have adopted a throw-away culture in large part because of the cost to buy something new is often negligible or even cheaper than maintaining the old. This is the main issue we must solve but it is also important to take whatever steps we can in the meantime to mitigate the harm that our dependency on single-use products causes. Looking for alternatives to plastic that provide the same convenience at approximately the same cost and with less negative effects on the environment is a solid step forward. While I recognize that substituting commercially compostable products isn't as ideal the situation as we would like it to be here, those alternative plant-based products do have the benefit of having not been made out of oil meaning they will not leach toxins into the environment if heaven forbid they find themselves littered. That should count for something. We all have a choice to refuse but when the choice is between something we know is harmful and something we know is not, why continue making room for the harmful material? As Exhibit 4 in the task force report showed, the industry seems to be moving toward non-Type 6 resin products anyway so why not use this bill to give that trend a County mandated boost? Businesses have a right to change prices according to a change in the cost of doing business. We have certainly seen that scenario play out repeatedly in our recycling practices on island. With an additional charge, it might help me remember to bring my own containers and my own bags more often. Though I might add from Exhibit 3 it looks like only 2 of the 5 product types had any significant difference in cost between polystyrene and plant fiber products, so per unit the up-charge on a eco-friendly container should be minimal if any. I sincerely appreciate the Council for valuing this issue enough to create the task force and providing the public with the opportunity to speak on this bill. And thank you very much.

CHAIR COCHRAN: Thank you, Ms. Cox. Members, any need for clarification of the testifier? Seeing none, and thank you very much.

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MS. ESPELETA: George Burnett on IEM-5, followed by Dexter Yamada.

MR. BURNETTE: Hello, I'm George Burnett. I'm here to testify in favor of the proposed ban on polystyrene. I'm testifying as an individual but I do volunteer work for the Maui Nui Marine Resource Council. Last time here was my first Council meeting and so it's an honor to be here. I appreciate the right to speak. It seems the science that tells us that Styrofoam is bad for the environment really isn't disputed by either side. We know it's bad when we get into the environment. So today, I researched some articles and just have a few excerpts, hopefully, to make some different kind of points to the Council. First one, Clean Water Action, California facts about Styrofoam litter. Roughly, 80 percent of marine debris originates from land-based sources. Plastics comprise 90 percent of floating marine debris. A study of beach debris at 43 sites along the Orange County coast found that Styrofoam was the second most abundant form of beach debris. From the same article, City of Millbrae, California Chamber of Commerce surveyed their members when the city was considering a ban. They decided that they would support the ban and make it a publicity opportunity. They were happy with the PR they received from being early adopters. Now, according to the Chamber the cost of alternative packaging are decreasing and the products are much more widely available. From our Surfrider friends an article, compostable products are an economical and eco-friendly alternative to polystyrene. They are non-toxic, plant-based, and carried by every distributor in Hawaii. In many cases, the price difference between compostable and polystyrene is negligible. To date, there have been no documented cases of restaurants or food providers going out of business because of similar phase-outs. Last but not least, this article, following the 2011 Japan tsunami a wave of Styrofoam from Japan floated across the Pacific and washed up on Alaskan beaches prompting concerns that the Styrofoam would harm native mammals, fish, and birds, if mistaken for food and ingested. An Alaskan official testified that bits of Styrofoam were found in the droppings of bears and other animals that live near the shore. We've seen birds that are dying of starvation because their stomachs fill up with debris. They think they are full but they're not because their stomachs are full of plastic. More than 100,000 marine mammals and 1 million sea birds die each year from ingesting or becoming entangled in plastic. So my hope is that Maui will become part of the solution and not part of the problem. Thank you.

CHAIR COCHRAN: Thank you very much for your time. Members, any need for clarification? Seeing none, thank you very much.

MS. ESPELETA: Dexter Yamada on IEM-5, followed by Malia Cahill.

MR. YAMADA: Hi, my name is Dexter Yamada, President of KYD, Inc. dba K. Yamada Distributors. My position is to oppose. Our company is a local family run business since the 1940s. KYD, Inc. and its sister company Hawaii Foam Products, LLC provides jobs to 100 employees. We manufacture and distribute food grade polystyrene foam containers and other packaging throughout the State. We do not manufacture Styrofoam. KYD's representative Stella Yasuda participated on the Maui task force led by Councilmember Victorino. Despite science-based information about the safety, functionality, and affordable cost of polystyrene food containers, this

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revised proposal perpetuates misinformation. Please see the attached testimony by Dr. George Cruzan to the Honolulu City Council. He clarifies the difference between styrene and polystyrene and states that no government agency considers polystyrene as carcinogenic or imposes health risks. We, as lifelong residents of our island state, are concerned about ocean debris, and the care of our islands. Rather than impose a discriminating ban upon only polystyrene food containers and mandate the use of alternative products, the County of Maui is urged to focus on the cause of ocean debris. Much of it from land-based origins. Note that better litter management was a unifying recommendation from the Maui task force. A ban that singles out polystyrene food containers does little to reduce ocean debris when the five most common items found are plastic cigarette butts, food wrappers, plastic beverage bottles, plastic bottle caps, and plastic straws, and drink stirrers. Plastics can enter the ocean through ineffective or improper waste management, intentional or accidental dumping, and littering on the shorelines or at sea or through storm water runoff. Maui County is encouraged to join two free private sector litter management programs that support personal responsibility by residents and visitors of Maui. Malama 808 can serve as a model to...for Maui to participate and join more than 100 restaurants and businesses who pledge to keep appropriate litter management top of mind with customers and their businesses. Despite...details of the pledge are in the testimony. And the second one is Litterati. This is a free web program founded by Jeff Kirschner that encourages people to send digital photographs identifying the type of...location of litter to the Litterati internet database. In closing, by joining Litterati the County...that it would help everyone to recognize these things. Thank you for your opportunity to provide this testimony.

CHAIR COCHRAN: Thank you very much for your time. And, Members, any need for clarification? Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. You mentioned that your company is KBY, is that correct?

MR. YAMADA: KYD.

COUNCILMEMBER GUZMAN: KYD.

MR. YAMADA: KYD.

COUNCILMEMBER GUZMAN: Sorry --

MR. YAMADA: Yes.

COUNCILMEMBER GUZMAN: --I apologize. KYD, that's incorporated in your...I believe your I guess your warehouse or your industry is --

MR. YAMADA: KYD is a ...

COUNCILMEMBER GUZMAN: --in Honolulu?

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MR. YAMADA: Yeah, yeah, it's Honolulu and we distribute a lot of different products there.

COUNCILMEMBER GUZMAN: So all of your workers are...your factory is in Honolulu?

MR. YAMADA: Yes.

COUNCILMEMBER GUZMAN: Okay. So the 100 workers you're talking about is in Honolulu?

MR. YAMADA: In total, yeah.

COUNCILMEMBER GUZMAN: Oh, thank you.

CHAIR COCHRAN: Any other questions to clarify from the testifier? Yes, Chair White?

COUNCILMEMBER WHITE: Thank you, Chair. In our computers, we can't find your testimony by looking at it alphabetically. Do you have a copy that you could provide us?

MR. YAMADA: Yes, we have a copy. We can provide that.

COUNCILMEMBER WHITE: If you don't mind, Chair?

CHAIR COCHRAN: Yeah, not a problem. If...thank you, we'll get that distributed. Yeah, sir, I have a question. Your company also sells the non-polystyrene type food containers, too, though, correct?

MR. YAMADA: Correct. Correct.

CHAIR COCHRAN: Okay, alright. Thank you very much. Yes, Chair?

COUNCILMEMBER WHITE: Thank you. And one last question, my recollection is the, the group that was headed by Mr. Victorino came up with the conclusion that there was no real effective replacement for the current containers that hold, you know, for heated foods to keep them hot.

MR. YAMADA: Yes, this was one of the issues that did come up after that testing they did, they put some hot foods in there that it didn't hold up very well. So the result was that it was ineffective on certain products.

COUNCILMEMBER WHITE: Has your company undergone any studies to see...to be looking for replacements for polystyrene?

MR. YAMADA: Oh, yes, we have. You know so far we haven't been successful, you know, and the cost normally is a lot higher if you find something that is going to be replaceable.

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COUNCILMEMBER WHITE: And what is the cost differential?

MR. YAMADA: Oh, I think it was somewhere between three to four times as much. You know on a general...this is just a general rule I'm thinking about because you're talking about compostable product versus polystyrene. There are other alternatives that are much more expensive so, you know, you have to take those things into consideration.

COUNCILMEMBER WHITE: So have you found any compostable products that come close to the same performance as polystyrene?

MR. YAMADA: No, I have not.

COUNCILMEMBER WHITE: And what is the cost of the compostables?

MR. YAMADA: Well, as I said it could be anywhere from three to four times as high, you know. We had I think our polystyrene containers run between 15 to 16 cents somewhere around there and some of the compostables products run, you know, anywhere from 30 to 40 cents.

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

CHAIR COCHRAN: Okay, thank you. Members, any other need for clarification of the testifier? Seeing none, thank you for your time.

MR. YAMADA: Okay.

MS. ESPELETA: Madam Chair, your next testifier is Malia Cahill, followed by Cheryl King.

MS. CAHILL: Aloha, my name is Malia Cahill. I'm here to testify on my own behalf but I also run environmental education programs for Maui Huliau Foundation. Good morning and thank you for having...or good afternoon, rather, and thank you for having me. I was here on the 31<sup>st</sup> testifying as was one of my students. I've had a group of students that's been very active on these issues because of a project that they started a couple of years ago and a couple of them have followed it through for a couple of years now. So, we have been really active in what...a program they started called Foam Free Future that then became Ocean Friendly Restaurants, which is a partnership with Surfrider. So there's a...I have been actively working with restaurants for over a year now finding replacements for some of these items so I can say that it is not three to four times the cost difference. The average cost difference tends to be around six cents. There is a very comparable...we've actually done side-by-side comparisons with EPS foam clamshells and one of...World Centric which is one of the leaders in the compostable industry with one of their products, and we actually find it can hold up better to hot foods than the EPS foam. So this is repeated a lot. Please like get samples, do your research, 'cause it's really not that dire of a situation anymore. People like the compostable industry is really catching up quickly

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and that's the future. That's where it's going. We can fight it or we can, you know, be proactive about it. I just wanted to bring up a couple things that came up last time. We heard a lot of talk about replacing one type of trash with another trash. I just want to quickly point out that these products are not comparable from a disposal standpoint. There's a reason you don't see paper bags washing up on the beach. There's a reason you don't see compostable containers washing up on the beach and that's because they decompose. We also have another program called Huliau Zero Waste Event so we take large amounts of compostable products from events and work with farmers who are actually composting these products. If we had an industrial composting facility here that would even allow us to compost more of these things. So it can actually be something that is useful. Another thing you hear a lot is that we need more litter education. Well, I agree that we need to continue telling that. As someone who has like worked in environmental education with every school on Maui from K to 12 for over decade, which is a big portion of my life at this point, I can tell you kids know that we're not supposed to throw trash on the ground. We're doing a good job at that. That's not as much the problem. A lot of people...if people still litter it's about getting people to care. How do we get people to care? Well, that's what we're trying to do right now in this room I think is trying to get people to care. And that is really a values thing and I think that's something that when the County Council takes this sort of initiatives as we're starting to see countries and counties do throughout the country and throughout the world, then we're sending that message that like actually the environment is more important. And it is more important than six cents and we want to encourage businesses to be sustainable. Instead of just fighting change like it's time to innovate here people. Like let's...we want to encourage businesses to do the right thing and it is possible. And that is all. Thank you.

CHAIR COCHRAN: Alright. Thank you, Ms. Cahill. Members, any need for clarification of the testifier? Seeing none, thank you very much for your time today.

MS. CAHILL: Thank you.

MS. ESPELETA: Cheryl King, followed by Adriane Raff Corwin.

MS. KING: Aloha, my name is Cheryl King. I'm testifying pretty much for myself but I also run the SHARKastics project. It's a marine debris organization that is based here on Maui but we do cleanups pretty much everywhere I go. But I just kind of wanted to quantify how much debris washes ashore here on Maui, not the whole Maui, the whole island of Maui, but our cleanups are focused at Kaehu just down the road in Waiehu. And we clean up around 100 to 200 yard stretch of coastline on the fourth Sunday of every month. And for 3 years, we...every fourth Sunday of every month, we cleaned up the debris and then we quantified it. So we sorted it and counted it. And just to give you an idea of how many pieces of polystyrene foam or whatever you want to call it, we picked in those about 36 cleanups, it was 13,377 pieces of the total of 148,553 pieces of debris. And so, if you do the math on that, polystyrene products, expanded polystyrene products however you want to term it that equates to about 9 percent of the debris that we pick up. And that's just from this particular study but it gives you an idea of the amount that is actually washing ashore. And this is coming from all

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over the Pacific and it's coming from Hawaii. So if we can put a stop to the items that are going into our waters that would make a serious dent on the debris that we're picking up. So thank you very much.

CHAIR COCHRAN: Thank you, Ms. King. Members, any need for clarification? Seeing none, thank you for your testimony.

MS. ESPELETA: Adriane Raff Corwin testifying on IEM-5 and IEM-68, followed by Marge Bonar.

MS. RAFF CORWIN: Aloha, my name is Adriane Raff Corwin and I am the Sierra Club Maui Group Coordinator. I'll start with my testimony for IEM-5 polystyrene ban. I testified previously on the October 31<sup>st</sup> meeting so I'll just reiterate some of what I said then. Nationally, the Sierra Club, which is one of the oldest environmental organizations in the country and in the world, we promote the principle of zero waste as I said last time, which as stated in our policy "aims to prevent waste by design rather than manage it after the fact." And I think especially my previous...the previous testifiers here today spoke to that in that sure, litter prevention is extremely important. We're all for, you know, going out there and cleaning and doing litter cleanup but it's really the litter prevention, I'm sorry I misspoke before, litter prevention that is even more important. That if we make what is out there less by reducing the types of products that are out there by introducing things that are reusable or compostable or hopefully a mixture of both, we will have less litter to clean up. It's I think sort of a very basic logically way of thinking that we should be trying to focus on a zero-waste policy here. So again, Sierra Club, Maui Group, is extremely in favor of the polystyrene ban and we really hope that you will vote yes on this proposal. I'll move now to--oh, actually, I'm sorry--on that polystyrene was there...one moment I'm sorry. Yes, I guess I would just like to reiterate again there's many people that are against this ban that are saying that the major issue is to just do litter cleanup. I keep on hearing that from a lot of people and I would just like to just reiterate that we can do litter cleanup and that is very important but we should be reducing the amount of litter that is out there to begin with, and by banning polystyrene we would make a big leap in that direction. I will now move on to the other proposal, IEM-68 regarding the site lease related to an electric...electricity generating facility at the Wailuku-Kahului Wastewater Reclamation facility. Sierra Club, Maui Group, submitted a letter to this Committee. I will read this letter here just to reiterate our points. We have a great deal of apprehension regarding the proposal of this facility. Our main concerns are as follows: Cost, initially, Maui County would pay for electricity at a rate close to that of today's oil-based electricity from MECO but with a contracted rate increase of 2.2 percent per year for 20 years. Without a doubt within 5 or 10 years the County will be kicking itself for committing to such an exorbitant price for electricity as the cost of renewable energy continues to fall and solar is already well below even the starting price here. At face value, the proposal may sound economical because Anaergia and its subsidiary assume the cost of building the power plant; however, there is no reason to consider Anaergia to be a charitable organization. Its calculation of the charges to Maui County are based on recouping that \$20 million construction cost, cost for permitting, cost for running the plant for 20 years including energy crops and profits. Rather than a great

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deal, this can be considered a loan at a very high interest to the County. If the project makes sense for other reasons it will be more cost efficient to issue a bond or seek grants and finance it without contracting Anaergia. Location is the next concern we have. There was an agreement at the previous hearing on this issue including by Director Stuart Stant, the location, which would host the power plant being at sea level and in a tsunami zone is a poor choice. The County has been thinking about moving the Wailuku-Kahului Wastewater Reclamation facility inland. Director Stant said it was more urgent to move the Wailuku pumping station, which supplies waste to the reclamation facility than to move the reclamation facility itself; however, one does not exclude the other. Adding a power plant to the existing Wailuku-Kahului Wastewater Reclamation facility means 1, it would be much more difficult to move that facility in the future, and 2, it can't be moved until 20 years after the power plant is online which is likely years away. Our third issue is green waste disposal costs. Currently EKO collects and combines green waste with sludge to produce compost, which it then sells. Removing the lucrative sludge element from the County's contract with EKO may cause EKO to terminate its remaining green waste contract as green waste alone has very little resale value. The County would need to contract with a new entity that will collect only green waste. This entity will likely charge a much higher rate per ton because the new entity will need to apply for permits as well as provide its own location and industrial equipment because EKO's current location may become a landfill site. With the resale value of green waste so low the entity will need to charge sky-high prices to make a profit. We urge you to pay close attention to the timeline of when EKO's contract may terminate and when the County could feasibly have a replacement green waste collection entity online. By State law, green waste is not allowed in the landfills so the County cannot throwaway green waste while waiting for a new composting program to come online. I have two other points but I am out of time. One other thing we would like to mention is alternatives. The Kihei facility already has an excess...Director Stant said the Kihei Wastewater Reclamation facility is the...already has an excess of solar power during the day but no way to store that power for the use in the evening at night. A much more cost efficient investment would be to add battery storage to the Kihei facility instead of this project.

CHAIR COCHRAN: Yeah, thank you. Just need to wrap it up.

MS. RAFF CORWIN: Okay.

CHAIR COCHRAN: If you have that in writing, you can send that to us.

MS. RAFF CORWIN: We did send it to you.

CHAIR COCHRAN: Okay, so...

MS. RAFF CORWIN: We sent it officially to all of you but I decided to read it here to make sure it is heard.

CHAIR COCHRAN: Very good. Thank you.

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MS. RAFF CORWIN: My last sentence --

CHAIR COCHRAN: No, well ...

MS. RAFF CORWIN: --would just be I'd like you to please look at the cost benefit analysis of this project and see that is not actually effective. Thank you.

CHAIR COCHRAN: Okay. Thank you very much. Members, any need for clarification of the testifier? Seeing none...did you call? I was going to check and...did you already call? Yeah, at this time I'm going to check in with our District Offices. So let me check in with Hana, Ms. Lono, do you have any testifiers?

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

CHAIR COCHRAN: Thank you, Ms. Lono. Ms. Fernandez on Lanai, do you have any testifiers?

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

CHAIR COCHRAN: Thank you. And over on Molokai, Ms. Alcon, do you have any testifiers?

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

CHAIR COCHRAN: Thank you very much, ladies. Please notify our Staff if you do get some testifiers. Next testifier it looks like Marge Bonar.

MS. BONAR: Yeah, it is.

CHAIR COCHRAN: Okay.

MS. BONAR: And I think I didn't put both of them on. I just want to open by reaffirming everything about the IEM-5 because I'm still waiting to see what that Anaergia contract was all about because there's some...been a question in my mind as to whether it's valid anyway. But leaving that alone I want everyone to also realize I was another member, and there are others of us, that were on the working group that originally proposed this and I'm not saying anything about how that didn't work but largely because I don't know why we had off-island people participating in it. But what I really missed is driving up the highway the other day somebody ran over a Styrofoam box. They ran over it, it exploded, and just the wind on the highway scattered all these little pieces. That's just what's...the EPS foam does but I can beat this thing forever and if I can manage to crack it which I just did it's not going anywhere. There is big litter reduction. What I'm really after is using these kinds of things, which is another project to get even disposables out of our hair. These are reusables. These clamshells have been through, not this particular one, but the person doing this in Portland has had these going through 800 cycles in commercial dishwashers by this point. Manufacturer claims they're good for 3 to 5,000 and this is where one of the arguments we know we had was things like Meals on Wheels. How

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logical it is to reuse containers where you've got the same client on an almost daily basis. I'm sorry I don't have this graphic display. I was driving I couldn't video it but I think that that would have made this case better than almost anything. Yes, people are serving soup, besides these reusables, people are...it's not the one person, the one company that was concerned with it. At this point, I think we really have to look beyond the dollars and cents. It's not about the money; it's about our island. And that few cents that it may add to anybody's price at checkout so it does. That's a small price to pay, probably a lot less than what it's costing to clean that stuff up. People don't always mean to litter. It just happens. It's just time to move on and do this. We really shouldn't wait. That's all, I'm not going to address things that I really wanted to because it's too aggravating. I think that we have to be careful about looking at what really facts are and not propaganda market.

CHAIR COCHRAN: Thank you, Ms. Bonar.

MS. BONAR: Thank you.

CHAIR COCHRAN: Members, any need for clarification of the testifier? Seeing none, thank you for your time.

MS. ESPELETA: Jennifer Noelani Ahia on IEM-5, followed by Dr. Joe Ritter.

MS. AHIA: Aloha, Hauoli La Kuokoa. My name is Jennifer Noelani Ahia. I speak on behalf of myself. I am a healthcare provider on Maui as well as a small business owner and I am in favor of this bill to ban the polystyrene. Not only has it shown to be toxic and detrimental to our oceans, it takes 500 years to decompose in a landfill. We don't have that kind of space. We live on an island. And it's also toxic to our bodies. It's been shown to be a neurotoxin. It gets stored in our fat cells and it can cause a whole host of health problems that we just don't need when there are other alternatives out there. I'm kind of surprised that Maui hasn't banned this already but I'm grateful and thankful that this is up for discussion today and I urge you to ban these products. Thank you so much.

CHAIR COCHRAN: Thank you for your time. Members, any need for clarification? Seeing none...

MS. ESPELETA: Dr. Joe Ritter will be testifying on both items.

MR. RITTER: Honorable Chair Cochran, Honorable Councilmembers, I'm Dr. Joe Ritter. It is my honor to address this Council on this topic. My qualification is that although I'm a physicist, I first began working in chemistry laboratories at the age of 11 so I have 40 years of experience with general chemistry. Styrene is toxic. So what is polystyrene? Styrene was derived in the late 1800s from storax balsam from the oriental sweetgum tree from Asia but now polystyrene is made from non-renewable oil and synthetic chemicals. Styrene is used to create a material called polystyrene foam, which was used in food packaging for products like meals and meat trays and Styrofoam is basically a brand name from Dow Chemical. It can be expanded

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polystyrene, which is not as bad or extruded polystyrene, which is typically injected with hydrofluoric carbons which have a global warming potential over 1,000 times that of carbon dioxide. Most food service applications, which is what we're talking about here, use extruded polystyrene, the really bad kind, Styrene C<sub>8</sub>H<sub>8</sub>. It's toxic. It's metabolized to styrene oxide, which bonds to essential macromolecules producing cell injury and organ damage. Styrene causes cancer. Styrene causes cancer. Don't take my word for it, ask the US EPA. They've actually studied human carcinogen potency factor for oral exposure meaning the EPA says don't eat it but we use it for food. Wow. In the '80s, Suffolk County banned styrene to help with their toxic waste disposal problem and we can benefit from a similar action. In 1987, Berkeley banned Styrofoam in food containers and as of over 10 years ago, over 100 cities around the United States have banned or partially banned styrene products. So just a few are New York City, Seattle, Washington D.C., Miami Beach, Minneapolis, Portland, San Francisco. In fact, San Francisco last year, sorry, this year banned all polystyrene products. So over 100 major cities and counties have actively banned these products. So there is clearly a good reason to do this. We know styrene causes cancer and contributes to climate change and in this day, when for oil resources people are being injured around the world, and in the US, we should minimize our use of non-renewable oil derived products, especially ones that cause cancer. For the sake of future generations and ours, it's high time that we got smart about toxic substances in our environment. We live in a time where people of good conscience like you Members of Council cannot afford to let environmental abuse continue any longer. Please be the heroes that the people need. Don't let Maui become a toxic waste dump. Thank you.

CHAIR COCHRAN: Thank you, Dr. Ritter. Members, any need for clarification of the testifier? Seeing none, thank you for your time.

MR. RITTER: And IEM-68.

CHAIR COCHRAN: Oh, go ahead, next item.

MR. RITTER: On behalf of Terez Amato, I here read a statement by request of Terez Amato who thanks the Council for their work. Is unfortunately unable to appear in person today. It's a very short statement. For too long Maui has avoided the wastewater treatment issue to the point where we now have contaminated areas of the ocean. As we've learned from our friends in Japan at the Fukushima Daiichi site, building any critical infrastructure and any critical and potentially damaging infrastructure should absolutely not occur in a tsunami flood zone. Why would we invest in something like that? Maybe we need such a facility as we're discussing but it doesn't take a rocket science like Joe, that's Terez, to know that building critical infrastructure in a tsunami flood zone is not smart. It's not smart. Have we learned nothing from the ongoing Federal lawsuit? Do we really want to gamble with having more shit in the ocean? Pardon me. Rather than expanding sewage treatment capabilities at current locations, I urge you all to consider investing in moving wastewater treatment plants inland and to finally treat wastewater correctly. Thank you.

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CHAIR COCHRAN: Thank you very much. Any need for clarification? Seeing none, and again thank you for your time.

MR. RITTER: Thank you.

MS. ESPELETA: Alicia Rittenberry, Rittenberry, sorry, testifying on IEM-5, followed by Sunny Savage Luskin.

MS. RITTENBERRY: Aloha, I am Alicia Rittenberry soon to be Alicia Wood, and I am a student at the university here and the President of the Student Ohana for Sustainability Club but I am testifying as an individual. I didn't know I was going to be testifying today but I got inspired coming here so I'm going to just go on the fly here and say that one of the huge issues with polystyrene is how easily it breaks apart. So it breaks apart and our marine creatures are eating it and getting poisoned and have all sorts of detrimental health effects. And that also through bioaccumulation leads to humans possibly having those detrimental side effects as well. And as far as recycling goes, there has been an argument made that polystyrene containers can be recycled and it is true that you can melt them down and recycle them; however, there is no plant that is capable of this in Hawaii. So customers would have to save their polystyrene containers until they had a box full and then ship it off to the mainland. So it's not really feasible for us to recycle it here. As opposed to compostable containers and biodegradable containers that we do have a facility, Maui EKO Systems that handles the green waste cans and you can bring your containers there so it's very feasible to be able to recycle that when they also don't break up and get eaten by animals in the ocean. So I just feel like it's time to change our business strategy here because I understand that there are jobs and businesses on the line and that is something that's important. But I don't think that it's right to ask all the residents of Maui and the marine animals that inhabit our oceans here around Maui to suffer for the benefit of the few companies that make money and offer jobs for the polystyrene containers. They do have other options. I've also researched the differences in containers because I work in the restaurant industry and moving towards a sustainability field so it's an interest of mine. And they're often very similarly priced. I found compostable containers that are the exact same price as Styrofoam containers and there are a few companies here that already offer those containers so I suggest that other companies are also able to change if those companies can as well. Thank you.

CHAIR COCHRAN: Thank you very much. Members, any need for clarification? Yes, Chairman White?

COUNCILMEMBER WHITE: Thank you, Chair. Thank you for being here today. What are the prices of the, the two items that you said were the same, the compostable versus the Styrofoam?

MS. RITTENBERRY: I wish that I would have brought my price sheet with me had I known. I can e-mail that to the Council but for certain items it's the same at like 15 cents. So some are...the polystyrene might be 15 cents and I found compostable clamshell

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containers that are also 15 cents and then the larger ones can be like 25 cents. So they can be...there...it depends on the item really 'cause there's some items that are...you can do exactly the same and then some that are going to be more. But there are restaurants that like Coconut's Fish Café charges 50 cents a takeaway container and they're still succeeding very much. So they haven't had any negative customer complaints and they also allow people to bring in their own containers so they don't have to charge that fee. So it encourages people to bring in their own containers and it also covers their own cost for any additional cost.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

CHAIR COCHRAN: Okay, thank you. Anyone else have any questions to clarify? Seeing none, thank you so much.

MS. RITTENBERRY: Thank you.

MS. ESPELETA: Sunny Savage Luskin, followed by Brett Gobar.

MS. SAVAGE-LUSKIN: Aloha, Chair. Aloha, Councilmembers. Yeah, I also felt like I just kind of ran down here and feel a little bit unprepared on exact issues that I'm working on or speaking to. Obviously, the polystyrene I think maybe there was also plastic bag but easy for me to just to show up and be present and speak to that. I have been in the food service industry and dealing with food for over 20 years and I am the new owner of a food truck and so these...this issue is really coming up right now as I make choices. And what I have seen...the main issue over, you know, 20 years, I have degrees in dietetics and nutrition and so I've done lots of food safety stuff and what I've seen over the years is this argument about food safety and all this packaging is needed to keep food safe. And I think ultimately what we've come around to really understand is that safe practices, safe handling practice are really what are going to keep us safe and ultimately that comes down to washing hands. So whatever we decide to put our food, whatever container we decide to put in there or to put our food into, we are, you know, ultimately all dedicated to having something that is a safe vessel for that. And so, I would just urge to look at the language, you know, especially legal counsel 'cause we need a shift in the language to kind of deal with this issue. And so I would just encourage this idea of this, you know, it's a time for innovation right now and if we don't set some boundaries within the County then we don't invite in some of those innovators and some of those things. I also don't feel like the packaging is 100 percent there. I don't feel like there's this shift where everybody can move but I think we're really close and I think that innovative ideas like we've got a whole bamboo forest of, you know, becoming invasive, you know, can we do little boats of bamboo to serve food in. I mean come on this would be great. I think the hotels would eat that up. Things like serving food on banana leaf. You see multiple countries around the world doing that, multiple doing it safely. And so, yeah, things like banana leaf, ti-leaf. Things like increasing the protocols or the safety standards around our food practices are a longer-term strategy to dealing with how we're going to safety and effectively provide convenience items in our community. So, yeah.

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CHAIR COCHRAN: Does that complete your testimony?

MS. SAVAGE-LUSKIN: Yeah.

CHAIR COCHRAN: Okay.

MS. SAVAGE LUSKIN: Yes.

CHAIR COCHRAN: Okay, thank you, Ms. Savage. Members, any need for clarification of the testifier? Seeing none, thank you very much.

MS. ESPELETA: Brett Gobar on IEM-5, followed by Pamela Tumpap.

MR. GOBAR: Aloha, Council and Chair.

CHAIR COCHRAN: Aloha.

MR. GOBAR: I appreciate the County's increased awareness, which is evidenced when you eliminated most plastic bags on Maui. I feel eliminating Styrofoam is a small yet important step toward reducing the harm we do when we pack so many people into this small island. When you consider the cost of replacing Styrofoam, be sure to include the cost of the damage to the ocean and the reef environment by continuing the use of Styrofoam. I'd like to just make a quick comment on Item 68 if I may? Just that I oppose any kind of petroleum electric generation in Hawaii. Solar electric makes so much financial sense now. I'm asking the County to please set an example to the keiki and the rest of the world of using solar electric for all of the County facilities including the wastewater treatment facilities. Thank you.

CHAIR COCHRAN: Thank you very much. Any need for clarification? Seeing none, thank you.

MS. ESPELETA: Pamela Tumpap, followed by Gretchen Losano.

MS. TUMPAP: Good afternoon, Chair Cochran and Members of the Committee. I'm Pamela Tumpap, President of the Maui Chamber of Commerce. I'm pleased to be here before you again on this issue. We put a lot of testimony, in our written testimony and hopefully you have that before you. Having served on the polystyrene task force we again feel at the Chamber of Commerce that polystyrene is an issue but litter control is in our view a much bigger issue. There have been NOAA studies that talk about the amount of plastic that has been derived and they list all sorts of plastic from hard plastic fragments to bottle caps to beverage bottles to lighters, and how this is impacting our marine animals. When we looked at the albatross dissection pictures and it's something that I actually keep on my phone and continue to show people all the time. When you look at the plastic in the albatross' stomach and the dissection, you know, there are some people who are going to say, well, polystyrene breaks up into very small pieces and I'm sure it does but you see tons of lighters and bottle caps and bigger things. So as we look at this we feel the bigger issue and an environmental

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issue is plastics overall and we need to look at that. And so that's why the business community continues to talk about recycling programs. We also applaud the efforts of the Ocean Friendly Restaurant Initiative because it shows that you can work with businesses and show them different alternatives. And when you give a little of incentive like promoting that you're being ocean friendly that businesses are taking these options and adopting to different choices. However, there's also business education that needs to go on and this is not in my testimony but there are times when people are using these reusable containers and when they do have sauces and liquids, they're putting aluminum underneath it. And if the aluminum is underneath your food and you stick in the microwave the next thing you have is a fire in your microwave. So there's things that we have problems with that we need to continue to work with the business community on. We are and as we have said before willing to work on a recycling program. We are working with businesses talking to them about alternatives and they are making shifts. We do appreciate that this bill includes exemptions and want to see those better defined and want them to be not too arduous for those who can clearly demonstrate why they...this won't work in their business. But we do see that the shift is moving. You know we also feel though that the County can be a leader in this just as the County has been a leader in solar energy. When you come to the County facilities there aren't recyclable facilities for separating plastic and trash that I've seen here in this building or on different County floors. We feel that the County could help with recycling and litter control by putting those in every County facility and we feel that the County could put refillable water stations so we could eliminate many different bottles. There's ways that we can all partner together. The question is whether at this time we need a carrot or a stick and how big of an issue is it. And we're still wrapping our hands around it because it's as everybody has said it's changing. And lastly, since I'm up against time we're really concerned about other environmental issues and top priorities as well and now of course including the feral cat. So as we're talking about marine animals we also feel we need to look at feral cats and the feces they're creating because that's hazardous not only for our monk seals but also our residents and children and keiki that go to the beaches. So we feel there are other priorities. We see this kind of moving in a direction, the question is where we focus our time and energy and what the County's environmental priorities are. Mahalo.

CHAIR COCHRAN: Thank you very much. Members, any need for clarification? Seeing none --

MS. TUMPAP: Thank you.

CHAIR COCHRAN: --thank you for your time.

MS. ESPELETA: Gretchen Losano, followed by Lauren Blickley.

MS. LOSANO: Aloha, I'm Gretchen Losano. I'm actually going to let Fitz go before me because he has really pertinent information regarding this and litter control programs and he has to leave with his students. So I can take his spot or just move further down the line if that's okay?

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CHAIR COCHRAN: Mr. Fitzpatrick, did you sign up?

MR. FITZPATRICK: Yeah, but I was late getting here with my students so I'm like number 17 on the list.

CHAIR COCHRAN: Okay. And we have 3 left?

MR. FITZPATRICK: And we need to get back to school.

CHAIR COCHRAN: Okay.

MS. LOSANO: His testimony is really important.

CHAIR COCHRAN: That's fine.

MS. LOSANO: Okay, thanks.

CHAIR COCHRAN: I know you have your...is this your class here --

MR. FITZPATRICK: Yes, so.

CHAIR COCHRAN: --Mr. Fitzpatrick?

MR. FITZPATRICK: Yes.

CHAIR COCHRAN: Okay. Thank you.

MR. FITZPATRICK: So aloha, Councilmembers, and thank you for letting me jump in line. My name is John Fitzpatrick and I'm here to testify on behalf of myself. But, yeah, this issue is really, really important to me and so important that I wanted to bring my students from Kihei Charter School in order to see people and activists here that want to make a change and make sure our oceans are safe for future generations. It's really important that we take care of our oceans and we value our oceans. So, this morning you received several letters, some...most in support of this bill to pass the Styrofoam ban from my students in my first two chemistry classes. There were a few students against it so I have to speak to that. Some of 'em question the capacity of the compostable containers to hold food and water so we actually have compostable containers sitting in my chemistry class right now filled with water. They've been filled since 10:25 this morning, and have not leaked so you can throw that argument away. Alright. We do anticipate taking containers and simulating ocean environments where we put plastic containers in one and compostable containers in the other and see how they decompose over the rest of the year. But pretty much what it comes down to is that are we going to take care of our planet and leave it better for future generations or are we going to keep letting people make profit off of toxic substances like Styrofoam containers? And on average, it's about 10 or 15 cents more potentially for a compostable container. But if you actually go around into our community and ask

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them if they are willing to pay 10 or 15 cents more in order to protect our oceans and marine environments, I guarantee you a majority of the people will say yes we are willing to pay the extra cost. Other students that were against it were saying that it could make small food trucks go out of business. So one way the County could do it is by doing a subsidy in order to take care of the cost, the extra additional cost. So some students came up with that idea on their own. But I suggest we start listening to our haumana, our students, who have really brilliant ideas on how to solve these global problems and we do what's right for them and make this world a better place. So thank you for your time and letting me cut in line and we have to go back to school. And I would like to thank all my wonderful students for coming here. Ms. Talia Glickman up there she actually ran around school begging Ms. Jeannie to drive the van here today. So we are here because Talia Glickman is passionate about this issue as well and me and my students are. So thank you for time and please pass this bill. Aloha.

CHAIR COCHRAN: Thank you, Mr. Fitzpatrick. Members, any need for clarification of Mr. Fitzpatrick? Seeing none, and thank you for bringing your class.

MR. FITZPATRICK: Thank you very much.

CHAIR COCHRAN: Thank you for joining us. Mahalo.

MS. ESPELETA: Gretchen Losano, followed by Lauren Blickley.

MS. LOSANO: Aloha, again, my name is Gretchen Losano still. So there's a few different things that I wanted to talk about. The first point was it was brought up by a previous testifier about the composition of Styrofoam or expanded polystyrene. So the real problem with the fact that it's a carcinogen is that when heat...when anything that has heat, when anything that has any B vitamins is put into polystyrene that is when it starts to break apart and that is when styrene is leached into the food. So when we're talking about the compatibility or the comparisons between the compostable containers and the Styrofoam containers regarding hot food, there is no comparison because there's no toxins whatsoever in compostable containers. I was also on the task force and it was only after four hours of sitting there which I mean we have plates, you know, nobody really needs four hours for a compostable container and that was just a regular compostable container which I think Lauren is going to talk about the price difference. But it was an...sometimes it's in fact cheaper than the Styrofoam alternative. But it was only after four hours that it started to get...got a little soggy but we have like a double walled container, you know, for the people that need magic takeout containers and they're not actually that much more expensive at all. I work for a company called World Centric so I'm a rep for that company so I know these products intimately. I also am on the Board of Directors for Styrophobia so we have been doing education. I've been doing education on this subject for the last eight years and that's why it was really important that John Fitzpatrick came up because I've been doing presentations in his school since last year. And because that was the collective thing that we decided on the polystyrene task force is yes there needs to be more education so I started to do these in his school. And like Malia said,

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the kids they know, they already know not to litter. They need to know a little bit more about biodegradable versus compostable but that's not really the issue here. The issue here is that, yes, when these kids learn, they go home and then they're not the ones who are purchasing the food. They're not the ones who are making any of these decisions, it's their parents. And so where is the place for this so-called educational program to occur? If it, you know, if the school is the perfect place for it and the kids already know about it, you know, it's the adults who really, you know, that's why there is a legislative body. That's why there are, you know, councils to make these decisions because, you know, it's the adults and there's no place to just sit down and say okay this is the reason. Sorry, I went over but.

CHAIR COCHRAN: Thank you. Alright. Okay, thank you. And, Members, any need for clarification? Seeing none, thank you for your time.

MS. ESPELETA: Lauren Blickley on IEM-5, and your last testifier is Michael Reed Gach.

MS. BLICKLEY: Good afternoon, County Council. My name is Lauren Blickley. I am the Rise Above Plastics Coordinator with Surfrider Foundation, Maui Chapter. You guys have seen me quite a few times up here testifying on this bill and I wanted to address some of the issues that were brought up previously. Councilmember White, I know that you had some questions and concerns particularly about the prices and some of that that has come up. We actually have a price sheet that was provided by VIP Foodservice Ware and this was actually put together by the task force. And if you look at it, there's actually some on here and I'm happy to give you this piece of paper or share it but you guys should all have it. Where the plant fiber is actually cheaper by over three cents than a polystyrene container. In many cases, we see that there's very little difference and what I really want to reiterate is that this is a pass-through cost. So and actually what a couple of restaurants have done is they say we're going to charge you 25 cents for a takeout container and that's what they do. Or you tack on the 10 cents to the customer. So in terms of businesses complaining and saying that there's no alternatives or the prices aren't competitive it's not true and like I said I'm happy to share this with you and go through. And we have a number of reps from different compostable groups that...we have Island...we have World Centric and we have Island Compostable Products based on Big Island that have a lot of alternatives. I have 40 different pages provided by the San Jose, County of San Jose in California of alternatives to polystyrene. We have over 100 ocean friendly restaurants here in the State of Hawaii. We have over 25 here on Maui who have gone polystyrene free and who have, you know, from soups to plate lunches are using compostable containers. I have a letter, an e-mail that was written by the Commercial Zero Waste Coordinator in San Francisco. San Francisco has passed the most comprehensive polystyrene ban. And just to quote he said he's visited over the past few years over 4,500 restaurants in San Francisco. They're at a 99.9 percent compliance. He personally went to over 2,000 locations and "rarely heard complaints about the cost. What I did hear was that employees and customers welcomed the change. The remarkable thing is that even though our ordinance provides for a waiver request due to financial hardship we only received two such requests and both were inventory issues, not cost. There are plenty of alternatives to Styrofoam and over the years the prices have gotten more

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competitive.” There are many, many alternatives. There are many restaurants that are getting on board. There are many restaurants who aren’t going to get on board. I think that we as the nonprofits and environmental groups on Maui have done a really strong job of providing that carrot and we know that the carrot has to come with top-down approach as well. It’s holistic and that’s why we really need your help to pass this bill.

CHAIR COCHRAN: Thank you, Ms. Blickley. Members, any need for clarification of the testifier? Yes, Mr. Guzman, you had a question?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair.

CHAIR COCHRAN: Yes.

COUNCILMEMBER GUZMAN: I had a question.

CHAIR COCHRAN: Yes.

COUNCILMEMBER GUZMAN: On the, the economic side of it, I’m just diverting a little bit, on the compostable containers are they manufactured on the mainland or is there a company or factory in the State of Hawaii that manufactures these type of containers?

MS. BLICKLEY: Mainland companies, yes.

COUNCILMEMBER GUZMAN: Are there any plans to create a factory here that supplies these type of...I’m looking at jobs as well.

MS. BLICKLEY: Yeah, sure. And I think, you know, I know the representatives from KYD are here and they consistently tell us that Styrofoam is, you know, their basis and sort of their livelihood and that pulls at some heartstrings. They are a very diversified company as well and they actually have many different types of products and that’s where other organizations such as World Centric and Sustainable Island Products on the Big Island, you know, those are also local companies who are bringing in these compostable containers. In terms of manufacturing, I’m not an expert. I’m a marine debris expert. I’m a...I don’t know if we have the infrastructure to create plants to manufacture here and that would be a question but I do know that we have local businesses who are bringing in products that are better for our environment. And I’d say that most of our, by far, most of our polystyrene is also being shipped in.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COCHRAN: Thank you. Is that all?

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COCHRAN: Okay. Thank you, Mr. Guzman. Members...yes, Chair White?

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COUNCILMEMBER WHITE: Thank you, Chair. And could we ask the testifier to provide the information that she brought with her. If you can provide copies to the --

CHAIR COCHRAN: Sure, yeah.

COUNCILMEMBER WHITE: --to the Committee.

CHAIR COCHRAN: Ms. Blickley, if you don't mind just I guess Rayna can make copies of that. Sure. Thank you. Anything else? Looking...no one else has any questions? I think we have one more testifier left. Is that right, Ms. Espeleta?

MS. ESPELETA: Yes, Madam Chair. Your last testifier signed up is Michael Reed and I apologize, G-A-C-H for Item 5.

CHAIR COCHRAN: And if there is anyone else in the gallery that would like to testify please sign up at the desk in the lobby at this time. Thank you. And it looks like we have show-and-tell here today.

MR. GACH: Why not?

CHAIR COCHRAN: Why not?

MR. GACH: My name is Michael Gach. I'm a resident of Kihei, Maui. I'm one of the first condo recycling center founders at the Kihei Surfside. I thought, you know, why have all of this debris when we can limit our landfill. When it comes to Styrofoam, I did some research because I was taught for...the last 40 years that it's not good. But in testifying, I wanted to do some research so I compared the...in my research, how long does it take to...for an aluminum can to decompose? Because our landfill, you know, and we have to look at how long does it take in terms of economics for, you know, we grow our economy. We grow our island. It takes a healthy lifetime for this to decompose. Eighty to 100 years. Now when you compare that to a Styrofoam container it takes 5 to 6 generations. Nearly or actually, the research shows over 500 years to thoroughly decompose. And as many of the testimony has here, has...is that it leaches toxins. And then, you know, it does break up. I could break this up right before you. I want to actually reuse it, that's why I brought all this. My lifestyle, my family, we recycle, we reuse, and that's what this is all about. And if any of you would like to reuse any of these, I'd be glad to give them away. They're thoroughly washed. But the point is, you know, to keep our aina clean and in our landfill less because our population is growing and we want a good economy. And to do that we need to think ahead and because this takes so long, 5 to 6 generations to break up it really, there's really a big cost to this. And I don't think it's fair that somebody who is in business and they're doing good recycling containers and takes less time. But then another business has these that take, you know, tons of, you know, 500 years to break down, I don't think it's fair. So I hope you will vote to eliminate Styrofoam products here on Maui. We did it with plastic. It worked. There's no longer plastic bags. And so to conclude, please vote to eliminate Styrofoam. Thank you.

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CHAIR COCHRAN: Thank you very much for your testimony and --

MR. GACH: Thank you.

CHAIR COCHRAN: --show-and-tell products, too. Members, any need for clarification of the testifier? Seeing none, and I think that was it for testifiers. And let me just double check in with our remote sites. In Hana, Ms. Lono, anyone show up for testimony? Ms. Lono?

MS. LONO: There's no one waiting at the Hana Office to testify.

CHAIR COCHRAN: Thank you. Over on Lanai, Ms. Fernandez?

MS. FERNANDEZ: There's no one waiting to testify on Lanai.

CHAIR COCHRAN: Thank you. And over on Molokai, Ms. Alcon?

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

CHAIR COCHRAN: Thank you very much, ladies, for being there. And I don't see anyone else approaching the podium for testimony here in the Chamber so, Members, without objections I shall now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you very much.

**. . . END OF PUBLIC TESTIMONY . . .**

**ITEM NO. 05:      POLYSTYRENE      DISPOSABLE      FOOD      SERVICE**  
**CONTAINERS (CC 13-29)**

CHAIR COCHRAN: So let's move into our first item, Members, IEM-5. And this is Polystyrene Disposable Food Service Containers. The...this is from County Communication 13-29, from Councilmember Victorino, who transmitted a proposed bill to prohibit the use of disposable polystyrene food service containers by food providers in the County of Maui. Correspondence dated on November 21, 2016 from Department of Corporation Counsel transmitting a revised proposed bill entitled, A Bill for an Ordinance Establishing a New Chapter 20.26, Maui County Code, Restricting the Use and Sale of Polystyrene Food Service Containers. And the purpose of this revised proposed bill is to restrict the use and sale of the polystyrene food service containers. So at this time, Members, who do we have here? Oh, sorry, Department, I guess is it Mr. Miyamoto coming down, and is it Ms. Ash and Mr. Parsons? Are the three of you going to be joining us for this discussion? And, Members, refer to, please refer to the bill dated November 21<sup>st</sup> this is the revised latest bill from

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Corporation Counsel and this is the one we'll be looking at today and working off of. Mr. Carroll, do you have that?

COUNCILMEMBER CARROLL: I do not. I have the one from 2009.

CHAIR COCHRAN: Two thousand nine? November 21, 2016, is it in your, on your computer there? Maybe Staff can help find it for you.

COUNCILMEMBER CARROLL: I have an old computer.

CHAIR COCHRAN: It sounds like it. And, Members, if you recall an informational task force was formed and many spoke today that were involved in mid-2014. Mr. Carroll, you found it?

COUNCILMEMBER CARROLL: Yeah, I have it now. Thank you.

CHAIR COCHRAN: Okay, very good, very good. And it was formed to make findings and recommendations on a proposed bill pertaining to polystyrene disposable food service containers and it was made up of environmental advocates, food providers, manufacturers and wholesalers of disposable food service containers, and officials from the Department of Environmental Management, Office of the Mayor. And this task force reported its findings and recommendations on November 17, 2014. The revised proposed bill incorporates language recommended by this task force and the focus of the task force was to restrict expanded polystyrene food service containers on or in which any food and beverages prepared in the County are placed, packaged, or designed for one-time use only. And the restriction would apply to polystyrene food service containers one, used by food providers, two, used by any County facility, County authorized concession, County sponsored or County permitted event or County program, and three, sold or offered for sale by any wholesaler or retailer in the County. So this bill has been in the works for a while now and, Members, it is my intention to pass it out of Committee today. We...I had the intent last meeting but we worked and did some revisions as you can see so I am hoping that today things have worked out to everyone's liking and we can pass this through during this term. Let's see, so, Department, we have Deputy Director Michael Miyamoto and also Ms. Stacia Ash, and it looks like Mr. Rob Parsons, Environmental Coordinator for the Mayor. At this time, I'll open up the floor to the Department, whoever would like to start. Is that Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Madam Chair.

CHAIR COCHRAN: Thank you.

MR. MIYAMOTO: We just await your decision. As we've gone through the plastic bag ban we pretty much have our procedures in place. We'll develop administrative rules. As we are entering a budget process, we would...the decision will help us to formulate that budget for the next coming year which Fiscal Year '18. We estimate somewhere around \$50,000, additional dollars would be needed for us to do some kind of

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educational programs, put together a flyer, and to do outreach to the community to prepare them for...should this bill pass. Thank you, Madam Chair.

CHAIR COCHRAN: Okay, thank you. And, Ms. Ash, did you have some comments at this time?

MS. ASH: I concur with everything that my Director has said. I do think it's quite feasible, possible, and we will certainly follow your lead.

CHAIR COCHRAN: Thank you very much. And, Mr. Parsons, did you have any comments at this time?

MR. PARSONS: Thank you, Chair. With respect to your Committee members' time and I know you still have another agenda item, I'm not going to offer any comments any more than I did last time which is to say that I was a task force member as was Ms. Ash and I think four of your testifiers today. So we've followed this through quite a bit and I think that you've received a number of great points in testimony to make your decision today.

CHAIR COCHRAN: Okay, thank you very much, Mr. Parsons. And at this time, Corporation Counsel, Ms. Richelle Thomson, did you have any comments to make before I open up the floor for the Committee Members?

MS. THOMSON: No, thank you, Chair, not at this time.

CHAIR COCHRAN: Okay, thank you. And also, Members, let's not forget we do have some task force members, in particular Ms. Lauren Blickley is here for our reference if needed. But at this time, I will open the floor up to you folks and see if you have any questions and comments. And, yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I apologize I wasn't here at the last meeting but I don't know whether this issue was discussed or not but I'll bring it up, I'll bring it forth. On section, for the exemptions, on 20.26.050, the exemption for "A" the polystyrene food service containers for foods prepared and packaged entirely outside of the County but sold within the County. So it's my understanding that if you package the food outside the County and it is delivered or it is brought forth to this County it's acceptable, it's under the exemption. Is that not somewhat discriminatory towards those that are manufacturing the same type of foods here and are within the County? Like for instance this food...polystyrene food service containers for foods prepared and packaged entirely outside of the County, so are those foods that are packaged...for example, peanuts that's probably not even packaged that way, but peanuts that are packaged in Honolulu and used, you know, underneath they have the Styrofoam bottom, package it, send it here, and so they have the exemption. But someone Upcountry who takes the same peanuts that's grown in their yard and use Styrofoam, and package it within the County is prevented from now selling it while the person in Oahu is allowed? Is that what this is saying?

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CHAIR COCHRAN: Yeah, Corporation Counsel? Well, as far as I mean it's because like Tyson chicken for example they, you know, you have a platter...those big Styrofoam and they have the prepackaged Saran wrapped pounds of chicken. And I mean we can't stop Tyson chicken in Missouri, wherever they're based out of in the mainland --

COUNCILMEMBER GUZMAN: That...I just don't want it to ...

CHAIR COCHRAN: --to not ship so that's why but we're trying to ...

COUNCILMEMBER GUZMAN: Right. I just don't want it to hurt our people here --

CHAIR COCHRAN: Well, there's ...

COUNCILMEMBER GUZMAN: --in our County if we're competing with outsource vendors that are bringing their foods within our County and they're getting the exemption. While then our own people who might be selling the same foods is prevented from using the Styrofoam. I don't know. Is there a cost analysis to that? Is that going to hurt our people over there? You know I don't know. I'm just asking the question is that what that means is that other vendors, food vendors that package their food outside the County are allowed an exemption? Is that what that "A" means?

CHAIR COCHRAN: Yes, Ms. Thomson?

MS. THOMSON: Thank you, Chair. Yes, that's a correct reading of that exemption. The reason that it was, my understanding, is the reason that it was drafted that way is to prevent any restraint of trade from outside the County or any impositions in the type of trade that can go on. The other kind of instance that that type of packaging is commonly used is like in saimin containers. So the dry saimin is packaged in polystyrene containers. So it would also prevent those kinds of products from being sold if they were not exempted. That was one of the concerns that was brought up a couple of years ago in one of the other drafts that the bill made its way around.

COUNCILMEMBER GUZMAN: Okay, so then that comes to the next exemption, which is "B". I understand the idea of allowing the exemptions for raw meats, poultry, fish, or eggs but then it says unless provided for consumption without further food preparation. So if you take fish and you've used e.g., as an example, "sashimi" and you cut it, then at that point you cannot then sell it in a Styrofoam container? Is that what that means?

MS. THOMSON: That's probably one thing that the administrative rules would flush out. But I believe what you're talking about is if you cut up a whole fish into fillets, unless you are meaning to consume those fillets right then and there without any kind of further food preparation then that would not be exempt. If you do intend to do something else to that food product such as cook it or something else then that would fall under the exemption. So raw meats, raw fish, and that's primarily for food safety and handling.

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COUNCILMEMBER GUZMAN: No, I get that but I'm just, I'm confused when you put "unless provided for consumption without further food preparation." That language right there is very strange.

MS. THOMSON: Right. So if you are selling sashimi on a polystyrene tray, that would not be exempt but if you're selling a whole fish ...

COUNCILMEMBER GUZMAN: But if you sell that...but if that is prepared outside, that same tray is prepared outside in a different county it can be shipped into this County and sold.

MS. THOMSON: Yes.

COUNCILMEMBER GUZMAN: See that's where I got a problem with that, you know, because I feel it's discriminating against our own people. It's either we take it out, all out, or we, you know, I would feel more comfortable just banning the whole thing. You know 'cause it just doesn't seem fair that somebody outside the County could do something and send it inside our County and sell it and then we can't do it at the same market price or at the same level. So for me that whole exemption "A" I would just delete.

MS. THOMSON: Chair, if I may respond to that?

CHAIR COCHRAN: Yes.

MS. THOMSON: What I would recommend if the Committee is looking to amend the bill to remove "A" is that we provide further information on the legality. So before that's removed I'd recommend providing some more information on the legality of whether we can in fact exert that kind of control over out-of-County food providers.

COUNCILMEMBER GUZMAN: Yeah, 'cause...

CHAIR COCHRAN: But my...

COUNCILMEMBER GUZMAN: Do you see where I'm going, Chair?

CHAIR COCHRAN: Sort of.

COUNCILMEMBER GUZMAN: I just don't think it's fair that, okay, it might be a violation of Commerce Clause, yeah, I get it. But I don't feel that it's fair to restrict our own people in the County and allow those outside the County to get away with the same things or get away with things that we cannot do here in our County. It doesn't seem fair even though it may be a violation of Commerce Clause, you know, I get it.

CHAIR COCHRAN: So, first, just had a small typo, yeah, Ms. Thomson, the "sahimi" instead of sashimi. But I think we're trying to get our County to step up to be better at how we package, and how we sell, and how we operate here and cannot control the entire outside world but hoping to at least put ourselves here in this County on the right

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path for environmentally, you know, sound practices in our packaging. I think is where that's coming from and the...and then I guess, you know, Ms. Thomson mentioned like the ramen noodles that come in those Styrofoam containers, you know, we're not going to prohibit people. Some people live on those and they're going to be shipped in for consumption. So I mean these are baby steps, one step at a time here in matters pertaining to, you know, controlling the use of polystyrene here in this County. So that's what that kind of...and trying to, yeah, not make it so --

COUNCILMEMBER GUZMAN: No, no, I get...

CHAIR COCHRAN: --hard and horrendous for everybody in the entire world.

COUNCILMEMBER GUZMAN: No, no I get what the bill stands for and the intent but I, but I want to know whether in fact we can prohibit outside I guess food that's prepared under the exemption "A" can we prohibit that, can we remove that exemption without violating any Federal Commerce Clause or anything like that? Is it...are we able to do it? I haven't done the research so.

MS. THOMSON: Chair, if I may? I would need to do some further research as well to be able to answer that question. Thank you.

COUNCILMEMBER GUZMAN: Okay. That's my only hiccup, Chair, is that exemption "A."

CHAIR COCHRAN: Okay. Anyone else have any...yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Thank you, Madam Chairman. I appreciate Mr. Guzman's concern. I think he brings up a good point but I understand where you and Mr. Victorino is trying to have us consider going to, so. I'm interested in some of the hardship things that a testifier brought up regarding San Francisco and whether or not any of those type of situations may exist with some of our businesses here for that...under that consideration. Or also to allow them sufficient time to utilize inventory 'cause I believe that was the issue, inventory not pricing 'cause I still have a lot of my own personal things regarding stew bowls and old coffee cups that have been bought years ago. Still legal under our current law that I may not be able to use in the future if I use a County facility as I read your revised bill, Madam Chairman. One of my areas of concern is under the violations component because we are referring to Chapter 19, which is basically zoning. So under enforcement is a zoning inspector going to go and give violations? Is that who we are looking at enforcing this proposal?

MR. MIYAMOTO: Chair? It falls under the Department of Environmental Management in our EP&S division similar to like how the plastic bag ban went in. Our staff went out and did the inspections and follow-up investigations.

VICE-CHAIR HOKAMA: Okay. So by job description are they authorized to issue violations?

MR. MIYAMOTO: We work with Corporation Counsel, whenever we have any kind of a violation, for them to craft us, and then it comes out of our office for the violation.

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Our staff does the investigation, writes up the report, and then our office, the Director's Office, issues the violations. We go through the whole warning process. There's a warning with so many days --

VICE-CHAIR HOKAMA: Okay, right, no, no I understand --

MR. MIYAMOTO: --for correcting, yeah, yeah.

VICE-CHAIR HOKAMA: --we have a procedure so you need to first warn the potential party, give them an ability to adjust and conform. If they don't then we have the ability to cite a violation of the Code?

MR. MIYAMOTO: Yes.

VICE-CHAIR HOKAMA: Okay. Is that the best we can do? Why wouldn't you give them the warning at the time of the inspection?

MR. MIYAMOTO: I'll have Ms. Ash tell you how...exactly how she does it when she does her inspections.

MS. ASH: So, typically what happens is we would visit the vendor, we would explain to them, you know, what we would...basically announce that we're a County representative and we're doing an official inspection, and we let them know what we're there to inspect. We do our inspection and we let them know our findings. Typically, we have found that it's fair to tell them what's going on, then give them a written warning, give them a certain period of time by which to correct the action. Then come and do a second inspection, and then tell them at the point of that second inspection that the violation will occur, and then essentially, you know, we mail them a letter after the first one and then they're given the opportunity to modify their behavior. This did happen with the plastic bag ban. On three different occasions, we sent warning letters and we never had to collect any fee at all. Everyone corrected their behavior pretty much right away. Usually it's a matter of them not fully understanding the scope of the ordinance or the admin rules or something like that.

VICE-CHAIR HOKAMA: Okay. Thank you very much for that response. I am curious 'cause I would rather see your...the fines and penalties collected go back to the Division to help support paying for the personnel to do the enforcement than go to the Open Space when we already have a source to fund the Open Space Fund by the Charter requirements. So I'm looking at doing operational support to pay for the personnel to make sure the enforcement of whatever we do in the Code. So I am more interested in putting these monies, Chair, to paying for those positions to take care of the enforcement because part of what we hear regardless of subject is enforcement, whether it be police enforcement, fire enforcement. It comes down to, well, you guys pass all these great laws, Council, but you guys don't enforce so big deal. Well, my thing is I'm into the stick not the carrot, okay. So I don't...I would prefer we consider putting the revenues to pay for enforcement personnel operational requirements to make sure the Code is followed. You know so much for great intentions. I've been

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around long enough to know that that's a great thing but actual practicality doesn't always follow. The other one, Chair, that I have a concern is when you look on Page 3, Madam Chairman, under "C" I find it interesting that we use the word "service containers may not be offered" but everything else is "shall not be used," "shall not be sold." So I was going to ask is this the intent of the Committee to make at least for "C" an option?

CHAIR COCHRAN: Sorry, the foam containers, coolers?

VICE-CHAIR HOKAMA: No, under prohibitions, Madam Chairman --

CHAIR COCHRAN: Oh, prohibitions, okay, not exemptions.

VICE-CHAIR HOKAMA: --you have "C" and it says, "may not be offered" and so I'm just asking if that was the intent of the revision to keep it optional or is you...you wish to follow the rest of your subsection where everything is a requirement? So I'm just asking for clarification and if this is a drafting thing then that's fine, I get it, you know, we can make revisions, nonsubstantive, well, this would be a substantive from an option to a mandate. So I just ask that question, Madam Chairman, for clarification.

CHAIR COCHRAN: Ms. Thomson, did we go through the "shall" and "may" on this sentence or miss...we also have Lauren Blickley here. If Ms. Blickley has any comments.

VICE-CHAIR HOKAMA: No, I need legal counsel.

MS. THOMSON: Thank you for that question. I did revise "A" and "B" and it looks like I overlooked changing that "may" to a "shall" in "C."

VICE-CHAIR HOKAMA: So the intent is to make it a requirement?

MS. THOMSON: Yeah, right. So it should be a "shall."

VICE-CHAIR HOKAMA: Okay, I get it. So thank you for that response.

CHAIR COCHRAN: Thank you for that catch, Mr. Hokama.

VICE-CHAIR HOKAMA: And, Chair, you know, I like the effectiveness date, you give people time to utilize whatever inventory is currently. And I would agree with a lot of the testimony, Madam Chairman, but on the North Shore of our island of Lanai we get a lot of the opala from Maui because of wind and sea currents. And our problem is plastic beverage containers, plastic whatever containers whether it be for power steering fluid, Clorox bleach, cargo nets, fishing lines, fishing nets, that's what litters our North Shore including capsized Young Brothers containers that the State never takes care of once it lands on our beaches. Okay, so, yes, there is Styrofoam but if what I can recall from all my walks around our North Shore there's other issues regarding what's on shorelines. And so, I would agree with comments that this is one component we have to work on but I think the general attitude toward litter and

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rubbish needs to be given enough...I know I look at those in the Division and Mr. Parsons to comment, maybe give us some recommendation on how to motivate our people to do the right thing than the easy thing. But I can tell you what is our problem on North Shore, Lanai. Thank you, Chairman.

CHAIR COCHRAN: Thank you, Mr. Hokama. Members, any other comments, or questions for the Department at this time? Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, thank you, Chair. So is Corporation Counsel going to do the research on the exemption "A" or are you going to go ahead and try to pass it through and then wait till first reading and then see what Corp. Counsel has come up with on exemption "A?"

CHAIR COCHRAN: Yeah, I can do that if you're...if you would be okay --

COUNCILMEMBER GUZMAN: Yeah, I mean like I said that's --

CHAIR COCHRAN: --in having them get more --

COUNCILMEMBER GUZMAN: --yeah, that's my only...

CHAIR COCHRAN: --information on that item "A" --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COCHRAN: --of exemptions.

COUNCILMEMBER GUZMAN: Yeah. I mean I don't know...

CHAIR COCHRAN: If that's doable, I don't know their calendar.

COUNCILMEMBER GUZMAN: Yeah, what your plans are or your recommendation.

CHAIR COCHRAN: My intent was to get this put through and so if that's needed, further information then it's, you know, I don't know, Ms. Thomson, is that doable on your behalf or?

MS. THOMSON: Yes, Chair, we can provide that information in a written memo to Council. The caveat to that is that I think that the discussion might be...it could be fairly lengthy pro and con. So it may not be a very straightforward answer.

CHAIR COCHRAN: Okay. Yes, Ms. Blickley? If...Members, without objections, can I get a resource person down?

VICE-CHAIR HOKAMA: For what purpose, Chair?

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CHAIR COCHRAN: To...are you going to address that question? Yes. To address what Mr. Guzman is asking.

VICE-CHAIR HOKAMA: And she represents who?

CHAIR COCHRAN: She can...

MS. BLICKLEY: The task force. I was called as a task force representative.

VICE-CHAIR HOKAMA: So the task force authorized to speak today?

MS. BLICKLEY: I am representative as a task force member 'cause I was on the task force. I wasn't ask specifically by the task force. I was asked by miss...Chair.

VICE-CHAIR HOKAMA: So you're just speaking as an individual then.

MS. BLICKLEY: I will speak as an individual. One thing, and I think you bring up a good example, and what we were trying to do with that section of the exemptions in the bill is that when you look at something like the Tyson chicken, that requires additional preparation. So the first exemption doesn't apply to that, that falls under the second exemption. And so with the first exemption saying that it has to be prepared and ready for purchase, we...and I agree that maybe Corp. Counsel needs to look into maybe potentially clarify it. But we were really trying to, you know, obviously we have a lot of like poke bowls and things like that that are the types of raw fish that can be consumed. When we did our research, we also couldn't find any examples when you like brought up for example peanuts of items such as that that would be shipped in from Oahu specifically or other counties and maybe there are but we couldn't particularly find any examples. And if there were examples of those items shipped in that were competing directly with a Maui-based company that...then that Maui-based company could also potentially apply for the hardship clause, which we've included also. So that's just what I wanted to try to clarify with that. And I know that Rob Parsons had also done some research into this as well in terms of trying to make sure that we're not violating any Commerce Clauses but at the same time addressing the fact that our culture here we have a lot of the raw meats and fish and things like that. And we do ship in a lot of products and how we balance both.

CHAIR COCHRAN: Any questions for the resource person?

COUNCILMEMBER GUZMAN: Now --

CHAIR COCHRAN: Sorry.

COUNCILMEMBER GUZMAN: --you're getting me more confused because...

CHAIR COCHRAN: Is that a question for Ms. Blickley?

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COUNCILMEMBER GUZMAN: No, no, obviously, you know, maybe peanuts was a bad example but there was a, there is a Golden Coin Filipino restaurant that was just brought up from Honolulu based down here on Lower Main. And they ship in this adobo or it's a meat that's cooked, and I think some of it is kalding too, and they make it in Honolulu and then they ship it here. And then you go there five o'clock, six o'clock in the afternoon and you can purchase it and they give you it in a Styrofoam packet. But when they ship it here and it's already in the container and the little I guess wrap over it and they're selling it, that's legal, that's under the exemption. But for those that like say across the...up the street that's going to make their own type of meats they are not going to be allowed to use the Styrofoam and wrap to put it under the heat, right, for sale? And my problem is that's not fair. That's not fair that a Honolulu company can come in here and sell their products and have this exemption and then you're asking a local business to go out and apply for a hardship section, go under the hardship section so that they can compete with the Honolulu product that comes in here. That's my beef, you know. I totally get the, you know, I totally support the intent of this bill but I don't want it, I don't want this bill to be a burden on or at least have a less advantage to those who live outside the County in competing business-wise. That's where I'm coming from. You know 'cause we've got to look at all...we got to balance both sides. You've got to balance the environment and also our economics. And so if we can fix this language I would be fine with this bill. Just this exemption but this exemption "A" bothers me.

CHAIR COCHRAN: So you think that the hardship clause isn't, doesn't suffice?

COUNCILMEMBER GUZMAN: Well, I think if we're going to...if we're going to do across the board make it fair for everyone, get rid of exemption "A."

CHAIR COCHRAN: But the hardship clause in that...

COUNCILMEMBER GUZMAN: Yeah, and keep the hardship clause in there so that outside, outside --

CHAIR COCHRAN: Because as...

COUNCILMEMBER GUZMAN: --island people can go under the hardship clause as well as the...our local County businesses go underneath the...utilize the hardship clause so it's equal playing field. That's just my, you know, that's what I would --

CHAIR COCHRAN: Right.

COUNCILMEMBER GUZMAN: --like done is delete exemption "A" and if there needs to be some kind of exemption then both businesses either outside the County or within the County can apply through the exemption, through the hardship exemption clause.

CHAIR COCHRAN: Okay. I guess I'm kind of sticking to the point as in those baby steps once again --

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COUNCILMEMBER GUZMAN: Right.

CHAIR COCHRAN: --to try and change our practices here in this County. And, you know, and then you kind of raise the red flag as in the heating of it too underneath the heat lamps. I mean I understand but, you know, it's been stated how heat creates leaching of what's in this polystyrene that we're trying to ban here in this entire bill to begin with. But, you know, again that's your thoughts.

COUNCILMEMBER GUZMAN: Again, my point, if we deleted exemption "A" it would ban it from within our County and coming in outside our County if that's the intent. And then you have the exemption, I mean the hardship exemption, which anyone can apply for or at least get a waiver for or consent to do.

CHAIR COCHRAN: Ms. Thomson, that hardship clause, will that be for someone from the mainland to file or someone out of this County to file? I don't...is that true? Is that how that could be utilized? I don't think so, is that right?

MS. THOMSON: Thank you for the question, Chair. The hardship exemption would apply really to anyone, any food provider who wishes to sell prepared foods within the County probably without regard, you know, where they originate from. If they wanted to apply for an exemption, they could. As to removing "A" I just wanted to repeat that I don't have that answer for you today. As far as restraint of trade from...on companies outside of the County and whether or not that would set us up for potential legal challenge of the ordinance.

COUNCILMEMBER GUZMAN: That being said it's...I think the further research on whether we can delete exhibit, I mean exemption "A" needs to be done. And if we can delete exemption "A" then the hardship provisions would be applicable across the board whether it's within the County or outside the County. And it would allow the...whoever department is in charge of this enforcement discretion under the hardship provisions under the administrative rules that they would create to determine what is acceptable and what is not acceptable coming into our County. I know that's...that could be a way of looking at it.

CHAIR COCHRAN: Oh, Ms. Ash, you look like you had some comments?

MS. ASH: Thank you for letting me speak. From an administrative enforcement angle, I agree with you, Councilman Guzman, in that what usually happens is we go out and do an inspection when we receive a complaint call. So I'm thinking of the Wailuku Chevron here right around the corner and they sell the chow fun on the plates and those sushi things right there at the cash register. And so what if they're shipped in from Oahu am I going to get a call every day from 50 people? And will I then have to explain well those are allowed because they're shipped from another location? So personally, I think that it would be much cleaner if that were removed as well.

CHAIR COCHRAN: Okay. Mr. Miyamoto, did you have comments?

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MR. MIYAMOTO: Madam Chair, no. We're just going to yield to Corporation Counsel, let them do the research and make a determination whether or not we violate any other laws possibly.

CHAIR COCHRAN: Okay. So...oh, sorry, Mr. Parsons, you're kind of in the back corner there. Sorry about that. Yes.

MR. PARSONS: Thank you, Chair. If I may, I'd like to address Councilmember Guzman's point. I think part of...initially I didn't get where you were going with this but now I think I've got a better understanding and I see the wisdom in what you're proposing is because whether or not it's deemed to be punitive for local producers, it does set up an inequality. And, yes, maybe educated Maui consumers would want to buy local but actually they don't know if it's coming from Honolulu or where it's coming from in many cases. And it's not just a few items, I mean I can think of manapua, manju, things with limited shelf life but that are still capable of being shipped interisland. And so, from my understanding of the enforcement that happens within DEM and EP&S Division, it would then be incumbent upon them to educate the retailer here on the full scope of the law saying look there is no exemption from...coming in from Honolulu or everywhere else, it's a level playing field. So that they would then source what their putting on their shelves and selling to consumers in a non-polystyrene product so it would be a level playing field.

COUNCILMEMBER GUZMAN: And if they wanted to use the Styrofoam, this is from a vendor outside the County, they could go under the exemption of hardship and say, okay, let me prove to you that this or let me --

MR. PARSONS: Right.

COUNCILMEMBER GUZMAN: --get permission from the --

MR. PARSONS: So that they would have the...

COUNCILMEMBER GUZMAN: --authorizing agency or department.

MR. PARSONS: Yeah, so they would have the same right to petition --

COUNCILMEMBER GUZMAN: Right.

MR. PARSONS: --the Director as someone who was based on Maui.

COUNCILMEMBER GUZMAN: Correct. Now you go...yeah.

MR. PARSONS: Yeah.

COUNCILMEMBER GUZMAN: That's what my line of...yeah.

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CHAIR COCHRAN: Thank you, Mr. Parsons. Yes, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COCHRAN: And then Mr. Carroll.

COUNCILMEMBER WHITE: I'm having a difficult time understanding why it would be restraintive trade to tell Cup O Noodles that they had to send their product in a paper cup instead of a styrene cup. And to that end, I'm wondering if Ms. Ash has an idea of whether the San Francisco ban bans Cup O Noodles from sending Styrofoam or styrene cups into San Francisco or not. So it's a question for each of you.

MS. ASH: I don't actually know the answer to that question but perhaps Rob Parsons might.

MR. PARSONS: I'm Googling as fast as I can. Yeah, I'm not clear on that particular point.

COUNCILMEMBER WHITE: Then maybe, Corp. Counsel, if you could share your thoughts?

MS. THOMSON: Thank you. I did look into this, into the issue of restraint of trade or Commerce Clause issues several years ago when the bill first came across my desk. Because this bill as proposed, you know, included the limiting language that we weren't seeking to affect any kind of extra County entities, I didn't look into it so I don't have the answer right with me but I'm happy to look it up and I can certainly provide it fairly quickly.

COUNCILMEMBER WHITE: 'Cause I agree with Mr. Guzman that it's not fair to impose things on local providers that are not being imposed on people who are similarly selling here on, you know, in Maui County. And it doesn't seem like it's a restraintive trade to tell them that we have a problem with their packaging, not their product.

CHAIR COCHRAN: Okay.

MS. THOMSON: And I'll definitely look into it. Thank you.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

CHAIR COCHRAN: Okay, yes. And then Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. It was pretty much what Mr. White went over. I couldn't support taking it out until we can be sure what it would entail a cup of noodles or anything else. I could support the bill like it is and but unless we can clarify that, we could do more harm than good. We really, really need to know what the effects would be if we did take out that section and until we do that I could not support taking out that section unless we had more information. Thank you.

CHAIR COCHRAN: Okay. So, Mr. Carroll, you're...you would prefer to keep it...

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COUNCILMEMBER CARROLL: I'm supporting what's on here right now but I cannot support taking out that section until we have more information to make sure that we're not shooting ourselves in the foot over here by doing that. The Cup O Noodles was a good example.

CHAIR COCHRAN: Okay, I think...sorry, Mr. White, did you have your hand up?

COUNCILMEMBER WHITE: Yeah, I was just texted by Staff that the San Francisco ban doesn't start until January 1<sup>st</sup> of next year and since ours doesn't start until I think July of 2018 we certainly have time to tweak this, so.

CHAIR COCHRAN: Okay.

COUNCILMEMBER WHITE: So we may...we don't necessarily have to make the changes by first reading.

CHAIR COCHRAN: So I'm, I mean, I don't know if any...I'm okay in taking this out. I think what you're suggesting, Mr. Guzman, so unless every...but then Mr. Carroll's saying opposite right now. So we can I guess move forward and get the further information and research done by Corporation Counsel and, you know, work on what it clearly means with or without. Yes, Mr. White?

COUNCILMEMBER WHITE: If we take it out who has the responsibility of calling all the vendors that ship things in from Japan, from Taiwan, from the mainland, and elsewhere to let them know, sorry, we can't accept this anymore?

CHAIR COCHRAN: Ms. Thomson?

MS. THOMSON: Enforcement would be...would fall to Environmental Management under this proposed ordinance. Just as an aside, so Washington D.C. had...also has a polystyrene ban and the law, this is, you know, really just anecdotal, though as far as whether it would apply in our situation. But the D.C. law does not apply to food or beverages filled and sealed in foam containers before an entity receives them, e.g. foam carton of eggs packaged outside of the district.

CHAIR COCHRAN: So, D.C. has it similar to what's...as written here today then? Yes, Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Madam Chair. In trying to address the comment about, you know, who's going to let all these vendors, these stores, retailers know about this, you know, through our education process we would let them know what's permissible and what isn't. And then it becomes the vendor's responsibility to notify their suppliers what's...what they can and can't purchase and bring into this...the County. So it's going to fall upon the people who are bringing the products in. So we'll just do the enforcement once it gets here.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

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CHAIR COCHRAN: Okay. Okay. So, Mr. Guzman, you started it.

COUNCILMEMBER GUZMAN: Okay, you know, I'm willing to pass it through if we get the research in by the first but that exemption "A" really bothers me, you know. And the fact that, you know, it's not an equal playing field for businesses in the County competing against those that are bringing products within. So if they can produce some information otherwise or we can amend that section then I'm okay with passing it through if you're intent is to try to get this to the full Council before the end of this year.

CHAIR COCHRAN: Yeah, I mean that's, yeah, been my intention and I think we can get enough information by first, definitely by the second reading in regards to your, you know, question and concern. But I'm also thinking Mr. White's question just now about, and Mr. Miyamoto said they would contact the purveyors and we don't take this type of packaging anymore. But that's...sounds like a pretty daunting task too, I mean not to say that's it's not impossible or doable but, you know, it's just some step that we'll have to take and to get towards the end goal which is to one day, you know, not have these containers here any longer. So and other places have already started that ball in motion and have been making do with the community's efforts, so. But yeah, I mean 'cause at this point I'm...I mean if, you know, I'm okay in removal so we can move it forward but again we can keep it as is. As Mr. Carroll is saying, is more willing to have it at this point and then we can work on the information that we'll be getting back from Corporation Counsel between now and first reading. So does that sound doable? Mr. Hokama, yes, you had some comments?

VICE-CHAIR HOKAMA: Madam Chairman, I find it interesting, I think there's some consensus on people wanting more information yet we're going to make a decision without that information. I find that intriguing. Second, I would ask the Members whether they find my consideration of where the fines go to have merit or not merit because I'm...if you're ready I'm willing, well, we need a motion, main motion first. But my thing again is I really think we need to consider where the monies for those fines and penalties go instead of the Open Space Fund at this time 'cause I have a concern of how much all our brand new contracts is going to cost this County once we finish negotiations. So I appreciate that, Chair. Thank you.

CHAIR COCHRAN: Yeah, thank you, Mr. Hokama. You brought...and I...that's a good idea. I'm just trying to maybe run it by, Department, how would you...would you be able to break that down like the actual cost to be reimbursed of sorts from these penalties or fines garnered to your Department in your enforcement section? Is there like a mechanism or someday for you to calculate that if we put the money towards that use?

MR. MIYAMOTO: Madam Chair, in following what we did in the plastic bag ban we did periodic investigations, surveys during the year that...the years that we were doing the reporting. We did around I think it was about three or four visits, and we also did investigations when people reported somebody bringing in a bag that was marginal.

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So it's part of...it became part of our daily work requirement. So, but the initial education was where we said the additional 50,000 would be something we would have to do, print all the new materials, spend a lot more time with the individual businesses to make sure they understand. If you recall when we did the plastic bag ban, we did provide a lot of banners for a lot of the businesses so that they could help educate their customers about the ban bag. And so those are the kinds of things that we're looking at from the front-end. Once it's implemented then it becomes part of our daily business for the EP&S division. As far as, you know, the additional cost only if we have violations did it really become an additional cost. And as Ms. Ash had stated we had several but we really never got to a point where they resulted in any fines because they complied as soon as we brought it to their attention, we educated them, and then they came into compliance. So we really don't have a good cost on it at...additional cost for violations.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I don't think the Committee has any problem with what you just shared. What we're asking you is, is there an issue if there is fines and penalties to be received by the County, we place it in an operational account to help pay for overhead and we just deal with it through the fee schedule in the budget process under the component that we work on on Schedule A or whatever schedule. I cannot tell you what schedule but we go through this annually in its review and you can you give us an annual report; guess what guys full compliance so there's no money. Great or gosh, you know, how much we collected, so obviously we're having a problem with compliance 'cause look at how much we collected in violations. Okay, it's going to give us an indicator of where the program is, that's what I see as a potential tool to help us make adjustments if need be in the future. Thank you, Chair.

CHAIR COCHRAN: Okay, thank you. And, Ms. Thomson, you had comments?

MS. THOMSON: Yes, thanks. I think that would be an easy change to this bill to change the current recipient of the fines and penalties to be the Solid Waste Fund and then use it as you suggested. One of the other, this is related to and of our discussion on enforcement and prohibitions relating to people, entities outside of the County; enforcement potentially can be a problem, too. So do you cite the entity selling the food that came on a polystyrene container, you know, from outside the County? We don't have jurisdiction to enforce outside the County so we wouldn't be able to enforce against the actual entity that wrapped that food in polystyrene.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Is there an ability for our Department to work with like State Health Department because they send their health inspectors to give 'em the green card, yellow card, red card, right, you know, food establishments? Is there a way we can do a cooperative thing with their health inspectors to say are these guys using banned material in their operations? Since they go in there and they inspect on a regular

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basis. Is that something doable? Something we can consider or Mr. Hokama just forget that, forget it, it ain't going to work?

MR. MIYAMOTO: Yeah, they're pretty...they're having their own problems with manpower and getting things done and so, you know, in the past what we've done is we've made them aware of it. Like for example like our wastewater pretreatment process for the grease interceptors, they completely stay out of it and if they see an issue while they're doing their inspections they will notify us. It hasn't happened that often. I think maybe I can recall only one time where an inspector notified us only because she used to be a restaurant owner and she knew exactly what was needed in the inspection she was doing for the State at the time. That issue came up so she notified us. And so it rarely comes up but we'll educate them also on our new rules and they can...they certainly will help us as we help them.

VICE-CHAIR HOKAMA: Thank you. Thank you, Chair.

CHAIR COCHRAN: Okay, thank you very much for that discussion, Mr. Hokama. I think it's...you make a good point and that would be a good way to utilize if any money is, you know, garnered through this process. Let's hope not, I mean people are compliant. I believe in another item we're looking to utilize fines for the Open Space Fund in another idea, which that's more about open space. So this one too I think is more geared towards the entity that's...whose resources is going to be utilized, right, to implement and enforce. So I think you bring up a good point and it looks like it would be a fairly simple change in the document. So I'm open for that, too. Yeah, so I mean I know what...you folks know what my intent is at this time. If we're okay to, I guess most of us, okay to move this with further information to come or, you know, if need be, and just to keep it clean and, you know, up and up to just defer it in order to get everything we need to write a good solid clean copy. I mean, you know, we can do it that way, too.

VICE-CHAIR HOKAMA: Madam Chairman, is...are you aware of something that before the January 2017 clock turns that we need to do final action? Because we know that even if we just get first reading next month--we're still in November--Council still can take final action in early January. So I'm just wondering if you are aware of something that I'm not that the clock is a factor?

CHAIR COCHRAN: You know, Vice-Chair Hokama, no. It's just something that as we all know has been in the works for --

VICE-CHAIR HOKAMA: I understand, Chair.

CHAIR COCHRAN: --for a *long* time and I mean from the initial referral to the whole task force, to the whole all this, and it's just one of those things. It's year-end and it's one of those items where, yes, let's hopefully all this entire term trying to work on it and beyond to finalize and wrap it up in a nice little bow and a pretty package and send it forth into the world kind of thing. But again, you know, I'm not one to rush and do

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things haphazardly. I want to make sure that things are very clean and done properly and thoroughly and correctly --

VICE-CHAIR HOKAMA: Thank you, Chair.

CHAIR COCHRAN: --and that's fine. You know, I'm okay but again it's just one of those moments where, and I think every committee has gone through that --

VICE-CHAIR HOKAMA: Yes.

CHAIR COCHRAN: --with an item or two and it's just you really want to complete but if it's not there then it's, you know, just not in that grasp at this time then that's fine, too. Because I can, yes, I'm very thankful and happy that I will back so I can continue the work and, you know, move it forward in the new year. I mean that's, that's also something doable --

VICE-CHAIR HOKAMA: Thank you, Chair.

CHAIR COCHRAN: --at this time. So I guess, Members, are you...so you folks I guess we...shall I defer, is that the consensus here that you folks want to go ahead and have more work done on it in order to move it? 'Cause it's basically what Mr. Hokama suggested to change out where the fines and penalties will go to the Solid Waste Fund versus Open Space. And then the question, Mr. Guzman, in regards to your Item "A" for exemptions, you know, too. And the task...the people here I think are...Mr. Parsons chimed in, Ms. Stacia chimed in, and others in the gallery have chimed via text messages that they're okay with it too, they totally see your point. And it's something that, yeah, it can be done but again we'll need to have the rewording of sorts. And personally, I think that can be done on first reading, additional information can come from Corporation Counsel. It was already shared that D.C. has kept that clause or exemption in their verbiage but, you know, we can just see how the added information that we garner through first reading. So, I mean we can do that route, too, at this time. So, again, I just, you know, this is a majority and I don't want...I'd just rather seek your folks' input in the matter at this time.

COUNCILMEMBER GUZMAN: First reading would be in two weeks' time that would have the research done?

VICE-CHAIR HOKAMA: December 16<sup>th</sup> I think.

CHAIR COCHRAN: Sorry, you're good?

MS. THOMSON: Yes, I could have that done.

COUNCILMEMBER GUZMAN: I'm just asking, it's the holidays.

CHAIR COCHRAN: I have the date, sorry, you wanted to know when first reading would be?

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COUNCILMEMBER GUZMAN: Right, right.

CHAIR COCHRAN: That would be December 16<sup>th</sup>.

COUNCILMEMBER GUZMAN: Okay, good.

CHAIR COCHRAN: And then second reading will be...

VICE-CHAIR HOKAMA: January.

CHAIR COCHRAN: What is that?

VICE-CHAIR HOKAMA: January.

CHAIR COCHRAN: First Council meeting in 2017, the very first. So that's the first, January 2<sup>nd</sup> afternoon meeting? Yeah, okay.

COUNCILMEMBER GUZMAN: Oh, so January 2<sup>nd</sup> would be the second reading? No, wait.

CHAIR COCHRAN: Will be second reading.

VICE-CHAIR HOKAMA: Yeah, because we already posted --

CHAIR COCHRAN: Yeah.

VICE-CHAIR HOKAMA: --for the first reading this week already --

COUNCILMEMBER GUZMAN: Oh, okay, okay.

VICE-CHAIR HOKAMA: --so that's the first...

COUNCILMEMBER GUZMAN: Oh, so we're already in the new year.

VICE-CHAIR HOKAMA: So no matter what we cannot finish this term.

COUNCILMEMBER GUZMAN: Yeah. Well, it's up to you, Chair, I mean we're not going to be able to, you know, pass this out during this term anyway.

CHAIR COCHRAN: Right.

COUNCILMEMBER GUZMAN: So, it, you know, I'm okay either way as long as I get the research in my hands to read and go over.

CHAIR COCHRAN: Right. Well, I look at it, I mean these are in a sense kind of formalities, right, we have to go through the motions and then come the new year I mean we can just kick this into gear and get it rolling. Because it's going to take time for our community, and our vendors, and everyone to, you know, the education piece of this

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to get out there and notify, and people use up inventory, and what have you like the plastic bag ban. So I mean for me the earlier we get it going the better so that's kind of my take. But I see Mr. Parsons in the corner of my eye trying to get my attention so let me turn the floor over to Mr. Parsons.

MR. PARSONS: Thank you, Chair. Just with respect to your comments I wanted to add that I'm happy to do some of the research from a few of these last lingering questions that had been raised, which I think merit, you know, thorough answers. And rather than have this all fall on Ms. Thomson's shoulders as legal answers, I'm happy to continue to work with the task force members that have worked together over the past couple of years and find out how other jurisdictions have handled this because this is not unique to Maui County. It's been taken up in 100-plus different communities, and I can get an answer to the Cup O Noodles question for San Francisco. And I was not able to find that quickly other than that the San Francisco ban is the most comprehensive in the nation at this point, and they've even banned Styrofoam packing peanuts. But that also speaks to the fact of they're banning what they can within their jurisdiction which is kind of the...what your question is hinging upon. And so, if someone ships a package to San Francisco that has packing peanuts then they're not going to fine the person in, you know, Columbus, Ohio who shipped it but they're just not letting their retailers and packaging people sell packaging peanuts to, you know, to customers who want to ship something on their own. So that's the distinction that I think that you want a little more information on and I'm certainly...I can commit to having that information by December 16<sup>th</sup> if it were to be on the agenda for first reading.

COUNCILMEMBER GUZMAN: Yeah, and if there are...if there is other jurisdictions that is using more comprehensive language or narrow language to resolve that type of issue that needs to be looked at and maybe that could be incorporated into the existing language that we have right now. I'm not...I don't know. You know I don't know what type of ordinances or laws they have in other jurisdictions but it's something that you can template and it might even be more comprehensive or I don't know, more general. I don't know but those are the kind of questions I needed to look at 'cause there could be a way around it or to resolve it, so.

CHAIR COCHRAN: Okay.

COUNCILMEMBER GUZMAN: So, if it's not a problem, Chair, I think it would be better if we defer this so that if there...if it is more comprehensive language that we need to incorporate we won't be doing it on first reading and that gets kind of messy. And then you're not the Chair at first reading, yeah, we have the Council Chair. And I don't know if the Council Chair would like to do committee work on the floor at that time.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I would say, Madam Chairman, you know, I was willing to consider your request to send it to Council but I'm like most of the Members not willing to do

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committee work at the Council meeting. And the disadvantage of kicking it out is if it becomes a greater issue than just a requirement of making minor adjustments then more than likely we would recommit to Committee. Then Committee is going to have to repost and more time will take to that process then if we deferred and just kicked it out for first and second reading. So that's something you might want to think about on the two ways of doing this and which will take more time. I think send it to Council and then having issues there to recommit we still can fix it but it will take longer 'cause it will go back to Committee for reposting, that's two more weeks. Then after your hearing, two more weeks for sending back to Council, so you're going to lose about six weeks maybe if it goes to Council and gets recommitted. So that's something you might want to consider, Chair, but, you know, since you folks are open to the change on the penalty section, you know, I think mister, I don't know what Mr. White and Mr. Carroll positions are regarding that consideration of going to Council first and if need be recommitment. But if you're okay with that knowing that it will take longer with a recommitment if it requires it, I'll make the motion for you, Chair.

CHAIR COCHRAN: Okay. Mr. White, yes, you had comments?

COUNCILMEMBER WHITE: Yeah, thank you, Chair. The first meeting of the year is I think just going to be spent on organizational items so it wouldn't be until the second meeting but that would be the case anyway because first reading can only happen...we can only get to first reading even if we pass it today. So it's your call, I'm open to whichever way you decide to go.

CHAIR COCHRAN: Okay. Yeah, I'd like to move this out, Members, if you don't mind. I don't foresee...I think as I mentioned the one topic Mr. Hokama brought up isn't that daunting. And then I think the comments, you know, that you're...that we're looking to address for you, Mr. Guzman, is very doable. As Mr. Parsons explained, you know, we're not inventing the wheel here. Others have been going through it and I believe...and he's willing to pitch in and do research as with Ms. Thomson and I see Department nodding their head too 'cause they're very much on board with you and your comment. So I think collectively we have some good energy and willingness to make sure that we do what's right. And come, you know, first reading, I...for me deep down I really feel there's not going to be a huge, you know, earth shattering thing where oh, my God, you know, we got to...what happened, it turned on its head and we got to recommit this whole thing back. As I mentioned there's been a lot of...it's been since 2014 I think this has been worked on so and she's got a whole binder. Anyhow, so, Members, yeah, if you don't mind I'd really...my recommendation is to passage on first reading of this revised proposed bill entitled A Bill for an Ordinance Establishing a New Chapter 20.26, Maui County Code, Restricting the Use and Sale of Polystyrene Food Service Containers; and incorporating any revisions made at today's meeting along with nonsubstantive revisions. At this...and filing or filing? No, file...and filing of County Communication 13-29.

VICE-CHAIR HOKAMA: Chairman, I make the motion for you.

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COUNCILMEMBER WHITE: Second.

CHAIR COCHRAN: It's been moved by Vice-Chair Hokama and moved by Chairman of the Council, Mr. Mike White. Members, any further discussion on the matter here today? Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Madam Chairman, thank you. I'll support your request this afternoon. I still have some concerns I think Mr. Guzman was very eloquent in sharing with us this afternoon but I'll state for the record I am looking at a revised revision of the revised bill. And one advantage, Madam Chairman, is I want the Committee to be able to see the revised proposal especially on the violations and penalties, whatever nonsubstantive changes because I think a change from "may" to "shall" is a big deal in that one component. I think Mr. Guzman's concern regarding Section A or the hardship area is a legitimate concern and so I'll state that today I'm happy to support your request. But if at first reading, it becomes an issue for me I'm going to be very upfront and say I will ask for recommitment. Thank you so much, Madam Chairman.

CHAIR COCHRAN: Yeah, and thank you very much for the comments. Thank you, first of all, for the support but thank you for your comments, and duly noted, definitely. There's nothing...ever would I want to push something that's...things are left hanging, you know, so by all means. As I state, if it turns out to be something just overbearing and, you know, we cannot move this forward, yeah, definitely recommit. So that's not a problem.

VICE-CHAIR HOKAMA: Thank you, Chair.

CHAIR COCHRAN: So, yes, and, yes, Mr. White?

COUNCILMEMBER WHITE: Madam Chair, I'd be happy to entertain a motion from Mr. Hokama to make the corrections that he suggested and a motion for Mr. Guzman to delete Section A 'cause I think it may be less work to put one or two of those back in then it would be to take all of them out. But that's up to those two gentlemen. Thank you.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Procedurally, I see Mr. White's point so, Chair, I make a motion to amend at this time that on Section B of 20.26.060 that it be revised that fines collected pursuant to this Chapter shall be deposited into the Solid Waste Trust Fund and to be determined by the fee schedule annually by the Council. And I would allow Staff and Corporation Counsel to make the appropriate wording for legal and conformity too, requirements.

COUNCILMEMBER WHITE: Second.

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CHAIR COCHRAN: Okay. It's been moved by Mr. Hokama and seconded by Mr. White. And, Members, further discussion on the amendment? Seeing none, all those in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed say "no." No opposed; so motion passes with five "ayes" and two excused.

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama, Councilmembers Carroll, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and Crivello.**

**MOTION CARRIED.**

**ACTION: APPROVED AMENDMENT.**

CHAIR COCHRAN: Now, back to the main motion. Or, Mr. White, were you going to do another amendment?

COUNCILMEMBER WHITE: No, their ideas, they know where they are.

CHAIR COCHRAN: Oh, or the "may" --

COUNCILMEMBER WHITE: Or I guess...

CHAIR COCHRAN: --and "shall."

COUNCILMEMBER WHITE: The "may" and "shall" was one of them and then Item A under exemptions was the other.

CHAIR COCHRAN: Yeah, Mr. Guzman --

COUNCILMEMBER GUZMAN: Oh...

CHAIR COCHRAN: --I mean if you wanted --

COUNCILMEMBER GUZMAN: No, Chair, at this time --

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CHAIR COCHRAN: --to remove "A"...

COUNCILMEMBER GUZMAN: --it's difficult to, for me to get a handle on because I don't have the information before me. So for me to move forward with an amendment to delete or I would rather have that, you know, information from other jurisdictions and the other language to make that call at this time. So right now I just don't know whether it should be deleted or not.

CHAIR COCHRAN: Okay, okay. Did we want to work on the "may" and "shall," Mr. Hokama, at this time?

VICE-CHAIR HOKAMA: Chair, that's why my main thing was to --

CHAIR COCHRAN: Or is that just non...that's not nonsubstantive?

VICE-CHAIR HOKAMA: --get a clarification what was your intent or Corporation's intent --

CHAIR COCHRAN: Yeah, yeah.

VICE-CHAIR HOKAMA: --because that was...just stood out for me that that was one interesting --

CHAIR COCHRAN: Right.

VICE-CHAIR HOKAMA: --change from the...all the things prior to. So my thing was more of a clarification and if the Committee prefers, I'm happy to make a formal motion to amend it but I thought that was part of our housekeeping requirements. So I leave it to you, Chair, what do you prefer.

CHAIR COCHRAN: Well, I...yeah, I agree with your point and I believe Ms. Thomson mentioned that. Thank you for calling that out. It was an oversight I guess of sorts. So I'm not sure, Ms. Thomson, will this be considered housekeeping or nonsubstantive? I think it kind of is substantive in a sense.

MS. THOMSON: It's substantive but if...

VICE-CHAIR HOKAMA: Chair, then you know what let's not argue about --

CHAIR COCHRAN: Okay.

VICE-CHAIR HOKAMA: --you know 'cause I don't need one protest later on the ordinance. So I move to amend Section C of 20.26.040 that we replace the word "may" in the sentence with the word "shall."

COUNCILMEMBER WHITE: Second.

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CHAIR COCHRAN: It's been moved by Mr. Hokama and seconded by Mr. White. And, Members, any discussion on this? We see where we're at on, under prohibitions Item C. So all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed say "no." No opposed. Amendment passes with five "ayes," two excused.

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama, Councilmembers Carroll, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and Crivello.**

**MOTION CARRIED.**

**ACTION: APPROVED AMENDMENT.**

CHAIR COCHRAN: And now we are back to the main motion. With that, Members, any further...yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Did the Department recommend July 1 of 2018 or is that your considered date, Madam Chair? 'Cause I just was curious why July 1 instead of January 1 of the new...I'm just curious.

CHAIR COCHRAN: Is that the start of the new fiscal?

VICE-CHAIR HOKAMA: Oh, the new fiscal year for the County starts on July 1<sup>st</sup>, Madam Chair.

CHAIR COCHRAN: Right.

VICE-CHAIR HOKAMA: But like we just heard...told somebody starts on January 1<sup>st</sup>. So, I just was curious if you had a specific reason why you wanted July 1.

CHAIR COCHRAN: I think, you know, we did the fiscal is that right, Ms. Espeleta?

MS. ESPELETA: Madam Chair, I think we chose the date...

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CHAIR COCHRAN: And we mirrored plastic bag.

MS. ESPELETA: Yeah, we wanted to allow time for the vendors to utilize their stock supply and we, you know, threw out the date of 2018 versus 2019 and decided that we wanted to push it up a year so 2018 and July was, you know, the month that we chose.

VICE-CHAIR HOKAMA: Okay, so there's no magic, right? It's just giving them sufficient time to work on existing inventory.

MS. ESPELETA: That's correct.

VICE-CHAIR HOKAMA: Okay. Well, the good thing is we'll be able to hear comment on the revised bill that we would post, Chair, so I'm looking forward to --

CHAIR COCHRAN: Okay.

VICE-CHAIR HOKAMA: --those testimonies. Thank you.

CHAIR COCHRAN: Okay. Very good, Mr. Hokama. Members, any need for further discussion on the main motion? Seeing none, all those in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed say "no." Seeing no one opposed, motion passes with five "ayes," two excused.

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama,  
Councilmembers Carroll, Guzman, and  
White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and Crivello.**

**MOTION CARRIED.**

**ACTION: FIRST READING of revised bill and FILING of  
communication.**

CHAIR COCHRAN: And again thank you very much, Members. This will be done in completeness coming up very shortly. So I appreciate that and I see the gallery and

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the public appreciates it very much, too. With that, Members, sorry, we went overtime on our mid-morning, mid-day break and at this time, we will be in recess till 4:10. Aloha. . . .(gavel). . .

**RECESS: 3:58 p.m.**

**RECONVENE: 4:14 p.m.**

CHAIR COCHRAN: . . .(gavel). . . Aloha. Will the Infrastructure and Environmental Management Committee please come back to order.

**ITEM NO. 68: AUTHORIZING COUNTY TO ENTER INTO A SITE LEASE  
RELATED TO AN ELECTRICITY GENERATING FACILITY  
AT WAILUKU-KAHULUI WASTEWATER RECLAMATION  
FACILITY (CC 16-134)**

CHAIR COCHRAN: And next item on our agenda is IEM-68. This is Authorizing County to Enter a Site Lease Related to an Electricity Generating Facility at Wailuku-Kahului Reclamation Facility. And this is from County Communication 16-134, from Director of Environmental Management, transmitting a proposed resolution relating to a site lease agreement with SPE, LLC for an electricity generating facility at the Wailuku-Kahului Wastewater Reclamation Facility. And correspondence dated October 10, 2016, from Department of Corporation Counsel, transmitting a revised proposed resolution entitled, Authorizing Site Lease Related to an Electricity Generating Facility at the Wailuku-Kahului Wastewater Reclamation Facility. And the purpose of the revised proposed resolution is to authorize Anaergia Services, LLC dba Maui All Natural Alternative, LLC to install, operate, and maintain, a system that produces electricity and dry sludge within a portion of the Kahului-Wailuku Wastewater Reclamation Facility site located at 281 Amala Place, Kahului, Maui, Hawaii, and identified for real property tax purposes as Tax Map Key (2) 3-8-001:188. And I shall open the floor. Well, and, Members, my intent with this one is to defer and to refer into the next...to the next Council Chair in the upcoming year. And I will turn the floor over to Director Stant who is here with us today for any opening comments.

MR. STANT: Thank you, Madam Chair.

CHAIR COCHRAN: Thank you.

MR. STANT: And thank you, Councilmembers, especially I know it's been a long day so thank you for being here. As you know we submitted this request back in June and October 19<sup>th</sup>, last month, is when we had the first IEM where some of you were here and saw the overview of the project. We came on October 19<sup>th</sup> as a request to get the lease approved. It was deferred to today. All of the questions that was submitted to us was answered, on top of that all the information that was requested by Chair White we submitted. We are here today to answer all the questions involving this lease or the project. In fact, we have resources and we have people who flew here again who

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were here last month to answer any questions that you may have. So we're open, Madam Chair, for questions concerning this lease approval. Thank you.

CHAIR COCHRAN: Okay, thank you, Director. And, Corporation Counsel, did you have any comments at this point?

MS. THOMSON: Thank you, Madam Chair. I echo the Director's statements; we do have...I've got copies of the service agreement with me. The services agreement has not been finalized pending this lease being approved; however, if you would like any details on the contract or any of the terms, we have those details and are fully prepared to answer. Some of the discussion depending on the depth may need to be done in executive session because the contract as I said is not yet completed. Thanks.

CHAIR COCHRAN: Okay, thank you very much, Corporation Counsel. And we also have, sorry, is it Redell?

MR. REDELL: Yes.

CHAIR COCHRAN: Fred, we have...

MR. REDELL: . . .*(inaudible)*. . .

CHAIR COCHRAN: Oh, okay. Yeah, Fred Redell our Energy Commissioner here with Office of Economic Development also in attendance. And as resource people in the gallery we have seated from MECO, Maui Electric Company, Ms. Ellen Nashiwa and Ms. Mahina Martin who are both here too for our resources and they can come down to the podium if we have questions for them at this time. This item also has been agendaized for Executive Session should we feel the need to go there. And at this time, I can open the floor up to you folks if you wanted...have some questions and comments for departments or our resource people that are here. And oh, look, sorry, and we have Corporation Counsel Patrick Wong also here with us. Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Thank you. Thank you, Madam Chair. My question if you can answer this is in this open meeting component regarding the lease, in general I'm very happy with this proposal. I'm going to be upfront. I like to know my numbers upfront. So from a budgetary standpoint I'm very open to support this consideration. But one of the things that I need for you to be able to respond if possible in this open session is the County's ability to terminate at will because we feel it's to our benefit and we're not going to go ride the whole term of the agreement. Is that something you can speak about in this component of this meeting or do we need to go into executive session?

CHAIR COCHRAN: Yes, Ms. Thomson?

MS. THOMSON: Thank you for that question and I can answer that in open session. As with any services contract that is a multi-term contract; so the same services are received for multiple years, we always include a non-appropriation clause that means if the

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Council does not appropriate the funding for those services we would terminate the contract. In that case, normally, a contractor would file a termination claim and we have addressed that scenario within the contract itself and have spelled out the exact things that may or may not be included in a termination claim. So, yes, the County does preserve its right to terminate should that be necessary.

VICE-CHAIR HOKAMA: Okay and that will be a Council decision to terminate or an administrative decision to terminate? Or do you need both branches to concur?

MS. THOMSON: Well, the Council would control by way of funding. So if funds were not approved by Council for this purpose, then that would necessitate the Administration, the Department terminating the contract. It could also be terminated for other reasons other than funding.

VICE-CHAIR HOKAMA: The County can at will terminate with no appropriation?

MS. THOMSON: We can, yes.

VICE-CHAIR HOKAMA: Okay. There is concern about whether or not this facility has some flexibility in relocating if need be for whatever requirements, environmental situations, whether it be potential tsunami, Haleakala blows up, earthquake. Once we invest, we're stuck. Is that considered a one-time investment for the site?

MS. THOMSON: Thank you for that question. Those kinds of catastrophic natural disasters would fall under force majeure or uncontrollable circumstances. They would allow either the County or the contractor to terminate should something catastrophic occur like that. One of the things to point out is that the County is not developing the facility. So, from an economic standpoint what we would have to look at as far as our own economic damages would be our facility's issues and replacement of the energy should this project cease to exist at some point in the contract term.

VICE-CHAIR HOKAMA: Okay. I hope the community understood what you just shared with the Committee, and I not meaning to be facetious or anything. You know part of the questions that we ask is to help educate our general community about the request, okay, and I know, you know, we're talking about the lease. Today it's about the lease, not necessarily the project itself 'cause the project is going to go anyway as I understand the RFP and everything else. So as it regards to the lease we...this request still needs the State of Hawaii's Land Board review and sign off, approval and sign off prior to it really moving forward even if Council makes an affirmative decision?

MS. THOMSON: That's correct.

VICE-CHAIR HOKAMA: Okay. So when is that supposed to be anticipated, Land Board action or consideration?

MS. THOMSON: So, we have filed concurrently with the submission of the lease to Council, we also filed a request with the Board of Land and Natural Resources for them to look

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at this issue and give their approval to amend the Executive Order to add this purpose.

VICE-CHAIR HOKAMA: Okay. So, Mr. Stant, one of the comments made was, you know, we might be locking ourselves into a regrettable situation in the future. Well, I don't like to be surprised at Budget with increases that EKO just when throw at me last year. Okay, so automatically I have an issue about cost and I think it's a community appropriate question to ask us about potential commitments. But I don't have a lock-in cost either for the current vendor either. So for me it's who do I prefer to pay and what am I getting back in return for our investment of the County's monies and the peoples' fees to pay for this? In your estimation, is there a...well, you know what, because the 2.2 percent was brought up and again depend when you look at price of oil you can make your argument. But at this point in time where are we with the price of oil and what we can get in return from this lease, through this lease in return?

MS. THOMSON: If I could just chime in briefly?

VICE-CHAIR HOKAMA: Please.

MS. THOMSON: So Fred Redell, our Energy Commissioner, did a very extensive economic analysis of the project and the various outcomes including today's cost of electricity, the average cost of electricity, sludge processing both historic and current. He can speak about those kinds of things in general terms but if we're going to get into anything very detailed we should do it in executive session because it goes to the County's negotiating stance.

VICE-CHAIR HOKAMA: No, I get that. What I really want is for our community to understand that if this is a really good request on this lease before us, why we would support it, and if it's a bad thing why wouldn't support it. But part of this is for me to help share information for our community because we collect this through fees a lot of the Sewer Funds, it's fee based. It's not a tax base. And so, when people say relocate this, relocate that, already we've calculated ten years ago between a quarter to half a billion dollars that people think just may grow on trees but I can tell you some people are going to have to pay for that is a concern of mine. Because we have other high demands that we are being requested to consider that is going to take a lot of millions of dollars. And so one of it I'm looking at is this to help potentially reduce the impact on General Funds 'cause we do transfers. You guys know it, I know it. Okay, and for those that understand how we fund this County can appreciate why we have these questions before you this afternoon.

MR. STANT: Madam Chair?

CHAIR COCHRAN: Yes?

MR. STANT: Councilmember Hokama, maybe I can address that maybe where the community could understand this. This project has many I think valuable, you know, how we can help the County but itself, just for myself, I worked on the budget for

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Wastewater for 18 years. My primary job when it came to budget was trying to guess what our electric bill would be and as you can imagine, Mr. Hokama, it's 18 months prior to when we're actually going to get the funding. So sometimes, I hit it and sometimes I was way off. In fact, at one point we came to you Council to approve \$1 million amendment to electric costs 'cause it was just no way of guessing. I think it's priced as having a project where the predictability, I can tell you for 20 years my exact cost. I don't have to guess. I cannot tell you what I need for electric costs next year. I mean just in June of this...when I started this job back in February we were paying 22 cents a kilowatt-hour for that treatment plant. We're now...we're already at just about 25 cents a kilowatt-hour and that's just from this past February. Cost of oil has gone up from \$26 a gallon back in February to now it's like almost \$48 a gallon. So just...although there's the renewable source, I love it. I love everything about the project on top of being able to dry the sludge and, you know, saving that, you know, 2.4 million or bringing it down and having a resource. I think being able to predict what we're going to pay and coming to you, the Councilmembers at Budget time and saying this is what I need exact to the penny. I think it's not only a benefit to our Department but to the Council and the County of Maui as well.

VICE-CHAIR HOKAMA: Okay. Let me relinquish the floor. I'm sure other Members have their questions, Chairman. Thank you.

CHAIR COCHRAN: Okay, Mr. Hokama. Members, any...Mr. White? Yes.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, I'd love to hear Mr. Redell's analysis from his perspective as an energy expert whether this pencils out the way we'd like it to or whether there's some risks to it.

MR. REDELL: Thank you. So I've been looking at this for a few months now and in my first look at it, it took me a while to understand all of it because it does have a lot of moving parts. And I took a position to look at it and say well, how does this compare against solar photovoltaic. How does it compare against battery projects? And they're not really comparable just on an apples-to-apples basis. You have to look at what is the goal I'm trying to achieve in this project and one of those goals of course is to deal with the sludge, which requires a lot of energy and a lot of heat. So simply replacing this project with a photovoltaic project wouldn't be a simple or wouldn't be the solution itself. I would say that, yes, if you were...if your only goal was to save a little bit of energy or a little bit of cost of energy, you could put in a photovoltaic project. Right now, you could do a project that only served your needs, and you weren't exporting, and what you would still end up with then is a blended amount of reducing that risk. You would reduce the cost that you're paying for that photovoltaic component, you would have the remaining component, let's call it two-thirds still that you get from MECO, that portion you would be subject to volatility and then you would still have the sludge component to deal with which would take more energy. To then go and say, well, let's replace it all with batteries and photovoltaics I think you would come somewhere close to the electricity price that you would see on this contract today. You know it would be in that range considering where battery technology is. What you...the difference you would see here is that this is a more mature technology than

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many of the battery technologies, especially when you're trying to achieve a base load type of application. So you'd be accepting more risk for about the same price if you were to do something like that but you would still then lack the energy, the heat to do the drying process and create or to dry the sludge. So then how would you do that if you wanted to do it with PV, it would be absurd. You wouldn't create electrons to then just heat and, you know, dry sludge that wouldn't make a lot of sense. So the benefit here of course is the waste heat from the gas turbine that you can then use effectively and efficiently where you've already used it once to create electricity, now you're getting that waste heat and you're drying sludge. And that's why it can come close to making sense.

COUNCILMEMBER WHITE: And, Mr. Stant, could you refresh my memory? My recollection is the sludge...to deal with the sludge now we are paying, I can't remember, was it \$103 a ton?

MR. STANT: Yeah, it was \$83 but now it's \$103 a ton.

COUNCILMEMBER WHITE: Okay, and that's the...does that compute to the 2.4 million?

MR. STANT: Excuse me?

COUNCILMEMBER WHITE: So when we're looking at this project it's not just the electricity that's being generated by the digester throwing off the...this is methane or whatever it is but it's also the savings from having to deal with the sludge by paying someone to take over the processing of the sludge. Is that correct?

MR. STANT: Yes, that's correct. And that was...and it's also where we can now use the sludge as a resource of top soil for our landfill or fertilizer.

COUNCILMEMBER WHITE: Yeah that's not a very...that's a small number compared to the savings on --

MR. STANT: Yes.

COUNCILMEMBER WHITE: --not having to process it or not having to pay someone else to process it, right. As Mr. Redell said, that there is...I'm guessing that we could probably come in with a PPA at a lower price per kilowatt-hour than 30 cents but we then still would not have the benefit of not having to deal with sludge payments. And that's...your response said that you can't give us a cost analysis without going into executive session but I was looking at a much more low level cost analysis than I think maybe you were feeling I was asking for. But anyway, thank you.

CHAIR COCHRAN: Thank you. Yes, Director?

MR. STANT: Madam Chair, I think...can we have...we'd allow Fred to give you a cost analysis. He...I think when he breaks this down and I think he even brought some

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flyers...some handouts so you guys can follow along and I think this would answer most of your questions, if not all.

CHAIR COCHRAN: And before Mr. Redell starts chiming in, I have breaking news that we're going to have to end this meeting in ten minutes. I guess the 7<sup>th</sup> floor has to clear out so, Chair White, you're going to have to pack up and get things out. I guess the mold issue or something or other is...and so I'm told that 7<sup>th</sup> floor needs to vacate which is part of your domain there, Chair White, so we'll need to be wrapping things up in about ten minutes. So, Mr. Redell, if you can just I guess talk really fast or no. Just, just heads-up to our...

MR. REDELL: Sure, I'm able to speak quickly.

CHAIR COCHRAN: Okay.

MR. REDELL: So what I did was I looked at it ...

CHAIR COCHRAN: Sorry.

MR. REDELL: Well, is that okay to hand out here?

CHAIR COCHRAN: Oh, yeah, you have handouts? Yeah, we can take handouts.

MS. THOMSON: I think what would be preferable both given in the interest of time and also that some of this material is very, very detailed is that Mr. Redell just goes over it verbally at this point.

CHAIR COCHRAN: Okay, whatever would work best.

MR. REDELL: So I wanted to look at the project in two different ways. One is how does it look in comparison to some other metric? Like what is it compared to a biofuel like biodiesel or something like that because there wasn't another competing bid that I was able to say how does this look. So I used industry numbers and I used numbers from Anaergia to compare. And what I was able to arrive at there is I was able to come up with an internal fuel cost and show that if I looked at the 30-year projection or the 20-year projection for biodiesel, the FAPRI projections, they were...this project is less cost than that on a fuel basis. So what that was telling me was that if the County was to do this project on their own and then procure fuel that you're likely better off with this structure than doing it on your own but that's just from that very high-level analysis. I can go into more detail in a closed session. The...then what I did was I wanted to look at all the different scenarios 'cause these come...these projects are complex. If you fall below a minimum, you're going to make a \_\_\_\_\_. If this happens, you're going to pay this. And I came up with a way to analyze that and then I did 16 different scenarios. Some of those scenarios we have a loss. Some of those scenarios we have a benefit. In general, it looks like more of a benefit, especially in the years where you could see a peak in electricity but from the current economics today, I find that the project would be about neutral. What I'm saying there is that if the project

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was approved as it is and if everything worked perfectly and MECO's price was...is what it is today, which is close to what Director Stant said, about 24-25 cents. And if EKO's price was \$103 that the project you might see a slight benefit, you might see it about neutral. If you saw a spike in the electricity cost of 10 cents, you would see a loss...let's say if you didn't do the project and you went and stuck with MECO and you say a 10-cent increase in MECO's price, you would see about \$450,000 reduction or a cost to the County. So you're seeing what's essentially a hedging benefit here. You are getting the benefit of getting this project and then not being subject to those spikes. So when I look at the project overall I could say they're about similar to the price that you're paying at this moment. What you're really getting the benefit of is price certainty and being able to deal with the hedging or the future volatility risk. Okay.

CHAIR COCHRAN: Mr. White, go ahead.

COUNCILMEMBER WHITE: What portion of the energy generated is likely to be used for the drying of the sludge --

MR. REDELL: Sure. That was --

COUNCILMEMBER WHITE: --as opposed to...

MR. REDELL: --actually the hard part of being able to let's say pull out what that fuel price is in that model. I think about, I'd have to look at my overall model, but let's see here. One moment. I mean it's to the provider's advantage to use all of that heat. What may occur is that when they're producing the heat they might not have all of the sludge but they're going to try to use all of that heat, the heat that's rejected. It comes out to be about say two-thirds of the total energy is actually going to drying the sludge and about one-third of it is actually creating or producing electrons.

COUNCILMEMBER WHITE: And what is the total energy cost for that facility today --

MR. REDELL: So...

COUNCILMEMBER WHITE: --at 25 cents per kilowatt-hour?

MR. REDELL: At 25 cents per kilowatt-hour, give me one moment here. It consumes about 4,500 megawatts per year and then...so that's times like 245...so about \$1.1 million is the total bill. One thing that's important to consider here though is that that we also included in the economics that we still expect to receive service from MECO at times. We still expect to pay the demand charge and I factored that into the economics. So MECO's bill of 1.1 million also includes about \$168,000 of demand charges which are essentially the utility sitting at reserve being able to supply you power, that is factored into the cost analysis and we still save with that included.

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COUNCILMEMBER WHITE: So, if we're dealing with the sludge and saving \$2.4 to \$2.5 million, we still are going to end up with more energy after drying the sludge. Or off...

MR. REDELL: I might have made a mistake there. I'm sorry. You know we don't...I don't think we save anywhere in there \$2.4 million though.

COUNCILMEMBER WHITE: No, no, no, we save that by not having to pay to process, paying somebody else to process the sludge.

CHAIR COCHRAN: Is that right?

COUNCILMEMBER WHITE: Right?

MR. REDELL: Right. It's incorporated here. What you pay here is \$80 per ton to Anaergia or the subsidiary of Anaergia for the sludge drying and then you would pay 29 cents for the electricity. But the combination of those 2 compared to EKO and MECO results in a savings.

COUNCILMEMBER WHITE: Okay. Yeah, I'm going to need to look at your analysis.

MR. REDELL: Yes, absolutely.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COCHRAN: Okay, thank you, Mr. White. And, Members, any other comments or questions? We can...I mean you can forward a written also. I'm going to refer this to the next Council term and...

MR. WONG: Chair? Chair, if I may?

CHAIR COCHRAN: Oh, yes, Mr. Wong, sorry, you're in the back. I couldn't see you.

MR. WONG: Are there any questions about the lease itself so that if and when it's reconvened the lease issues? If there are any can be addressed. I think the lease is pretty straightforward. You're getting into the nuance of the contract itself, which is not the lease.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Yeah, Mr. Wong . . .*(turns on mic)*. . . excuse me, Mr. Wong, thank you for that question. I would say in my review of the revision that is...the Chair has posted for us to review this afternoon it's one of the better, tighter proposals I've received in my years of service. And of course for me I think you've...I'm surprised that the subsidiary is willing to agree to some of these terms because I find it to be strongly in favor of the County. And that is why one of my concerns was about the ability to terminate at will because I still think that is a required tool for us and that of

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course Council has its opportunity annually in Budget to make a annual decision whether to continue or not. So as far as the lease is concerned, unless the service agreement in anyway contradicts which cannot be 'cause it has to be...runs together, right, both documents, I don't have a problem with the lease. I think some of the concerns about the project itself has merit that Mr. White is bringing up but to me I don't have a problem with the lease itself. So thank you for asking for that question. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Hokama. Anyone else have any questions or comments? Okay. Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I offer this to you. I have a very tight but simplified agenda tomorrow. If you would like to recess till 11:00 a.m. tomorrow I'm happy to give you from 11:00 to 12:00 tomorrow after my Budget meeting if you choose and the Members agree I am happy to offer that to you for your consideration, Chair, if you would like to continue to work on this, and the Members. If not, again, I just offer that as an option for you folks to consider. Thank you, Chair.

CHAIR COCHRAN: Okay. Sorry, so you have a 9:00 a.m. tomorrow?

VICE-CHAIR HOKAMA: Yes, ma'am.

CHAIR COCHRAN: And you're predicting a pretty...

VICE-CHAIR HOKAMA: We'll be done by 11:00.

CHAIR COCHRAN: Okay, and then but we have a 1:30 EAR so that --

VICE-CHAIR HOKAMA: And then, yeah, yeah. So...

CHAIR COCHRAN: --would be...it would be like an hour or so.

VICE-CHAIR HOKAMA: I'm offering one hour, yes, ma'am.

CHAIR COCHRAN: Yeah, one hour. Okay.

VICE-CHAIR HOKAMA: Yes, ma'am, 'cause I need lunch.

CHAIR COCHRAN: Right, right, right. We all would. Yeah, well, I appreciate the offer, Mr. Hokama, yeah, I'm not sure how...

VICE-CHAIR HOKAMA: I'll leave it to the other Members.

CHAIR COCHRAN: Yeah. I'm not sure if any of the other Members are open at that time so it looks like Mr. Guzman not so. And, yeah, I appreciate that offer, Member Hokama, but it's, yeah, I think I'm just going to roll this into the next term and take it up right

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away in the new year. So that would be my consideration for today, recommendation for today on this item at this time. Yes, Ms. Thomson?

MS. THOMSON: Thank you, Chair. I just wanted to reiterate that what this Committee is analyzing as Corporation Counsel Wong stated is a lease. The services agreement does not require Council approval. It's just like any other agreement for services that the County receives of much higher dollar than this is. So if you do have questions specifically on the lease or things that we can answer, it would be good to get clarification on what those lingering issues are so that we can understand the reasons for deferral today. Thank you.

CHAIR COCHRAN: Well, yeah, Mr. White?

COUNCILMEMBER WHITE: I'll just point out that you're absolutely right as is Mr. Wong; but, as you know, this is the only shot that the Council has on it and we want to make sure that you guys have all the numbers lined up and have done all the appropriate analysis. And so it's just one of those things you've got to put up with. So, thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. White. And we can, you know, get more, a longer timeframe to go into the executive session if needed to gather those numbers I guess so to speak that is being...

COUNCILMEMBER WHITE: And, Chair, just a side note. The correspondence from Environmental Management noted that they had attached a list of attendees and the RFP but it's not attached to the documents in Granicus. So, I'm just wondering where that is. My document is only three, the three pages of the letter without the attachments.

CHAIR COCHRAN: Yeah, I...

COUNCILMEMBER WHITE: So maybe Staff can look into that in the interim.

CHAIR COCHRAN: Under your question, oh, the attached No. 1, Item 1 is not...there's no further information on Item 1, is that what you're...

COUNCILMEMBER WHITE: No, the November 4<sup>th</sup> letter.

CHAIR COCHRAN: Yes, yes. Yeah, I don't, I can't seem to find that either. Oh, there it is.

COUNCILMEMBER WHITE: No, I'm just wondering why it's not attached in Granicus.

CHAIR COCHRAN: It's about half inch thick document.

COUNCILMEMBER WHITE: So like I couldn't get it.

CHAIR COCHRAN: Okay. Alright. We'll have time to look through and find --

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COUNCILMEMBER WHITE: Okay, thank you.

CHAIR COCHRAN: --where the item is.

COUNCILMEMBER WHITE: Thank you.

CHAIR COCHRAN: Thank you, Mr. White. Okay, Members, with that, any further discussion? Any...no? Alright. I'll entertain a motion to recommend, yeah, County Communication 16-134 be referred to Council Chair for the term beginning January 2, 2017 pursuant to Rule 23 of the Rules of the Council and filing of this County Communication 16-134.

VICE-CHAIR HOKAMA: I'll do it for you, Chair.

COUNCILMEMBER WHITE: Second.

CHAIR COCHRAN: Thank you. It's been moved by Vice-Chair Hokama of the Committee and seconded by Chair of the Council Mr. White. Members, any further need for discussion on this? Seeing none, all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed say "no." Seeing no opposition, motion passes with five "ayes," two excused.

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama, Councilmembers Carroll, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and Crivello.**

**MOTION CARRIED.**

**ACTION: Recommending REFERRAL of IEM-68 to the Council Chair for the term beginning January 2, 2017, pursuant to Rule 23 of the Rules of the Council.**

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CHAIR COCHRAN: Thank you, Members. Last and final my referral items. I see Mr. Guzman trying to run off. My list of IEM communications recommended to be referred to the Council Chair for the term beginning January 2, 2017. This is the last item on the agenda so hang on. Is the list of my referrals to be recommended and they are...hang on, hang on, they are...alright here we go. IEM-10, Lower Nahiku Bridge Health and Safety Concerns, Nahiku. I got to read all the CCs? IEM-52, Integrated Pest And Environmental Management On County Property; IEM-56, Plastic Bag Reduction; IEM-72, Hui Roads on Maile Pai Partition Subdivision West Maui; IEM-76, West Maui Recycled Water Project; IEM-82, County Development of Off-Site Infrastructure; IEM-83, Independent Third-Party Building Plan Review Process; and IEM-84, Amending Section 10.44.050, Maui County Code, Relating to Stops Required at Non-Through Street Intersections, Makawao. And with no objections, the Chair will entertain a motion to recommend the list of IEM communications be referred to Council Chair for the term beginning January 2, 2017.

VICE-CHAIR HOKAMA: I'll make the motion for you, Chair.

COUNCILMEMBER WHITE: Second.

CHAIR COCHRAN: Thank you. It's been moved by Mr. Hokama, seconded by Mr. White. Members, any need for further discussion on the referrals? Okay then seeing none, motion passes with five "ayes," two excused, zero "noes."

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama, Councilmembers Carroll, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and Crivello.**

**MOTION CARRIED.**

**ACTION: Recommending REFERRAL of IEM-52, IEM-56, IEM-72, IEM-76, IEM-82, IEM-83, and IEM-84 to the Council Chair for the term beginning January 2, 2017, pursuant to Rule 23 of the Rules of the Council.**

CHAIR COCHRAN: And thank you. Thank you very much, Members. Long day sorry but, you know, let's end on a big high note here. Thank you very much. This meeting is adjourned. . . .*(gavel)*. . .

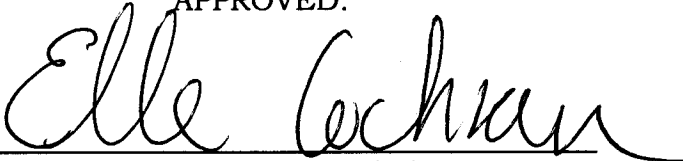
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**ADJOURN:** 4:52 p.m.

APPROVED:

A handwritten signature in black ink, reading "Elle Cochrane", written over a horizontal line.

ELLE COCHRAN, Chair  
Infrastructure and Environmental  
Management Committee

iem:min:161128:cs

Transcribed by: Cathy Simmons

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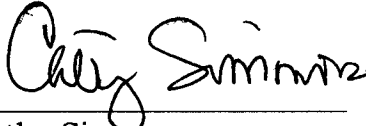
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CERTIFICATE

I, Cathy Simmons, 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 this 20<sup>th</sup> day of December 2016, in Wailuku, Hawaii.

A handwritten signature in black ink, appearing to read "Cathy Simmons", written over a horizontal line.

Cathy Simmons