

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

M I N U T E S

Council Chamber

February 7, 2019

RECONVENE: 9:01 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair
(excused from 1:34 p.m. to 1:54 p.m.)
Councilmember Tasha Kama
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Tamara Paltin
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura (arrived at 9:06 a.m./left at
3:45 p.m.)

EXCUSED: Councilmember Riki Hokama

STAFF: Shelly Espeleta, Legislative Analyst
Kasie Apo Takayama, Legislative Analyst
Pauline Martins, Committee Secretary

Don Atay, Executive Assistant to Councilmember Sinenci
Miki Yokouchi, Executive Assistant to Councilmember Sugimura
Kate Griffiths, Executive Assistant to Councilmember King
Angela Lucero, Executive Assistant to Councilmember Kama
Sarah Pajimola, Executive Assistant to Councilmember
Rawlins-Fernandez

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department
of the Corporation Counsel
Deidre Tegarden, Chief of Staff, Office of the Mayor
David Goode, Acting Director of Public Works
David Galazin, Deputy Corporation Counsel, Department of the
Corporation Counsel
William Spence, Acting Director of Housing and Human Concerns
Sananda Baz, Managing Director, Department of Management

OTHERS: Rowena Dagdag-Andaya
Jill-Anne Ono
Gary Ambrose
Zandra Amaral
Rodrigo Rabara

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Lawrence Carnicelli
Stan Franco
Plus (9) other people

PRESS: *Akaku Maui Community Television, Inc.*
 Melissa Tanji, The Maui News

CHAIR MOLINA: ... *(gavel)* ... The recessed Governance, Ethics, and Transparency Committee meeting of January 29, 2019 is now back in session. Good morning, Members. It is Thursday, February 7th just after 9:00 a.m. For the record, we have seven Committee Members in attendance. Excused this morning is Councilmembers Hokama and Sugimura. Committee Staff, we are joined by of course Shelly Espeleta as well as Committee Secretary Pauline Martins and of course new Analyst, Kasie Apo Takayama. Thank you, welcome. And we have Mr. Kushi from Corporation Counsel, along with Ms. Tegarden, Chief of Staff from the Mayor's Office, and one of our nominees this morning. Members, the Chair will ask for some flexibility with the agenda schedule. We have two nominees left. Initially at our last meeting I had mentioned that the nominee for the Director of Housing and Human Concerns, Mr. Spence would be up first; however, the Chair would like your indulgence to allow for Mr. Goode to be put, to be addressed first and to put Mr. Spence at the end of calendar. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: Okay, thank you so much. Chair appreciates your indulgence with this request.

**GET-1(6) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF
DEPARTMENTS (DIRECTOR OF PUBLIC WORKS) (CC 19-1)**

CHAIR MOLINA: So with that being said, we have Mr. Goode up first but I would like to ask Ms. Tegarden to give opening remarks.

MS. TEGARDEN: Thank you, and good morning, Chair and Councilmembers. Aloha. You know we are aware that this confirmation process has not been easy, but we believe that the investment of time and effort will pay dividends with better, more-focused leadership for our County. Thank you, Chair and Councilmembers, for this transparent process and for your dedication to a thorough review of the Mayor's nominees. We also appreciate the members of the public for their participation in this review. As I had said the other day, this is truly democracy in action. This process renews our faith in the fact that we can work together to keep Maui a strong, vibrant, and healthy community. Mayor Victorino asks for your consideration of his nominations of William Spence as the Director of the Department of Housing and

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Human Concerns and David Goode as the Director of the Department of Public Works. Both of these departments play vital roles in providing the infrastructure for our community needs, for housing and roads, and in the case of the Housing and Human Concerns, for services to help our kupuna, immigrants, and young children. Both nominees have the experience needed to lead their departments and provide a continuity of customer service. They also meet the qualifications set out by the Councilmembers by ordinance last year. And to say a few words on behalf of Mr. Goode, continuity, the importance of continuity cannot be overstated. When you look at a department with an operating budget of \$40 million, a CIP budget of 30 million, you want someone who knows what they are doing day one. Mr. Goode not only has ample experience within the Department, he has a proven track record of collaboration with the community and also the Council, ensuring that he is doing the job of getting things done for the community. Under his tenure, Public Works has tripled the number of roads being repaved, and as those of you know who have worked with him before, you can attest that he gets back to people promptly. You know these are very, very important things as we look at customer service and moving the community forward. Mayor has all confidence in Mr. Goode and thanks you for your kind consideration today. Thank you for allowing me to say a few words. Mahalo.

CHAIR MOLINA: Thank you, Ms. Tegarden. Mr. Goode, you have the floor.

MR. GOODE: Good morning, Chair, Members. Thank you for having this opportunity today. Thank you, Deidre, for the kind words. Thanks to all the testifiers that testified here in Chambers and those that wrote in. I'm truly humbled. Leading a department in the government sector is a challenging endeavor but one that can be and is extremely fulfilling when we see the positive change in people's lives and the environment. I have been fortunate to have been given the opportunity to work under three previous mayors. Mayor Lingle took a chance on me, Mayor Apana, the second Mayor I worked for, and most recently with Mayor Arakawa in his last two terms. With the appointment by Mayor Victorino, this will be my fourth Mayor to work for. I think that says a little bit about my work ethic and dedication not only to who I work for but who we serve, the public. We must be doing something right. I also looked back to see how many Councilmembers I had worked for in the past 15½ years in the Department; 30. I was a little surprised it was that many. And with every one of them as I reflected on it, we worked on one or another issue with each of those Members that was important to them and their constituents. And now we have four new Members so the total will be 34. I have to apologize, Chair and Ms. Lee, I can't count you twice but that'd be 34 Members I had worked with should I be confirmed along with the fourth Mayor. I'm sure that given the chance with the four new Members, we will find solutions to nagging or fresh problems that are things that you want to work on, and we're here help. As Ms. Tegarden mentioned, clearly I have the experience and the qualifications that are laid out in the Council...excuse me, the Charter and the Code which this body passed about a year ago. And the reason behind that was to make sure that we had competent and experienced, knowledgeable directors. I can enumerate those qualifications if you'd like at a later time. Perhaps more importantly,

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I want...more importantly, I and my team understand what it takes to make positive change, to operate efficiently, to communicate to all stakeholders, and finally to implement the policies that this body and the Mayor set forth. With experience comes knowledge and wisdom. I'd like to draw your attention to my work outside the County, particularly on State boards and commissions, private nonprofit board work, and my work in the private sector. All these experiences directly relate to my ability and understanding of the community needs, finance, the pressure and risk of the private sector, negotiation, and communication. In the nonprofit world, I'm perhaps most proud of the work at Carden Academy of Maui where I've been fortunate enough to be a director for almost a dozen years. To see that school grow and serve the community and serve those children as they run into class every day with smiles on their faces puts a big smile on my face. To do the job well one must understand the nature of things that are built, from infrastructure to affordable units, the processes behind those approvals, the cost of doing business in both the private sector and the County. To articulate goals, program initiatives to employees, the Administration, and you folks the Council. To convince others to come along with you; to listen, two ears, one mouth, to the thoughts and concerns and the ideas of everyone, and give credit where credit is due. And make do with what you have 'cause typically we don't have everything we want. Myself and our entire office have an open-door policy and frequently meet with members of the public on all sorts of matters and no one is denied a chance to meet and talk story. One thing that's not in my resume which has been provided to you and this relates directly to how I work with and understand our blue-collar workers. Out of college, I worked in a corporate world, and I, but I had this nagging thing in my head like I like to build stuff and so I started as a laborer, became a carpenter, did some electrical work, did some roofing work, quickly found out that's nothing I'm not interested in, probably asked too many questions of my bosses but really enjoyed building and doing things with my hands. So, I think about our 190 employees or so in Highways every day working on our roads, working in our drainage ditches. I understand a little about what they do, the safety concerns that they have, the desire to come home in one piece at the end of the day, how tough it might be to get up early in the morning sometimes and do it all over again. That's not on my resume but I wanted you folks to know that because those folks have a special place in my heart. For the last eight years, we've had a lot of initiatives that we think have improved the quality of life for our residents and four of which I'd just like to quickly mention. The pavement preservation crew in our Highways Division this last fiscal year they either did slurry seal or paved or seal coated 31 lane miles of road. That did not exist eight years ago. That 31 lane miles is about 3 percent of our inventory. Obviously we can't do all of our roads in one year but because of that work and the money that's being saved, it's going to preserve our roads for a longer period of time, driving down costs in the long term. We did a lot of work on ordinances. We revised the Subdivision Code to make it easier to accept some of these problem roads. We changed the Building Code to get the first time to actually have a deadline for all departments to respond to. We changed the Plumbing Code, we changed the Electrical Code. When I use word "we," I'm giving credit where credit's due and that's you folks, that was at the Council, the Council made those changes. We worked with

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you to make those changes. We changed the way that property is accepted. To make it more efficient would also open up opportunities. I think I heard in one of the testimonies that there was, in the Housing Division there was a buyback that was accomplished. They bought back an affordable unit. The only reason that happens is 'cause this Code changed. It increased the limit of the buyback from 250,000 to \$500,000, and because the timeframe was so short, by having that flexibility and evidently the Department had the money, they were able to buy back that unit. It was a good change that was made here on the floor that's now changed the life of at least one family. We're changing out our streetlights, made a great change there that's going to reduce our cost significantly, enhance safety, reduce light pollution, and I think they've done about 700 lights so far of the 5,000. So, thank you for that funding, it was a long process of changing the ordinance and then the rules. And finally, our fourth thing I'd like to point out is that during those last eight years, we got handed two new programs, the MS4 program to have better water quality in our stormwater, the same stormwater that goes into our rivers, streams, and oceans. And the MPO, we worked with our Department of Transportation and have served on the MPO and in fact was the first chair for the first couple of years to get it up and running. So, those are four items and initiatives, you know, that we worked with the Council, the Mayor, and others to implement and we're quite proud of. Operationally, we have no active grievances. We have a good working relationship with both HGEA and UPW. Our recent employee engagement survey we did back in April and May saw that 85 percent of the folks that responded--and we had a really great response rate within our Department--are satisfied with the work...with their work and feel protected from health and safety hazards on the job. Eighty-seven percent felt their work was important, supported by supervisors. But even given those responses, we feel we can do better and so we're putting a lot effort into supervisor training and other initiatives to increase the satisfaction of our employees which only delivers better results. Finally, the culture of not saying something when an employee knows something is not right is occurring, has changed. This is critical in finding out where we have bad apples. But more importantly, more importantly it provides the environment where such behavior would be difficult to even start. Our motto is now see something, say something. In fact, I think I used that as the Council the other day when we were talking about this building, right? You see something, let us know, say something. So, thank you, Ms. Paltin, you're already on it. We have the lowest Worker's Comp rate within the departments that have active blue-collar work, and that was shown in the Cost of Government report. I've also looked at the numbers for FY '17 and '18 which the report did not include and our numbers continue to be the lowest and also below national averages, but we can do better. We haven't lost a lawsuit. Sometimes they're dismissed, sometimes the Department's dismissed, sometimes we have to settle when it makes business sense. This isn't by chance, this is because with experience you can see the freight train coming, right? What do you need to do here, there's a potential litigation here, what can you do? Sometimes you can't do anything, but what you do is you do the right thing, and when you always do the right thing, you'll find yourself on the right side of the law. So, going forward and I'm almost finished, Chair, some major initiatives that we look to accomplish in the next four years and

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they're primarily by division. And in DSA, our permits area, we want to help ITS get the MAPPS program installed and move towards electronic plan submittal. This would give the opportunity for the public to submit their plans electronically, to have them reviewed electronically within the Department which will only speed up the process. Highways Division, we want to continue to grow pavement preservation. Clearly this is a big winner as it relates to long-term viability of our roads. We've gotten really good at it. They attended a national conference recently and found out we're on the leading edge of what's going on in that field. They found a couple new techniques to make it even better, and we look forward to implementing those and growing that area of activity. In the Engineering Division, as you know we've had a lot of crumbling corrugated metal pipe. We want to get ahead of that issue and we do...we were given some funds last year to get farther ahead while we're still repairing what needs to get fixed, but also to plan for sea level rise. This is the, I think the number one area that we're going to have to work in, in our Department for the next four years and obviously beyond that. In the administration area, we'll continue to work with our supervisors, you know, to enhance their experience and their capabilities and abilities. We want to give them the best job...the tools to do the best job possible. And for all the Department, we want to begin to understand what our contributions are to greenhouse gas emissions, what they may be, and how to lower them over time. This directly relates to the Hawaii Clean Energy Initiative which I'm sure all you folks are familiar with. And while there's been progress on the utility side, there's been very little to no progress on the transportation side, and we feel we have a role to play there. And we want to understand internally what we have as contributions to greenhouse gases and how we may be able to lower them over time. So, finally, I pledge to all of you we'll continue to work together to solve problems, to implement new policies, and to listen and meet with all constituents, including if you're meeting with a constituent and something comes up related to our Department, oftentimes myself or my Deputy Rowena Dagdag-Andaya who's here today, oftentimes we're available, give us a call, we'll shoot right up. We can help resolve issues quickly so they don't become nagging problems. Sometimes it's more complicated, but let us know, give us a call or let us know in advance if you can and we can help you in those kind of meetings. Chair, that summarizes my opening statement, and I look forward to having the discussion today. Mahalo.

CHAIR MOLINA: Okay, thank you very much, Mr. Goode. And since you did mention about giving you a call about a road, I do have a road but I'll ask you that question later. So, thank you for sharing that with us, Mr. Goode. Chair recognizes Councilmember Sugimura to our proceedings this morning.

COUNCILMEMBER SUGIMURA: Good morning, Chair.

CHAIR MOLINA: Thank you. And so we'll open up the floor for questioning. And again, Members, as I've stated throughout all of our proceedings, just a friendly reminder, be mindful that if you do ask Mr. Goode about his involvement in a County-related issue where litigation was involved or potentially could happen, we may have to consider

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executive session. So, myself as well as Mr. Kushi and actually yourselves, if you could help me be mindful of that, it would help make things easier because we have to walk that straight line with regards to Sunshine Law concerns. So, anyway, we will recognize the subject matter Chair, the Wailuku representative Ms. Lee for the first opening round of questions for Mr. Goode. Good morning, Ms. Lee.

COUNCILMEMBER LEE: Good morning, Mr. Chair, and good morning, Mr. Goode.

MR. GOODE: Good morning.

COUNCILMEMBER LEE: I was wondering if I could get a copy or we could get a copy of your comments this morning if it's possible? I know you added to...you added more information than to your written response that we received earlier. Okay.

MR. GOODE: Okay, I can do that.

CHAIR MOLINA: Ms. Lee, yeah, we'll make sure Staff gets a copy from Mr. Goode.

COUNCILMEMBER LEE: Okay, great.

CHAIR MOLINA: Thank you.

COUNCILMEMBER LEE: As you said earlier, Mr. Goode, we have worked together in the past and I have always appreciated your professionalism and your work ethic and your devotion to public service. I am a very strong proponent of affordable housing as all, as we all are on this Council. I'm wondering if it's a high priority for your Department?

CHAIR MOLINA: Goode?

MR. GOODE: Okay, and thank you, Chair and Member Lee. It is a very high...I'm not sure of the right word.

COUNCILMEMBER LEE: Priority.

MR. GOODE: Priority. I mean I think it's the single biggest issue facing the County. Clearly, the Mayor has made it a priority, and we've, we made it a priority, you know, in a lot of ways. One is I would say that in our permitting section, in our engineering section. those folks understand what it takes to make something and so they know that time is the enemy of development typically. Making comments that maybe should have been made the first time around is a killer. So, there's all kinds of little things that can happen there. Recently, the Council passed an ordinance that would prioritize those reviews, the Housing folks came up with that. It's been implemented on Kauai. We've talked to our sister agency, the public works department on Kauai on how they do it, so we...we're implementing that already. And finally, personally having built

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affordable housing, having been a project manager for Iao Parkside for the first two-thirds of it, I know, I've seen, I feel the personal satisfaction of everyone getting a set of keys for their own place for the first time. It's huge, it's huge. And so I am personally motivated to do whatever we can in our Department to help affordable housing.

COUNCILMEMBER LEE: Thank you. I appreciate that. You mentioned you were trying to reduce time with regard to submittals and you have a new electronic submittal program. Are these for all projects or just with small projects?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Member Lee. This is something we're working towards, we don't have it up and running yet. We've been trying some software. The City and County actually has some automated approvals of a couple things like fences and solar water heaters and I'm not sure what they've...how far they've expanded that yet. But that would actually take like all reviews out of it, it's like it's a very simple one-step approval. But we want to get to the point where plans...cause currently if you submit a set of plans say for a large project, I mean you need to be able to carry like 20-30 pounds, bring it in, put it on the desk, open it up, go through it, route that set of plans physically everywhere so that's what we're looking to eliminate.

COUNCILMEMBER LEE: Sounds good. Then finally, I just want to compliment you and your staff for being so responsive to all of us when we call about potholes and other traffic and...cause that's pretty, for my office anyway, a lot of the complaints are along those lines as far as safety on the highways and the need for more maintenance. And I look forward to working with you on the old government roads because that's going to be a huge challenge. Also, I want to say that I've received a number of calls from your workers who strongly support you and that they feel that you support them so this is what they're trying to do for you. Thank you.

MR. GOODE: Thank you.

CHAIR MOLINA: Thank you, Member Lee. Okay, we'll go...we'll start out in Hana with Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Mahalo, Mr. Goode, for meeting with myself and my staff earlier. I just have a couple questions. You know as the Cultural Preservation Committee Chair, I myself and we are committed to the protection and preservation of iwi kupuna, ancient Hawaiian burial sites. For us, those burials are...and for the culture there's an important...is of utmost importance. And so what has been your efforts in the preservation of ancient burial sites?

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: Thank you, Chair, and thank you, Member Sinenci, for that question. We, you know, we struggle with this too. You know it's something that's I think deeply personal to a lot of the folks in our Department on different levels, whether you're Native Hawaiian or not and there's a lot of Native Hawaiians that work in our Department. So that being said, we have struggled with the State. You know State Historic Preservation Division is the agency that we rely on to determine, you know, what to do with iwi kupuna when it's found, and they're not always responsive. Sometimes they are. Generally, when there's a burial found, they can be fairly responsive, but when we're processing, you know, permits through them, they're not always responsive. And so that's been a challenge for us, because our folks feel like they get caught in the middle of these disputes. And sometimes, you know, our folks feel like they get, you know, called out more for it where we feel like, you know, the State Historic Preservation Division is really the responsible division. So, I went to Honolulu six to eight months ago, and I sat down with the head of SHPD to explain some of the concerns that we have, the way it's affecting our morale. And I was basically met with concerns about their ability to staff, that it took a year to get an archaeologist on board when they had a vacancy. And currently we have no archaeologists on Maui, you know, it's being filled by folks on the Big Island or Oahu. And I said well, whatever we can do to help, let us know. So, one thing we did this last Council was to amend the ordinance so that it's clear that SHPD has the right to go on a project that we have say, a grading permit for. This came up during Council committee, an IEM Committee last year, and SHPD said well, you know, we don't have the authority to go on the site which I thought that's crazy, how can that...what do you mean? Just get in the car, get in our car and we'll take you out there which we ended up doing, but now we changed the law, the Code to say that SHPD, the Planning Department, and other related agencies have as part of our grading permit, to come on the property and enforce what they need to enforce. So, we're trying, Chair. I'm up for all new ideas, if you've got some good ideas to help in that regard. I think it's a Statewide issue but we're anxious for assistance in that regard.

COUNCILMEMBER SINENCI: A follow-up, would you be open to the County having its own archaeologist on site?

MR. GOODE: You know, Chair, Mr. Sinenci, I think that's an idea we really need to explore. Without getting into all the details, I think the couple things we need to think about is can we hire that person? If the State can't, can we? And what would their authorities be vis-à-vis SHPD? We'd probably need some kind of memorandum of understanding or something. But if we had some in-house help, I think not only for our Department, mind you, Water, you know, they dig up the roads or, you know, they're putting waterlines out in the field, what have you. You got Sewer, and Planning, right? So, in Planning they have...we have folks that have architectural, historical architectural experience, and they work with SHPD pretty closely and that relationship seems to work. But I'm, yeah, I'm definitely open for that idea.

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COUNCILMEMBER SINENCI: Okay, a second question. You know there's Moomoku...Moomuku project in South Maui where there has been some archaeological sites and I'm not sure if there have been some destruction to some of these ancient sites. What is the process of levying fines to developers who disturb any of these sites?

CHAIR MOLINA: Mr. Goode?

COUNCILMEMBER SINENCI: Has there --

CHAIR MOLINA: I'm sorry.

COUNCILMEMBER SINENCI: --been any?

CHAIR MOLINA: Go ahead, Mr. Goode.

MR. GOODE: Thank you, Chair and Mr. Sinenci. As far as fines related to destruction of archaeological sites, there's nothing in our ordinances, codes, rules that we can administer other than the Grading Ordinance, so if they violate some aspect of their grading permit. So, we would probably need something from SHPD telling us hey, these guys they, you know, they busted up this area, they're responsible. The State may have the ability to fine them, I'm not sure. We may then once we get that kind of call from SHPD. So, in Moomoku [sic] they're currently under a stop work. So, SHPD informed us that they were not in compliance with some aspects of their...I'm trying to remember if it was the monitoring plan or they actually had to do some data recovery on a particular site that was not completed. Prior to this meeting, I checked with DSA and I was informed that that stop work is still in effect, that they have not satisfied SHPD and no work is progressing in that, under that permit.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Councilmember Sinenci. Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. I kind of had a question for Ms. Tegarden but I know we're not here to question her. But, Chair, I did want to make a comment about, you know, the idea of continuity, because I kind of question if that's a concern why we didn't have our biggest Department which is our Finance Department even, Director even interviewed but that's for another time. My, so my questions and I don't want...I hope Mr. Goode doesn't take that as a personal issue I have with him but, because I do want to say that I think that my questions are, have to do with what I view as our job as, you know, oversight of the directors. And what was said during the last election, seized and then promised by almost every mayoral candidate was new leadership, public trust, professionalism, some of them even said clean slate. So, that doesn't...and I'm not saying that to intimidate you, I'm just saying that these are the words that were used. I never heard the word "continuity" used once. But I, my

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question pertains to that because there's some issues, some major issues and you and I met and we talked about these major issues, the sand mining issue, the Iao Stream issue was huge, and the fact that my district was retaliated for my vote in that, on that initial \$5 million request is a big deal for me. So first of all, the two projects that were put on hold immediately after I made my vote, and you and I talked about this and I wanted to ask you how will your attitude and your actions be different under this Mayor than they were at that time?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you. Thank you, Chair. And, Chair King, thanks for meeting with me, I appreciate that. And I do have to state that absolutely no retaliation ever existed and so I just want to clear the air on that from my standpoint. We certainly had a misunderstanding and I think we had a good meeting after that meeting here in the Chamber where essentially we were out of money for drainage improvements. And we couldn't do drainage improvements anywhere in the County, including South Maui. So, we had a misunderstanding. I thought we made up well on that, if you will. But moving forward, you know, we take a lot of direction from you folks, right? And we take in terms of policy, you know, we take a lot of direction from the Mayor sometimes on implementation of that policy. So, to the degree there's new faces here and there's a new Mayor, we'll change the way that we certainly do business, I would think. Overall, most folks I guess they want good roads, right? I think in every survey that Council has ever done, what's the number one priority? It's usually roads and affordable housing. And so our goal really is to better work with the community, all communities, you know, on projects that come up. Because of the nature of the community and public interaction has changed, and so whereas before we may have done something, a public meeting or informational meeting or something like that, a lot of that now seems to happen electronically, right? There's a lot more going on in social media. And we need to do a better job of communicating to all folks and being cognizant of the changes in communications, techniques, and styles. And so I think that's probably one of our biggest challenges that I think I and other directors want to tackle, and we need with help with that with, through the Mayor's Office and our own training if you will.

COUNCILMEMBER KING: Okay, well, I guess we'll have to agree to disagree on how that was handled, because there was a definite, you know, I had some constituents were worried about the drainage in their area and were told by one of your employees--and I shared this with you, you know--well, you can blame Kelly King for that. So, you know, holding up a project like that to me is not in the best interest of the public and using a political reason. I don't know if it came from you or the Mayor, but I just want to make sure that that, we're not going to see that because we have four new Members and I feel like I was partially attacked that way because I was a new Member. And, you know, whether it was you or your boss testing the waters, I don't know. But there's the issue of...and I think these issues are...have been major issues for our community in South Maui, the Moomoku [sic] development, segmentation of that

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project; the issue of the Kulanihako'i Bridge. I don't want to get into the specific issues but a lot of these have to do with the feeling that there have been a lot of instances where the Hawaiian community feels its preservation, cultural preservation rights have been trampled on by your Department. And I need to hear from you what is your plan to address the concerns of cultural preservation? It's in our Maui County plan as an objective and even as a core principle, and how are you going to unify the community? I mean there needs to be a plan to unify the community around supporting the Hawaiian cultural preservation instead of just finding ways around it. And I'm sure you'll hear from some of my...you've heard from testifiers and some of my colleagues about the permits that were given out at breakneck speed seemingly to avoid some of the legislation that was coming up. So, that, you know, there's been a feeling that there's been an actual attempt to divide...not...I mean I don't think it was attempt to divide, but an attempt to allow people to skirt around these issues. And we need to come up with a plan to bring the Hawaiian community into those discussions and not be looking for ways around the preservation that needs to happen that is stated in our ordinance as one of our goals. So, can you speak to whether you have a plan, whether you intend to have a plan for that?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair. We need to work together obviously, right? So, I think it has to be driven by the Administration and the Council. We're not the only department that does permitting and projects. And so we would love to have some ability to bridge those gaps. We're never going to satisfy everyone, right? Even within a particular group of people. I'm sure there's Native Hawaiians that'll have no problem with a particular project and others will be against it, same in other communities. So, we're not going to be able to satisfy everyone, I, I've long learned that. But we can listen better, we can understand better. And so to the degree that training opportunities exist that those groups 'cause we have an open-door policy, you know, they can call us up at any time and I think I'm going to reiterate that a number of times today. Because we saw that at times in the last few years where these issues were going on and really no contact was made with our Department. And so we can do a better job of reaching out to those folks once we're made aware of it, but other folks need to feel free to hey, go talk to Public Works, they have an open door, they'll listen. And since we can't follow every communication that's going on in social media or somewhere else, we need help from folks to direct people to us. And we'll do a better job of trying to identify those conversations and force our way in, if you will, by saying hey, hey, hey, you know, let's meet, let's talk. So, it's a big issue I think somewhat beyond our Department, but we do play a key role and we want to.

COUNCILMEMBER KING: Okay, thank you for responding. I have a couple more questions. One is on your major initiatives, I know you...implementing MAPPS is a big issue. I don't believe your Department is in control of that so we have that issue to deal with. Under your...you said you plan to...you need to plan for sea level rise which, you know, and greenhouse gas emissions. The last Budget Session we put a fee on electric

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vehicles which are part of the solution and not part of the problem. So, would you support removing that fee from the Hawaii...Highways Division and, you know, just eliminate the attempt to tax the solutions instead of the problem?

MR. GOODE: Sure.

CHAIR MOLINA: Mr. Goode.

MR. GOODE: Thank you, Chair and Ms. King. I've already asked our Fiscal Analyst to start running some numbers on that fee. So, that fee was proposed by...actually came out of the Council.

COUNCILMEMBER KING: Right.

MR. GOODE: I don't think it came out of the Administration last year.

COUNCILMEMBER KING: No, no, I'm not accusing you of, I'm just saying will you support us --

MR. GOODE: Yeah.

COUNCILMEMBER KING: --rescinding that fee? Because I think it taxes the solution...

MR. GOODE: Yeah, so I...yeah, the reason I asked our Fiscal Analyst to look at it was, I basically said well, what is...well, how many vehicles we're looking at and how much has the fee generated? But if...if the fee is also there to pay for roadwork, right, 'cause those cars, you know, still have the same amount of effect on our roads as other cars, what is the right fee taking into account that we do get some revenue from the electric company, right, for...if they charge them with their electricity? And we're not getting...if we're not getting gas tax, what's the difference? My gut feel is it's going to be a lot less than \$100. So, I've asked for that analysis and I'll be presenting it to the Budget Director and the Mayor prior to their submission of their budget.

COUNCILMEMBER KING: Okay. So, you know, my concern is we're not looking at things holistically so we're still looking at things in a silo. If we're trying to just look at the roads and make all the users pay for the roads when we have a much bigger issue, climate change issue, greenhouse gas emissions issue and we're not applying the cost benefits of renewable energy, and that's to me one of the biggest problems with talking about sustainable transportation, renewable transportation is it's not recognizing the global issues or even our Statewide issues and our State and County obligations to be a part of the solution. So, I guess I'll speak to you about that later, but this has been an ongoing issue not just with the departments and the leadership in this County but, you know, with some of the Councilmembers as well. There's this idea that everybody has to pay for what they use instead of looking at our community holistically. And I worry sometimes that we're not staying true to the idea of, you know, if we really are

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trying to lower greenhouse gas emissions, why are we taxing the vehicles that are doing that? So, anyway, that's an issue for me because it keeps coming up for some reason on the heels of this, the statements that yeah, we do understand what climate change is and what greenhouse gas emissions are. So, my last question on this round, Chair, and I know I've taken up a lot of time but I think these are really important overarching issues. But there seems to be this lack of understanding of who the customer is. When we heard from the Mayor that all my directors are going to be customer-service oriented, have you ever been given a verbal or written definition of who the customer is or who your customer is or should be?

CHAIR MOLINA: Mr. Goode, prior to your response just a friendly reminder from our good friends at *Akaku* television with regards to your microphone. So, if you...when you do speak, keep it at a distance and while you're listening to someone else speak, if your mic is on and if you're a little close, the microphone might pick up your breathing or whatever else.

COUNCILMEMBER KING: There was heavy breathing earlier.

CHAIR MOLINA: So, just, a little TV reminder from our friends at *Akaku*. Mr. Goode, proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: And, Chair? Sorry, real quick.

CHAIR MOLINA: Oh, Ms. Rawlins?

VICE-CHAIR RAWLINS-FERNANDEZ: And if you hold it, if you point your mic at more of an angle then it won't pick up the breathing as much.

MR. GOODE: Thank you.

CHAIR MOLINA: Thank you --

VICE-CHAIR RAWLINS-FERNANDEZ: So, hold it like that.

CHAIR MOLINA: --Committee Vice-Chair Rawlins-Fernandez --

MR. GOODE: Okay.

CHAIR MOLINA: --for that additional advice.

MR. GOODE: Thank you.

CHAIR MOLINA: Go ahead, Mr. Goode.

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MR. GOODE: Thank you. I've been speaking into these mics for a long time. So, the question had to do with customers. No, I mean we haven't received anything written at this time, we do know that something is in the works as it relates to the various programs and training as it relates to customer service. But we know in our Department who our customers are in general, and it varies obviously. If you're submitting plans, you know, a building permit, you're an electrical contractor submitting for a permit or plumbing contractor, all of us are on our roads, we use our sidewalks, you know, we want to make sure our drainages are clean. I think we got about the entire County is our, as our customer, but they interact with the Department in different ways, right? And so sometimes they'll...we'll have...we're closing a lane of a road to do work during the day, we have a flagman or a flag woman up saying, you know, slow down or stop. That is a public interaction point right there, right? Now, and there's a lot of ways to handle that public interaction. When they submit for a permit or a permit is received, dialogue with a constituent or constituent group, there's so many ways, but I think we basically have the entire County covered as our customers in many different points along the way.

COUNCILMEMBER KING: Okay. So, yeah, I think that's been one of my biggest issues is that nobody seems to have a good understand...I mean it's good to say the whole County is our customer but what does that really mean? Thank you, Chair. I'll yield for now.

CHAIR MOLINA: All right. Thank you, Council Chair. Moving on down the line, Committee Vice-Chair Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Goode, for being here --

MR. GOODE: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: --and for meeting with me earlier in my office. Okay. So, my first question is how do you factor in SHPD's recommendations on grading permits when deciding to issue a permit? Do you listen to their recommendations or do you dismiss them?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Rawlins-Fernandez. So, the permits that are sent to SHPD, one, generally one of two things happen, although many things can happen in between. They don't respond at all, right, 'cause they may feel it's a manini permit or it's an area that is of not any concern, and under their own rules, their rules not ours, if they don't respond in a certain amount of time, it's deemed approved by them. More often than not though, they have comments and so like all agencies that we send our permits out to, we won't issue the permit until we get the green light from SHPD. So, they could go through many iterations, they could have an Archaeological Inventory Survey, they could have an archaeological monitoring plan, they could have

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data recovery, they could have protection of sites that need to modify our plans or the plans they submitted to us to protect those sites. But until SHPD says go, we'll hold on to that permit, it will not be issued. And then once it's go, then it's up to well, then what happens, right? Then it's of course the construction and if something goes amiss related to those sites or they have inadvertent finds then, you know, work ceases and SHPD, they resolve with SHPD.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so you said that you usually or generally hold off on the permits until you receive comments. Recently, have you not been a little more strict about the 30 days whereas before I guess you may have been a little more flexible? But I think with the 30-day period that SHPD would have to respond.

MR. GOODE: Yeah.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Rawlins-Fernandez. So, there's...a couple things can happen. So, generally they have 30 days to respond. So, let's say if somebody submits a grading permit, we review it internally, right, for its engineering qualities. We send it to NRCS who look at it from their standpoints. We may not finish in 30 days, NRCS may not finish in 30 days. We may have comments on the engineering side, hey, you know, you gotta fix this or you didn't think about that or...and we send it back. Now, you're on to 60 days, maybe 90 days. They still...we still haven't issued the permit, maybe...and all of a sudden now we get a letter from SHPD. So, they've gone past their 30 days but we haven't issued the permit. So, what do we do? We send the correspondence from SHPD to the applicant and say you gotta deal with this. So, that's an...those instances are examples of where they've missed their 30 days, but we still require the applicant to deal with SHPD's comments. So, that happens probably more often than not, and so there's applications right there where, you know, we don't issue the permit until they deal with SHPD. So, back in like 2011 or '12, you know, at the time, the new Administration was always concerned about permit processing, and so we looked at all of our various processes. And as it relates to, you know, holding SHPD, you know, accountable to their own rules, I called the head of DLNR, William Aila at the time, and I knew William 'cause I had served on the Land Board, you know, I sat right next to him. He's a tremendous individual, I really, really respect William a lot. And I called him, I said, William, I got this problem, you know, we're not getting responses from time to time and your rules. He said, Dave, you know what, he goes you do what you got to do. It's 30 days for us, you enforce it. I said okay. With the caveat of what I just described, right, if they come in late and we still haven't issued the permit. So, I went to the Chair, you know, of DLNR and that was the advice I was given. And as you may know, William's a cultural practitioner. He takes these things very seriously. We had some very meaty issues at the Land Board related to Native Hawaiian issues. I absolutely looked up to people like William and Sam Gon who sat to my left. And I sat between Sam and William and I learned a lot. So, when William said yeah, you enforce 'em, it's our responsibility, it's our kuleana to

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take care on the 30 days, that's when I said okay, so I wrote the memo to our staff, I explained this is what we'll follow. And that memo is still in place today as far as I know.

CHAIR MOLINA: Okay.

MR. GOODE: That's a little of the history and background I thought might be of interest for you and the public to know.

CHAIR MOLINA: Okay, thank you, Mr. Goode. That's a very extensive history you provided for us. Ms. Rawlins-Fernandez, your next question?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, I guess to follow up on that, so knowing that like part of the reason for maybe the delay is short staffing at SHPD, have you ever tried to, you know, support additional funding for SHPD at the Legislature so that they can have appropriate staffing?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, it's difficult for a department to support but we did. In fact, when I met with Dr. Downer who's the head of SHPD like I said six to eight months ago, he had just gotten a bunch of extra funding. So, he was actually excited and now he's trying to fill the positions, and then the Maui archaeologist left after that so he's just been...it's been super tough. So, we're glad that, you know, they finally got the extra funds. It seems it's...it seems to me it's...the grass is greener in the private sector for archaeologists. And so I don't know, you know, if we get a County archaeologist, we've gotta make the grass pretty green over here to have them come work for us. So, yeah, anything we can do to help we're, we want to.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. So, on the permit application, it allows for the applicant to check a box or sign off on whether there is iwi kupuna on the area that is being developed, and it...there's really no verification on that. And that is one of the triggers of whether it goes to SHPD for review or not. Do you think it would be better to have some kind of verification process on the permit application itself, to ensure that the applicant isn't trying to skirt around the SHPD process and review?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, thank you, Chair and Ms. Rawlins-Fernandez. Yeah, absolutely, I mean if we can tighten that up a bit, I think that'd be a good thing. Be happy to work with you and your office on trying to figure that out. We could bring in our folks from DSA, you know, who receive those applications. So, I know how to help make laws change that can work so be happy to work with you on that.

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VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so that wouldn't just be a change in the process of application, it would need an ordinance amendment?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Without knowing the details of where we would get into it, what we like...when we work with Council, one of the questions we always like to ask is what problem are we trying to solve. Sometimes over the years, we've come down here and we're working on something, and I lean over somebody and go what problem are we trying to solve here, where's this going? And so when we look back, we'll start with what problem we're trying to solve and then we'll look at all of the available options. So, sometimes it's an ordinance, sometimes we can do it either our rules, say or even maybe just an internal policy. So, right now I don't know the answer to the question, but I do know we seem to be answering that first question, what problem are we trying to solve?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so I guess in the situation, the problem that we would be trying to solve is not a new problem, it's an ongoing problem of desecrating iwi kupuna burial grounds. And by having this verification to ensure that it's not just, you know, the applicant being able to avoid SHPD review, wouldn't it have been more prudent to get in front of the problem and have this implemented sooner?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, and thank you, Chair and Ms. Rawlins-Fernandez. I think you're referring to that Maui Lani, Phase IX where that...there was a lot of scrutiny on the application. And in that case, it went to SHPD anyway, there was no avoidance of SHPD there. So, SHPD had every opportunity and in fact did review those plans and gave the go-ahead. So, unless you have another example, but in general, I believe the applicants may check off no on whether or not sites are present if they've done an Archaeological Inventory Survey and the survey found nothing. So, that's an example of the initial survey found nothing, but during the course of construction, what they call inadvertent finds were found. So, when they filled out the application, they may have been honest in saying we don't have...we don't think there's any because our survey showed there wasn't any, but during construction they found. So, that's why burials found before, during survey and burials found after are dealt with differently by SHPD and the Burial Council.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so is that the explanation for why initially that box was checked that there was known burials for the Maui Lani project, and later it was not checked and you signed off on that?

CHAIR MOLINA: And, Member, before responding again, I want to caution our Members and the Department as well, with going into a long dissertation about a specific item, we're here to look at maybe your involvement, Mr. Goode. Look at it more broadly rather

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than getting into very long details about the pros and cons of a particular issue that may involve litigation. So, again, I just want to remind Members again, let's keep trying to stay on that straight path so we don't get off into any Sunshine Law concerns or maybe a need for executive session if six Members of this body choose to go into executive session to speak in detail as it relates to your involvement, Mr. Goode. So, okay, so, Mr. Goode, again I'll give you that privilege of responding. And again, let's just keep it broad and let's not delve specifically into more details about a specific project. The Chair is trying to just keep things tight here. Go ahead, Mr. Goode.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

MR. GOODE: Thank you. I'll try to keep it general then. So, it gets back to what problem we're trying to solve. And keep in mind that for grading permits, we do about 200 a year, so the last eight years say just using that time period when I was Director, we issued about 1,600 grading permits. Of those 1,600 grading permits, a handful, you know, received extra attention due to inadvertent finds or perhaps they did desecrate a site. So, the problem is a very small percentage of those permits but a very important problem. So, the question is then how do we try to minimize that even further through either administrative actions or legislation or whatever it might be? So, I'm happy to work with you and everybody to see how we can do that. But just to give a general idea of the total scope of the work that our staff does 'cause those are staff permits, Director does not sign off. It's all delegated to staff.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you. Two more questions unrelated to those line, that line of questioning. Okay, can you speak to the pCard abuses and how you handled them? That was something that was reported in 2017 and on KHON.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Well, thank you. Yeah, I think I can speak freely about that because basically all the matters are closed to my knowledge. When KHON came, we were already doing an internal investigation. It was not news to us but we don't take things to the news, somebody else does I guess. And as a result of that investigation, people were fired. There was discipline granted in other cases. And the County as a whole undertook through the Purchasing Division, kind of a broad refreshing on pCards and purchase orders. A lot of what happened in that particular case actually had very little if nothing to do with pCards, but that's what was on the news. So, first thing I tell, remind myself is don't always believe the TV news, local TV news. But in any case, we were already on it. We had Corporation Counsel assist us greatly. We had to turn over the investigation to them, 'cause it was so broad and we needed their expertise in running an investigation. But eventually there was change in personnel, and people either were fired or were forced to retire, and discipline was given where appropriate. But I want to come back to my original comments of, in my opening statement of there's been a change within the entire Department but particularly in the Highways

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Division, and that is if you see something, say something. And previously there was folks that would step up and say something, but there may have been, I'm not going to say that it was, there may been a culture of well, I'm not going to say anything and we'll see what happens. That's changed. You know I see today there's folks actually from the Highways Division here who I understand took vacation. I see them nodding their heads. That change is ongoing but more importantly it's going to create an environment where folks that may be inclined to pilfer something from the County, make it really hard to even start. So, very, very challenging for our Department as a whole and we appreciate Corp. Counsel's involvement to make it a better...make it better in the long run.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you. Last follow-up question, so I'm really happy to hear you say that you support the see something, say something kind of a policy, because I believe strongly in protecting whistleblowers. But it seems that in 2017, there was a demotion of an employee who reported the pCard abuses. Do you believe that your staff would feel comfortable speaking up when they see something that is not happening correctly in your Department?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair. And I think I can speak freely about that 'cause that case has been settled. First of all, the whistleblower allegations were investigated as soon as they were brought to me by Corporation Counsel and the Office of Management. So, the internal investigation was done, obviously I was investigated, there was a lot of witnesses from throughout the Department. And again, Corp. Counsel, feel free to kick me here, but we were 100 percent exonerated from those accusations in that report. It was over 60 pages long, it had 300 pages of supporting documents, witnesses, testimonies, et cetera, not just me, a lot of people. We were 100 percent exonerated. Nevertheless the employee felt that they had a case and they took it to Federal court. That case was settled. All the settlement discussions happened here at the Council, the previous, a previous term. The employee still works for the Department. You know we have I guess a decent relationship, but, you know, I don't work directly with that person. I don't retaliate, I keep my nose really clean if at all possible 'cause these things can happen. But as a result of that, the findings that Corp. Counsel had, there was no real case there and that's why there was a settlement. So, it's the last thing I would want to do is retaliate against someone. We had to make difficult personnel decisions as I mentioned earlier. We've had to let go a number of people who have made some serious errors. I've never had anybody come back and say, you know, you were totally wrong, you know, I was doing something right. They know they were doing something wrong. And with 250 some odd employees, it's going to happen, you know, from time to time. So, I really, really value our employees, and it's, it was a tough situation and it got played out in the news unfortunately and people may not know all the details, and there's probably some I still can't discuss. But I think what I've said hopefully alleviates any fears you may have.

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VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Goode.

MR. GOODE: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Chair.

CHAIR MOLINA: Thank you, Member Rawlins-Fernandez. And, Member Rawlins-Fernandez, the Chair thanks you and all of you, because I as the Chair of the Committee, I'm sort of the traffic facilitator if you will and every now and then the Sunshine Law police sends me little notes to make sure, let's keep everybody on the straight and narrow. But by the same token, I believe it's my opinion that, you know, we are the body that has to do the vetting of the nominee so we have a responsibility as well. And certainly I appreciate the Administration's tolerance for the questions that we ask. So, I thank everybody for working together on this to make sure that we operate within the parameters of the law, specifically the Sunshine Law. So, thank you. Councilmember Paltin, you have the floor.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Director Goode, for coming and meeting with me.

CHAIR MOLINA: Member Paltin, can you speak a little bit louder and get closer to your mic? There you go, thank you.

COUNCILMEMBER PALTIN: Is that good? I, I'm really undecided right now. I have conflicting points. I think that our West Maui highways crew is the best in the County, I might be a little biased, and they have expressed their support for you. And I'm not related by blood to them but I consider them to be my family. At the same time, our West Maui residents have brought up a number of concerns I think in three general areas, and so I need to find out as much as I can about these things. And regardless of how I vote if you pass through, I'm committed to working with you as a professional. Can you please explain your role in the three lot or less deferral agreements?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair, and thank you, Ms. Paltin, for that question. Is...as you probably know, that issue seems to have been a hot issue for a long time, and I will say in general I think this Council...a previous Council passed a resolution urging the County Auditor to take up the subject, and the County Auditor has talked to me twice to say that they're getting to it. And I said please get to it already because I want this audit. This has been a nagging issue. When I came back eight years ago, Milton Arakawa was the Director, and we sat down in his office and he gave me like his top ten things and this was on it. So, what we did in 2011, was to actually begin the process to understand all the agreements that we had and map them, and we did that.

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And so my hat's off to DSA and their staff who took up the project, took a while to go through 10,000 subdivision files, get in the storage units and all that, and they found them all. We categorized them and we mapped them. And so we know now if we...we know now, I think we knew then but if we're doing a project in a particular area that's subject to one of those agreements, we know how to enforce the agreement. So, our role is really to enforce the agreements. These are recorded against property, and mind you these agreements started in 1979 and went to 2007, so what's that? Twenty-one...28 years, yeah, 28 years' worth of agreements, there's about 600 total. It was the law, you know, the law is from 1979 to 1990 had a particular way of doing it and then from 1990 to 2007 had a way to do it. So, our job is to enforce the agreements and we will enforce the agreements.

COUNCILMEMBER PALTIN: How have these deferral agreements impacted Maui County and its taxpayers?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair. I think it impacted first by making homes and lots more affordable. So, from the developer standpoint at that point, and three lots or less was really geared towards the small subdivider, right? So, if they didn't have to install curb, gutter, sidewalk say fronting their property then...and defer those costs to future owners, they lowered the upfront cost of those homes and properties. So, what happened in 2007 when it was eliminated, we had a lot of subdividers talking to DSA and eventually our Department, hey, how come we gotta do all this work, you know, can I...and I said no, you cannot defer anymore, it's pau. And they started going to the Board of Variances and Appeals and asking for variances and they were granted variances. So, it's still the case, they're not allowed, but the initial result was that it lowered the cost of housing for sure. The other result is that it's, now the burden is on us to enforce those agreements, and I have the feeling once we have the first opportunity to enforce it, it's going to be difficult 'cause those folks are not probably going to want to pay. So, that's, those are my comments on that question.

COUNCILMEMBER PALTIN: Couple follow-up based on your answers. So, a high number of the properties that have benefitted from the improvement deferrals involve multimillion-dollar properties. So, you know, and are the taxpayers now paying for the frontage improvements on these multimillion-dollar properties, the commercials, and the industrials? And the effect on our taxpayers to essentially, you know, subsidizing million-dollar homes.

CHAIR MOLINA: Mr. Goode, with your response again, please tie it into your involvement with the particular issue if you can.

MR. GOODE: Yeah, so thank you, Chair. So, Ms. Paltin, again, that was the law, we were just enforcing the law, right? So, law has been changed since 2007. Whether or not they're high-end properties or low-end properties is a matter of subjectivity. I do know

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that when Mr. Lionel Santos called me, you know, who lives off Puuomalei Road and had to put in those improvements, I got an earful from him, I mean it was a huge expense to 90-year-old Lionel Santos, and I feel really bad for him but I said you know you gotta get a variance. So, I think Mr. Santos would probably disagree with that characterization, but the fact is it affects all kinds of properties and it was allowed by law and we'll enforce it.

COUNCILMEMBER PALTIN: Have you adopted administrative rules for enforcing the agreements?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Chair and Ms. Paltin, I don't think there's a rule...let's see, where was that Code? There may not have been rulemaking authority allowed, but it's an agreement so like any agreement we've talked to Corp. Counsel about it, we can enforce the agreement on the written agreement.

COUNCILMEMBER PALTIN: Can you explain the formula for addressing in-lieu fees?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: You have to clarify, what do you mean by in-lieu fees?

COUNCILMEMBER PALTIN: Like the, I guess the liens on the property or how...what is the formula? You said you were going to start collecting or start enforcing the deferral, what's the formula? Is everybody paying 25 bucks, the pro rata share, like what's the formula for collecting the money?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Paltin. I think, you know, I'd be happy to sit down with you and show you an agreement and what it says, but essentially what it says is that they pay their pro rata share of the deferred improvements that we install based on our actual cost. So, say that curb, gutter, sidewalk goes in and it's 200 feet long, you know, as part of our project. So, once it's done we know our final cost, it was so many dollars per lineal foot for curb, so much for gutter, sidewalk, maybe a catch basin, we will present that bill based on those costs to the homeowner or homeowners, I'm not...depends how many we're talking about here. So, it's pretty straightforward but it's going to be based on actual cost per the agreement.

COUNCILMEMBER PALTIN: Have you had experience in working with deferral agreements as a private developer?

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: Not...let's see, did we ever do one? Most of our work was larger than three lots so it wasn't really an option. I did own a property once in Olinda that had a deferral agreement. So, it was already on it, I bought the property with the agreement. I knew what it meant, I understood it. Obviously with 600 deferral agreements, there's probably a couple thousand properties throughout Maui County that have this. Every transaction between a buyer and seller would disclose that, 'cause that shows up on your title report. So, I bought the property with the deferral agreement; I knew it what it meant, and so it was really a judgment call of well, are they ever going to do improvements on this road in Olinda? Probably not, not for a while, so, you know, we had the property for a number of years and then sold it. So, that's my main experience that I can recall is actually owning one.

COUNCILMEMBER PALTIN: So, since the 2011 mapping of all agreements, how many agreements have been collected on to date?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: To date we have not had a project that installed those improvements per one of the agreements that required their contribution, but we have our first one coming up within the next I'd say year or two when that project commences.

COUNCILMEMBER PALTIN: In hindsight, are there things that should have been done differently regarding deferral agreements?

CHAIR MOLINA: Mr. Goode?

COUNCILMEMBER PALTIN: Or that you would have done differently?

MR. GOODE: Well, I have to remind you that the law was in place since 1979 when I was in high school. The original law from '79 to 1990 required them to, the owners to participate in an improvement district which as far as I know has never happened. And 1990 to 2007 required their pro rata share contribution. So, what would I have done differently? I think we need to look at this really I think going forward in the context of affordable housing, because it is a significant cost that if deferred lowers the cost of housing. It has the negative effect of well, if you don't put in the curb, gutter, and sidewalk, you don't have curb, gutter, sidewalk in that area, right? Or if it's ag maybe you don't have the swale or what have you. So, it's a tradeoff really. It's a tradeoff between requiring improvements that drives up the cost of housing versus the public benefit those improvements provide. So, I guess the question is for you folks, how you want to move forward with it going into the future?

COUNCILMEMBER PALTIN: I'm sorry, going back to the previous answer. Can you name the project that's coming up?

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: I'm not sure if I can, I'd have to ask Corp. Counsel.

COUNCILMEMBER PALTIN: Mr. Kushi, can he answer the question?

CHAIR MOLINA: Mr. Kushi, are you able to answer this question in open session?

MR. GOODE: Okay. I've been advised I can respond. So, the Kahananui Bridge project actually in your district will trigger one of the deferral agreements. I do know that we had notified the owner years ago that this may occur, and I don't know if they're still the current owner. But once that project gets farther along say into construction, we would notify the owner.

COUNCILMEMBER PALTIN: Okay. So, you know from a lot of the people that have reached out to me, this deferral agreement is like a big problem, you know, like how you stated from '79 to the present day, it's...and even you said that under former Director Arakawa, we had been trying to get a handle on it and deal with it. And so a number of my constituents are really I guess blown away with the now two-lot deferral agreements. I think the understanding was, you know, similar to like what you said to do these roadway and frontage improvements are a huge expense, and obviously for the residents waiting on the Upcountry water meter list, it's a...they finally get a chance to get their water meter and they might have to do like \$2 million in improvements to actually get it. So, it's really understandable how that would be the case. The question they would like me to ask is why you proposed amending Title 18 to allow exemptions for roadway infrastructure improvements island-wide and for commercial properties when this was not the intent of the Council? It was only intended to help individuals on the Upcountry water meter list who had waited so long for their meter.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Paltin. First, I should state that this matter was recently before the Circuit Court, and so probably one of the constituents may have taken that to the Circuit Court.

COUNCILMEMBER PALTIN: Yes, I think it's a constituent in my district as well.

MR. GOODE: Right, right, right. And so since I deal with folks from all the other districts and you folks do too, this is in my opinion it is a handful of people that are concerned about this but not the broader public. Having bought a lot myself that had a deferral agreement on it, we were able to quickly make a decision whether it was, you know, it was substantive to the purchase of the property. And so I think there's other motivations there. There's another case where one of the likely people you were talking to also sued the County, myself individually, Mr. Wong, I mean a handful of people. That case went to Federal court, lost, and was recently rejected by the Ninth

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Circuit of Appeals I think last week. The case related to this two-lot and it's not deferral, it's a two-lot exemption, okay, that passed here in the Council, was also litigated last week...two weeks ago I think it was. Yeah. And the court threw it out, completely dismissed it. So, the motion for summary judgment was granted, we won 100 percent, won the case. So, I just want to make sure the public knows and the other Members who may not be super familiar with this issue is that there has been attempts at litigation, at every single point, it's failed again and again and again. So, I think what Milton was expressing to me was his kind of general frustration having to kind of deal with all this and here we are still dealing with it which is why I want the Auditor to do the report. Please. 'Cause I think it'll really help all of us, yourselves and me, me included, whoever is here. But the main thing is the two-lot exemption came up I guess as part of that Upcountry...I wasn't following it super closely, it was in Water Committee at the time, and they wanted to allow I believe an extra meter to be allowed to a lot without having to do the fire improvements. So, they're working real closely with the Fire Department. And at the time, the Water Committee Chair was Ms. Baisa and she called me up and said oh, you know, we're working on this ordinance and she explained it to me, 'cause again I wasn't following it too closely, our Department wasn't involved, but she said if you do a two-lot, do you not have road improvements? And I said yeah, you do 'cause the exemption is gone, the three lots or less, you have to do road improvements.

COUNCILMEMBER PALTIN: You mean the deferral is gone?

MR. GOODE: The deferral is gone, right. You have to do the road improvements. She said whoa, what does that cost? I said it all depends, I mean it depends on the property, it's terrain, et cetera. It's definitely an added cost. And she said well, would you, you know, what if we did like an exemption similar to exactly what they're doing on the fire flow, and I said well let me talk to my staff. So, I reached out to the staff to get a better feel for what they're experiencing, and what they were experiencing at the time was folks like Lionel Santos going this is killing me, I can't do this, I can't get the land to my kids.

COUNCILMEMBER PALTIN: Is Lionel Santos in the Upcountry water meter bill [sic]?

MR. GOODE: I have no idea if he has a...he's on the list or not.

CHAIR MOLINA: Mr. Goode, I believe you've responded pretty much to...is that satisfactory to you, Member Paltin?

COUNCILMEMBER PALTIN: Yeah, yeah.

CHAIR MOLINA: Okay, thank you.

COUNCILMEMBER PALTIN: So, wondering --

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CHAIR MOLINA: Just trying to keep things moving.

COUNCILMEMBER PALTIN: --why County residents should be footing the bill for developers and business roadway infrastructure improvements is...wondering?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: I think we need to do is understand what that law changed, what the...what's happened since then. And so what I'd like to do is to work with you, you know, later, let's roll up our sleeves. Let's take a look at okay, what type of projects have utilized this exemption and...

COUNCILMEMBER PALTIN: I believe there's 20 so far and not a lot of them are with the Upcountry water meter list and that's only in the last three years.

MR. GOODE: Right, right. So, it'll come back to what problem are we trying to solve, right? So, we would sit down and we'd take a look at the list of the people that are intending to use it. I think there's been, last I checked one approval, and take a look at that and say is that the right public policy to have? Do you feel that's the right policy to have? And if not, what changes would we make? And so that's what we...we'd work together on figuring out a way to change that and once we identify exactly what the problem is, the scope of it, and the implications of it.

COUNCILMEMBER PALTIN: So, but I don't understand, you know, the title of this bill was the Upcountry water meter list exemption and then it was slid in to be island-wide. I mean everyone can understand why the Upcountry water meter list people would be exempted, but then we have, you know, like Mailei Pai Hui Land, Pauwela Farms, Kaonoulu lot subdivision, and all these other places that are taking advantage of something that was truly intended to help our residents on the Upcountry water meter list. And with the bill saying that it's for the Upcountry water meter list, then only the people that really look into it and know, know about this exemption, you know. So, I mean it kind of feels like a little bit of a bait and switch. Like from what I understand, plenty of the Councilmembers didn't know that it was extended beyond...it was extended island-wide. So, I mean it seems kind of like not very transparent.

CHAIR MOLINA: Thank you. Member Paltin, if you have more questions, Chair would ask for your patience, I'd like to give some of the other Members to complete this first round. And Chair will certainly come back to you at a later point.

COUNCILMEMBER PALTIN: Two more just on this issue.

CHAIR MOLINA: We're going into break time shortly. I will come back to you after the break, how is that? Can I...I'd like to give Member Sugimura a chance and then we'll --

COUNCILMEMBER PALTIN: Okay.

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CHAIR MOLINA: --work from there.

COUNCILMEMBER PALTIN: I'll finish this issue next time but I have another issue as well.

CHAIR MOLINA: Certainly we'll come back. Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair. Thank you, Mr. Goode, for being here. I just wanted to take us back to why we're here and go through the qualifications just to make sure that you qualify. These were the qualifications, additional qualifications for the Director of Public Works which is Ordinance Number 4840, Bill Number 36, and as we meander through a whole series of questions, I just want us to focus on who you are and what your qualifications are. Just...

MR. GOODE: Okay.

COUNCILMEMBER SUGIMURA: This ordinance says that the Director of Public Works shall have the following minimum qualifications, five years of experience administrative capacity either in public service or private or both. Do you qualify?

MR. GOODE: Yes.

COUNCILMEMBER SUGIMURA: And as part of the, and in addition to the five years of administrative experience, three years of responsible managerial and budgetary experience. How many years of budgetary experience do you have?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Basically all of my work since 1999, 20 years.

COUNCILMEMBER SUGIMURA: Twenty years. As part of or in addition to the five years of administrative experience, three years of experience in one or more of the following functions: A, administering public...administering building, housing, and subdivision ordinances and rules.

CHAIR MOLINA: Mr. Goode?

COUNCILMEMBER SUGIMURA: I think you...right, you've built?

MR. GOODE: Yes. Yeah, that's --

COUNCILMEMBER SUGIMURA: You built Iao Parkside.

MR. GOODE: --on point with what we do.

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COUNCILMEMBER SUGIMURA: I didn't realize that also built Iao Parkside. But approving proposed subdivision plans.

MR. GOODE: Most of the work is done by DSA, I do sign off on the plans and answer the tricky questions that may come up.

COUNCILMEMBER SUGIMURA: Okay. Planning, designing, building or maintaining highways, drainage, and flood control systems.

MR. GOODE: Chair and Ms. --

CHAIR MOLINA: Mr. Goode?

MR. GOODE: --Sugimura, that's work that's typically done by all of our employees so I mean I have great knowledge of it but not a lot of direct experience --

COUNCILMEMBER SUGIMURA: Okay.

MR. GOODE: --filling potholes for instance.

COUNCILMEMBER SUGIMURA: Okay. And if you didn't have great knowledge, you wouldn't be able to participate in it so I would take that as a yes. A bachelor's degree from an accredited college or university in engineering, business administration, public administration or other relevant discipline or a combination of education and work experience substantially equivalent to such a bachelor's degree.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yes, I have a bachelor's in science and electrical engineering with honors from the University of California at Santa Barbara, 1984.

COUNCILMEMBER SUGIMURA: Thank you. So, in my book you definitely qualify for why we're here and your years of experience, and in fact I did get to work with you when you were Deputy Director under...with Mayor James Kimo Apana so I have experience with you then, working...when I was with the Office of Economic Development, so I have really good experience during that time and now. So, I wanted to just comment on now in that as you know every second Saturday which I'll be there this Saturday, I'm at the Upcountry Farmers Market, and recently somebody asked me what is the most questions that I get, you know, for the people and these are people who are just shopping at the Upcountry Farmers Market by Longs Upcountry in Pukalani. And I will honestly say that the most questions I get or concerns I get are about roads, right? And I would...I know that my office calls you probably often on Mondays to help. And I just want to say that that's probably something that affects people every day, 'cause you drive on the roads that are in your neighborhood, and I want to thank you

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publically for always reaching out to the people that contact me and that oftentimes when I'm there the following month, they say oh by the way, thanks for taking care of that. But the one I really want to thank you is...

COUNCILMEMBER KING: Chair, a point of order, is there a question?

CHAIR MOLINA: Ms. Sugimura, can you get to your question?

COUNCILMEMBER SUGIMURA: Yeah, how does he manage that? So, but the one I really want to thank you for is the elderly lady who was trying to cross her street and needed to get the weeds taken away so she could go shopping. So, thanks on that. So, when we call your office, what is your mechanics to get the work done because you're getting results?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Well, thank you, Chair and Ms. Sugimura, for that question. I have a great staff. You know when I applied for this job with Mayor Victorino, I applied for a couple reasons, one is I really love the work and I really love the people. We have a wonderful staff. And when I interviewed, I said it's not just me, it's my Deputy Director Rowena Dagdag-Andaya and it's my private secretary Jill-Anne Ono, we're all appointed, and I think we make a tremendous team. So, when those calls come in, maybe Jill took the call, she can start the e-mail and she often does. Maybe it comes where she takes the call and initiatives with an e-mail, Rowena may get it, I may do it. We all know that this is really important. Whether it's from you or any Member or any member of the public, highway safety is kind of like number one with us. So, we work really well together. Sorry, Jill, I gotta say something nice. But if you ever...remember that show M*A*S*H? Remember that? There's a Radar O'Reilly. Radar O'Reilly was always getting it done before anybody ever asked, that's what Jill does to this organization. She's key to making it work. And we got people like Jill all over so when that call comes in and then it goes to engineering to maybe look at it or maybe it goes to highways to fix it, they're all Radar O'Reilly, they're all on it. And my hat's off to them. That's one...that's why I wanted to keep doing this job, right? We have really great people, we have a great mission. So, I didn't know how I was going to answer your question and there you go. Thank you.

COUNCILMEMBER SUGIMURA: Thank you. And I just have a question about what project was mentioned earlier in South Maui that there was a problem with it? I think it was Ms. King but I'm curious because I was part of probably the body that voted for it. I'm not sure, what project are we talking about?

CHAIR MOLINA: Mr. Goode, you can...you could provide clarification to Ms. Sugimura on your involvement in that particular project --

COUNCILMEMBER KING: Chair?

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CHAIR MOLINA: --in question?

COUNCILMEMBER KING: Chair, I think Mr. Goode is asking for my clarification on what...so the incident I believe was the...well the incident that sparked it was the vote on the Iao Stream emergency funding which included I think \$3 million worth of rock crushing, hauling and crushing, but I did not vote for that. And then there were two projects in South Maui District that were held up immediately, they were drainage projects, you know, and which that's...if that's what you're referring to. Those are two...

COUNCILMEMBER SUGIMURA: I wasn't sure what...

COUNCILMEMBER KING: They were not voted on by us, they were already in, they had been voted on previous and they were already in the works, they were supposed to go forward and they were held up.

COUNCILMEMBER SUGIMURA: Because of a budget thing. I was just curious, I...

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Well, there's a difference of opinion as to why...

CHAIR MOLINA: Okay, thank you for the clarification, Council Chair.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR MOLINA: Ms. Sugimura, continue with your line of questioning.

COUNCILMEMBER SUGIMURA: One last, one last. So, I mean I would like to have more information on that, because it sounds like it involved me too as a Councilmember voting on a budgetary incident or a budgetary situation. But I too got a call from the Upcountry, your district office, so I heard...and I was really glad to hear this and you reaffirmed it with...I took notes of all the things that you said in your opening. But the Upcountry District, basically they...as a leader, right, 'cause that's what we're concerned about, that's what we're hiring you for is your leadership so I was glad to get the call, because in times of emergency you're there. That's what I wanted to hear, right, solve problems, that's what you do. And I'm glad to hear what you say about when you sit before us Councilmembers, because that's what we're supposed to be doing too. So, any way we can support you to have your job work better, that's our job. So, I'm going to close with that for now, Chair. And I thank you very much for wanting to do this job. Thank you.

CHAIR MOLINA: Thank you, Councilmember Sugimura. Councilmember Kama?

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COUNCILMEMBER KAMA: Thank you, Chair. So, Mr. Goode, can you recall what Mayor Victorino's message was to all of his new appointees and you included if you did not perform up to his expectations?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Kama. I know maybe you heard, he basically said, you know, if you're not performing, you're out, and out like you're not going to work for him anymore. And I just want to add that I never heard that from the three previous Mayors I worked for. And I don't mind being told that, I think that's the way it should be. So, I'll obviously be, you know, working for the Mayor, the Managing Director Sandy Baz, and all of you folks. So, my job is to keep the Department running. We keep doing a good job and I'm pretty confident about my job security for at least four years.

COUNCILMEMBER KAMA: Thank you. So, one of the things that I want to also let you know, Chair, that I appreciate all the comments of all of my colleagues here and the reminder of Mr. Goode's resume and what it all says. But what is included sometimes in resumes and paperwork that we read, it talks about skill and knowledge and history, but it doesn't talk about the character of a person, and that's what we get a lot of in our e-mails and in our...when people meet with us at Costco and all of those places that you think that you can duck and hide but you can't anymore. But it's the character of the person and that's what's reflected in a lot of the paperwork that I'm reading, and I think that's what causes me a lot of concern is not about that these are not qualified but rather the content of their character in terms of integrity and honesty and trustworthiness. So, I just wanted to read something to you, Mr. Goode, and get you to be able to respond to that, because I think there was something here that just caught my eye and I think I wanted to read it to you so that you understand where I'm coming with this. It says...and it's part of what Ms. Tamara Paltin was alluding to until she was cut short. But so it says regarding Title 18 that it was only supposed to be for the Upcountry water meter users, and then it ended up being the amendment was an island-wide amendment to not just the Upcountry water meter users but also was applied to commercial developers, real estate investments properties, and businesses. And it says the Council was led to believe that the amendment to Title 18 fulfilled the purpose discussed during the Council hearings and failed to read it closely enough to realize that they the Council were duped by the above individuals and there's some names up here. No one on the Council for that vote knew they were voting to amend Title 18 island-wide and, Mr. Goode, you knew that. Could you respond to that please?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Kama. The...I think it's really important to put it in the context our role in that process. So, again, Chair Baisa of the Water Committee was working on an ordinance, and she came to us and asked about the road portion of

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it, and that's when I reached out to staff and we came back with well, we're experiencing a lot of variances where people are saying hey, this is a real big hardship. And so we could support if you're doing a two, essentially doing a two-lot deferral of fire improvements, we said well, we could handle, probably handle a two-lot...excuse me a two-lot exemption, a two-lot exemption of fire improvements, we can probably do a two-lot exemption of roadway improvements because we're getting all these requests. We're getting requests for variances and we have to go to the BVA and like that. So, she said okay and then they went and drafted revisions, right? So, that goes through Corp. Counsel, it goes through Council Services, I'm not sure. So, again, it was a big ordinance and we kind of came in at the end and were consulted, and then I came on the floor here and I explained to the Committee and I've gone back and I've reread what I said, and I didn't say it was only for Upcountry and I didn't say it was Countywide, I just said this is what it says. And so it passed Committee, I don't know if it was multiple Committee meetings or...I just remember going to one meeting and this went on for months and then it passed two readings. And so our job is to implement it. Again, if there's a concern about it, we'll help you folks, we'll identify...we'll get the data, we'll look at it, and we can help you folks to modify it. But our role was really small there, and we did not purposely mislead anyone. We just presented the facts, it's our job, and let it go where it may at, on the Council floor.

COUNCILMEMBER KAMA: So, if I may again?

CHAIR MOLINA: Proceed, Member Kama.

COUNCILMEMBER KAMA: So, what is the purpose of the three-lot deferral and the two-lot exemptions? What were...what was the purpose? 'Cause it seems to me after hearing all of this that that's we're in a pickle about this today because of this. So, we have to figure out how to correct stuff like this so our people don't suffer. And for me, you know, the law was made for us to be able to live in harmony, right, but not for us to live by...I mean not that we don't live by the law, but when I think about the law, I think about the law as a guiding tool for us, for human beings to live. But not that you create a law for us to not live by. I don't know if that makes sense. But so, sir, so could you please explain that to me?

CHAIR MOLINA: Member Kama, certainly you have a very good question for clarification as it relates to one of the issues that's a bone of contention in the community. Mr. Goode, please respond and provide clarity for Member Kama.

MR. GOODE: Okay. So, if I could again rephrase the question, the question what's the purpose behind the three-lot exemption or the...

COUNCILMEMBER KAMA: And the two-lot --

MR. GOODE: The three-lot deferral --

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COUNCILMEMBER KAMA: --right, three-lot deferral --

MR. GOODE: --two-lot exemption.

COUNCILMEMBER KAMA: --two...

MR. GOODE: Right. So, I think in general there's I guess a legal term called nexus, right? Mr. Kushi can chime in on this, and there's been cases throughout the country on this. If someone's adding a bathroom, does that mean you have to do road improvements? If someone's adding a room, do you have to do road improvements? If someone's building a hotel, do you do road improvements? And so there's all these types of permits that we...people apply for and we grant. And depending on how big the project is, right, and the zoning, they have to do other improvements, right? So, if it's a giant development, they've got to do all these improvements. If you're just adding a sink, you don't do any improvements. So, that...where's the line? Where do you cross, what level of improvements do you cross and do improvements? And that's really at the heart of the matter of the two-lot exemption. And so I think that's what Council decided on fire improvements which to me are probably more important than a road improvement. They decided that yeah, one more meter, one more lot is okay to not do fire improvements, so they had to make that call, right, where do you approve it? So, they basically said three lots, you gotta do fire improvements. And so when they came to us, we said well we can live with two lots not requiring road improvements, but three lots needs improvements. So, it's really is try to...where do you draw the line, yeah? And you guys are free to draw the line wherever you want, and that's where we can work with you folks on that. Does that help to understand?

COUNCILMEMBER KAMA: That helps me to understand.

MR. GOODE: Okay.

COUNCILMEMBER KAMA: Thank you very much. Thank you, Chair.

CHAIR MOLINA: Okay, thank you very much, Member Kama. The Chair's aware of the time, that we may look at going into a break, a well deserved one I might add. So, what the Chair will do, I did have a couple of questions and I want to dovetail off of one of the questions Member Kama had, but out of consideration for your, some personal needs which includes the Chair, I'm going to call a recess, morning recess. Members, let's return to the Chambers at 10:55. Ten-minute recess. . . . *(gavel)* . . .

RECESS: 10:43 a.m.

RECONVENE: 10:59 a.m.

CHAIR MOLINA: . . . *(gavel)* . . . The recessed Governance and [sic] Ethics, and Transparency meeting of January 29, 2019 is now back in session. Members, it is

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11:00 a.m. Today is Thursday, February 7th. We're currently in the question-and-answer phase with the nominee for the Director of Public Works, Mr. David Goode. The Chair now would like to open up this second and final round of questioning with a couple of questions. Thank you, Mr. Goode, for enduring the process. It's certainly been quite educational for all of us in the community. My first question will have to do with the Subdivision Code. We've heard from the public about ways how we can, you know, enhance it and maybe streamline the review process to speed things up. Should you be confirmed to retain your role as the Director of Public Works, can you offer us suggestions or things that you will do to help speed up the process?

MR. GOODE: Thank you, Chair, Members. I think, you know, all of our Codes that we administer, the Subdivision Code, Building Codes, et cetera, always need to be looked at and refreshed. And so the Subdivision Code we did in 2012 I think so now it's been seven years so it's an opportunity to look at the Code and see what changes could be made. In general, I'd say the folks that complain about subdivisions taking too long, it's a multiple departmental effort so we send it out to a lot of other departments. But internally our biggest challenge going forward is in our survey section. I think alluded to this in one of our discussions last week committee meeting. I think I did. Anyway, we have two surveyor positions vacant, it's almost impossible to find a surveyor currently and so they need to review the plats that come in. And so internally within the Engineering Division, I see Mr. Chico Rabara is here, head of Engineering Division. He's challenged with, you know, finding solutions to that. DSA, Development Service Administration is looking for ways to help with that. But internally within our Department, that's where we're focused currently, but we'd be happy as I mentioned earlier to, you know, any changes in the Code, we're here to work with you folks on making those changes. Thank you.

CHAIR MOLINA: Thank you, Mr. Goode. Another question, I believe one of the Members brought out the pCard situation and of course I think the kitchen situation out here in the Wailuku Baseyard. I'm not sure if this is true or not, but were there any issues somewhat similar to that out at the Makawao Baseyard and if so how is that being handled? And I know you mentioned earlier about creating a new culture or a new mindset within the Department, and I've known you to be someone to be very engaging not only with your Deputy but also with the frontline personnel, the folks who do the grunt work, if you will. So, if you can just respond to that question, 'cause I've heard that there may have been an incident or two at the Makawao Baseyard somewhat similar but if...just basically update us on that.

MR. GOODE: Sure. I think what I can disclose, Chair, is that there was a situation regarding purchasing. There was disciplines meted out and there was one person who we fired as a result of that. So, again, we worked with Corp. Counsel who had the resources to look into it and in-depth interview a lot of people. And subsequent to that as far as the see something, say something, we really rolled that out just before Christmas. So, Rowena Dagdag-Andaya and myself, we go to all the baseyards, we go

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to all our offices. We wish them the best, you know, for the holidays. My wife makes like 500 cookies that we distribute to them and we talk story, but one of the things we talked about was the results of the survey that we got and we want to do as far as employee engagement and the employee experience. And then we also talked about the see something, say something so we've rolled that out from us as well. And we're confident this is going to help eliminate these from occurring in the future.

CHAIR MOLINA: Okay, thank you, Mr. Goode. And as I had mentioned earlier on one of the questions that Member Kama had asked you regarding integrity and it's from my personal work experience with you, you are a person of sound integrity and sometimes you've had to make some decisions that are tough calls. And so, you know, I certainly appreciate that. And I guess all of our directors will have to at some time or another make calls that are unpopular, but you have to do what you feel is best for the County as a whole. So, anyway, go ahead, Mr. Goode.

MR. GOODE: If I could add, you know, in both these instances, Wailuku and Makawao, you know, we were unaware these were happening. A lot of it was so difficult to see from a paperwork standpoint, but until we were notified, it looks like this is happening, that's when we were able to take action. So, again, back to seeing something, saying something is incredibly useful. But I can assure you and the Members here today that when we were notified of something, we take appropriate action in all matters related to employee relations.

CHAIR MOLINA: Thank you, Mr. Goode. And certainly you as the Director can't keep an eye on every little thing that goes on with what goes in the departments, and certainly by encouraging your employees to report it, any inappropriate things going on, I know you're a person of integrity that will take the corrective action necessary on behalf of the County of Maui and our taxpayers. All right, with that being said, second round, I believe was it, Mr. Sinenci, do you have any questions for the second and final round? Or I know Chairman King had . . . *(inaudible)* . . .

COUNCILMEMBER KING: Chair, I do but I would like to yield to Councilmember Paltin because I think she was in the middle of --

CHAIR MOLINA: Sure.

COUNCILMEMBER KING: --her, of following up, so if...

CHAIR MOLINA: Okay, thank you. I was just going down the line. Member Paltin, you mentioned you had a couple more questions for Mr. Goode.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Council Chair King, for your yielding. Sorry, I wasn't super prepared but so I have an affidavit from a former Councilmember JoAnne Johnson, now JoAnne Johnson Winer, dated 2015, in which she states she has reviewed a letter from Director Goode on April 16, 2012, which

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provided the projected revenues from collection of developer deferral agreements on affected parcels along the South Kihei Road Capital Improvement Project. And I was wondering if Phase I, II, and III of the South Kihei Road wouldn't have triggered collection of deferral agreements?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Member Paltin. I don't have all the information in front of me, it's been a long time since I've looked at that. My recollection is that any deferral agreements that were in Phases I, II, and III were of the variety that the law allowed for from 1979 to 1990 and that said that, only said that they shall participate in an improvement district along with, you know, all the other neighbors. So, given that there's no improvements districts as far as I know ever done in Maui County, we were unable to collect on those agreements, because the law at the time and the agreements that mirrored the law. So, but I, you know, I'm just trying to remember, there may have been a couple there but they were the old-style ones.

COUNCILMEMBER PALTIN: And when you were referencing the case being throwed out...thrown out of court, was that based on its merits or on technicalities?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: You'd have to clarify for me which case you're referring to.

COUNCILMEMBER PALTIN: Regarding the two-lot exemptions, the Ninth Circuit Federal ruling that you mentioned.

MR. GOODE: Those were different cases, I'm not sure which one you're referring to.

COUNCILMEMBER PALTIN: The merits were never considered, it was ruled the complaint was filed after the 90-day period allowable for citizens to seek the repealing of an ordinance due to violations of public notice and it being headed to the Court of Appeals.

CHAIR MOLINA: Mr. Goode, are you able to respond? If not, we can make that request of you in writing.

MR. GOODE: Yeah, I can't. I think maybe Corp. Counsel would have to respond to that. They attended the hearings, not me.

COUNCILMEMBER PALTIN: Okay. I'll withdraw the question. You know earlier you stated that, you know, this deferrals and the exemptions has made homes and lots more affordable, and you told my colleague Vice-Chair Rawlins-Fernandez that you know how to help make laws change, and I certainly support, you know, folks like Lionel Santos of Haiku getting exemptions, whether by variance or whatever the case. But I

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think you're a very intelligent person and you know your job very well so you must know of the multimillion-dollar homes, the corporate businesses also taking advantage of the public taxpayers through these deferrals and exemptions. And so I was wondering why you chose to propose this option in the Upcountry water meter bill as opposed to working with Members to say, you know, ensure that it really helps the Lionel Santos and not the, you know, multimillion-dollar homes on Hui Road E or wherever the case is. You know it's...

CHAIR MOLINA: Mr. Goode, can you respond to the question from Ms. Paltin?

MR. GOODE: Yeah, thank you, Chair and Ms. Paltin. So, again, our role is limited in that situation, right, 'cause it was an ordinance going through a water committee and they asked us to participate at the very end. And so we had a limited amount of time and resources. And we responded to the concerns that were brought to us. So, the concerns that you just brought up were never brought to us. And so they were brought to us now through this discussion, and so there's an opportunity there to see how we could amend the Code, you know, working with Corp. Counsel, then we should do that. But at the time, it was really about trying to get, you know, if we do a two-lot deferral, are we okay with that as it relates what I described to Ms. Kama, you know, where is the line? How much work do you do before you do the improvements, and so that's what the discussion was about and it passed along with the fire improvement deferral.

COUNCILMEMBER PALTIN: Can you comment on the Department of Public Works and signing off on final approval of subdivisions when SMA use permit requirements have not been met?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Sure. When we sign off on a final subdivision approval, that means the Planning Department has given us the green light. So, I think I mentioned earlier in a lot of our processes, we send it out to a variety of departments. So, we won't give final approval until every department gives us the green light. So, the Planning Department must have given us the green light. Now, that being said, final subdivision approval doesn't necessary mean the improvements are in yet, right? They could do a bonded final subdivision approval as allowed by law and they haven't done any improvements yet, so we don't know what the...if they've met the SMA conditions. So, in that case, you know, Planning has the authority under their SMA law to, you know, levy fines or enforcement actions or stop work or something like that. So, we won't issue final, I just want to keep reiterating this, we don't issue final building, final grading, final subdivision unless all the other agencies give us the green light.

COUNCILMEMBER PALTIN: So, in my research I've come across statements that the Planning Department doesn't follow up on the SMA use permits being completed or not. Were you aware of that?

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CHAIR MOLINA: Mr. Goode?

MR. GOODE: No, I wasn't. My experience has been is that they do, because typically if a certificate of occupancy is needed, it won't get signed off by Planning until they have a compliance report that they accept on the SMA conditions. That's my experience, I don't do a lot of SMA permits, I mean our Department does like for bridge projects and things like that, but I think that question probably be better directed to the Planning Department.

COUNCILMEMBER PALTIN: Okay. Can you comment a little bit about your discretionary authority in guiding the signing off of certificancy [sic] of occupancy when not all the conditions have been met in the Public Works' realm?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Paltin. Yeah, an interesting question. So, a certificate of occupancy may...is generally needed for...not a single-family home, for...it could be a hotel, a condo, a business. And that's done at the end of the building process. So, typically for us we either issued a building permit, a plumbing and electric permit, maybe a grading permit, but usually by the end of the project the grading is pau and it's just ____ you know all the doors in, all the windows in, the locks work, smoke alarms. And often what you'll see is that they're anxious to get in, right? They want to start their business, they want to move people in, whatever it might be, but they may not have everything finished. And so if it's within our kuleana meaning building, plumbing, and electrical, under some rare circumstances, we've allowed people to occupy but those are life safety codes. So, generally we would not allow occupancy unless those are met. I can think of an instance where we did, Kihei Charter School. The Kihei Charter School did not have railings on a particular stairway, they were waiting for them to arrive from the mainland and they had some issue with that and they had to go back and forth. They were super anxious to occupy and so we allowed them to occupy it, because they had erected enough barriers to prevent any incidents while they waited for the railings to arrive. So, that was an instance where used our discretion in our Codes, and we had to look at the overall public good, right, and we had to make sure the safety in this case the kids was met, and so that's what we did in that case.

COUNCILMEMBER PALTIN: Do you have any written policy, procedures, or rules that are like a guiding document on the discretionary authority that you possess as Director or say Deputy Director that would help the employees to administer their jobs fairly and consistently in that realm?

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: Yeah, thanks, thank you, Chair and Ms. Paltin. That's a good question. If it's a discretionary item that requires the Director's approval, it's the Director or the Deputy, right? It's not something the staff is going to want to make. So, like the Kihei Charter School one, they came up, right, and we talked about it, we had a good discussion with the building inspector, eventually got Gene Zarro involved from the charter school. So, if it's a Director decision, I can't write a rule for the staff generally to administer the policy, although I can --

COUNCILMEMBER PALTIN: Is it...is there --

MR. GOODE: --think of one...

COUNCILMEMBER PALTIN: --a written policy or rule or guideline that you and your Director follow like to make it more clear on the fairness and consistency to the general public of who can get that type of discretionary authority and who cannot?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: I'm not aware of one. I can say that not related to our Department, let's go back to the condo or office building or what have you needs a certificate of occupancy but the trees aren't in, right? So, the Planning Department enforces the landscape planting plan for that project inside, so Planning would say no, we cannot sign off because you don't have the trees in. But on the other hand, it's not a public health and safety issue, right? So, we would ask Planning Department and this is done at the staff level, not at my level, so staff would ask Planning how long would you give 'em? They say okay, 30 days, 60 days. So, our staff then does a temporary certificate of occupancy, because it's clearly not a health and safety issue. Give them time to get the trees wherever they're coming from and we give them a temporary certificate of occupancy. So, prior to that 30, 60 days, hopefully the trees are in and they get a permanent one. So, there are instances at the staff level where it's a case of we just basically get the other agency to tell us what they're comfortable with, right? So, if they don't have smoke alarms, chances are Fire Department is going to say no, we're not comfortable so we're not going to override the Fire Department. Most cases have to do with things like landscaping, the very finish final touches of a project.

COUNCILMEMBER PALTIN: So, do you have like a way to check up that it has actually been completed? Is there like a time limit or how do you address that?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, thanks, Chair. It's that temporary certificate of occupancy. So, we know they've occupied and if they extend that, they go beyond that time, they're subject to fines and we collect. So, that's the motivation and it works.

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COUNCILMEMBER PALTIN: Could you go over how you deal with vacancies or workload on employees when there's not enough or not the set amount of people to handle that workload, how do you address that?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Paltin. That's a really good question. I'm sure that came up in your previous work all the time, right? So, basically you hear it from the line people, right? Like hey, I can't keep up, right? They go to their boss and say hey boss I need help, what can we do? And so most of the time that's handled at the section level, you know, occasionally it goes to division head and occasionally comes up to our office. And so we also have a really great Administrative Officer, our DPO is Nancy Mahi. And oftentimes the division heads will come to Nancy, I got a problem, you know, what can we do to speed up getting somebody in, getting somebody in a temporary basis, looking at overtime as a possibility, shifting workloads to similar sections that maybe have some skill sets that match. So, we kind of explore all the options, but most of the time it's handled at the, below the Director's Office and occasionally we gotta jump in to help. But that's an example of see something, say something, they say something really fast because they're getting swamped, right? They're treading water, so that's how we handle it.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Thank you, Member Paltin. Okay, continuing on the second and final round. Members, do you have any additional questions prior to the Chair making a recommendation? Okay, Council Chair King, followed by Councilmember Sinenci.

COUNCILMEMBER KING: Okay, thank you, Chair. I have some really pertinent questions to help me make my decision so if you need to cut me off and go to somebody else and come back, I understand that, but this has been a really difficult decision for me, Chair. So, I want to get clarified answers on this, and the first one is, Mr. Goode, are you willing to work with the Kihei community or the South Maui community on the master drainage plan? I mean the master drainage plan which was recently brought to us, brought to the KCA has some what we consider really egregious recommendations in there, including hardening of the drainage ways. And it was completed and it was submitted so are you willing to be flexible on some of these ideas and work with the Kihei Community Association?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair, and thank you, Ms. King, for that question. That's an easy one for me to answer it, 'cause the answer is yes and we already have. So, the KCA, you know, voiced their displeasure with portions of the plan particularly related to Kulanihakoi Gulch and Waipuilani which are kind of related in this draft plan. It's not a final plan yet, it's a draft plan. So, we...the KCA recommended a particular

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consultant, EcoSolutions is their name. So, I directed my staff to understand more about what they could bring to the table, and we have hired them. So, we have hired EcoSolutions. I can't remember if we hired them directly or through our existing contract with RM Towill, but they're in the process of making...of analyzing the options particularly for Kulanihakoi and I think Waipuilani Gulch as well. That work's not complete yet. I haven't even seen a preliminary yet, but we took that recommendations from the KCA and we took it to heart and we actually did exactly what they're looking for. And we're looking forward to seeing what the options might be there.

COUNCILMEMBER KING: Okay, and does that include options for the, what was called the Kulanihakoi Bridge but was really an expansion of the culvert there, are we looking at that? Is your Department...I mean that was a longstanding battle with the KCA which I think took up a lot of time unnecessarily, because in the end, you couldn't get the final permit anyway. But I mean are you willing to work on that with some of the recommendations from the community?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, thank you, Chair and Ms. King. Absolutely because this work that we're doing with EcoSolutions along with what RM Towill did will guide us in what we can do for the Kulanihakoi Bridge.

COUNCILMEMBER KING: Okay.

MR. GOODE: So, we really need that...those results. So, at this point we're not working on the Kulanihakoi Bridge, we're really waiting to see what the results are of this, and that will guide in looking at, you know, the options that make most sense based on what's going to happen with that gulch area.

COUNCILMEMBER KING: Okay, thank you. The next one is on the SHPD deadline flexibility. It's really distressing to me to see us holding to this 30-day deadline when SHPD can't, just because they can't get over here. And, you know, coming from the private sector myself, I've seen my own company be held up by unions, because the person who had to do the specific work didn't get there for two days and we incurred the cost, but we did it because if you don't do...if you don't follow all those directions, one of which is, you know, SHPD has to do this review, then you get in trouble later on. And so, you know, we're kind of damned if we do and damned if we don't, but the bottom line is not...to me the 30 days is a lot less important than the fact that we need that SHPD review. And so if it has to go beyond the 30 days, you know, we should set that...my opinion is we should set that aside and say the superseding legislation, the superseding rule is we need that review. So, what is, you know, I mean without going through an ordinance that allows us to do that, we need to get some, my opinion is we need to get some flexibility right now. So, what is happening on that front, what is your opinion of that?

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CHAIR MOLINA: Mr. Goode?

MR. GOODE: Well, thank you, Chair. I talked a little bit about it previously, right, having had the discussions with the then chair of DLNR. We have a new chair, obviously Ms. Case is the Chair of DLNR. We can certainly have that discussion with her. Fortunately, you know, areas where we have had issues with iwi kupuna, inadvertent finds or cultural artifacts are all on projects DLNR has already reviewed, right? So, if you're looking at the projects where we didn't...we couldn't wait for their review, whether it was 30, 60, 90 days, whatever it was, I mean to date we haven't had any issues that I'm aware of with those types of projects. It doesn't mean we couldn't, I acknowledge that, we absolutely could have. So, we would need to balance that along with, you know, how it affects not only private sector projects but public sector projects. Right now the Waikapu Community Center has a contract to do some significant remodeling, and Parks wants to start on that work and they haven't got a reply for months from SHPD and they're making phone calls and e-mails, et cetera, et cetera. And so we've asked, you know, what we can do and we've reached out using our resources to SHPD, but it can affect County projects too. So, it's definitely a policy call. I'm open to waiting and see where it goes. But it's not a matter typically of their archaeologist coming over. All the applications are just forwarded to Oahu, it's a paper exercise for the most part. And so if, you know, if that's the will of where we want to go, I have no problem with that.

COUNCILMEMBER KING: Okay, well that's, sort of goes to another question I have is there has to be a priority, and in our Countywide Policy Plan, priority number one under our objectives is protect the natural environment. Policy number two is preserve local cultures and traditions. So, there has to be some kind of an understanding in the community if that is important that, you know, maybe something does get held up but this takes priority. So, I'm trying to figure out, I mean and I think that's the root of a lot of the issues that have come up, you know, that there hasn't been an effort to resolve that to prioritize the cultural preservation over somebody's project or even if it's a County project. You know so there needs to be some statement from your office and I think from Planning too which we have not heard, of is this a priority for you guys? Do you guys look at this? Do you look at our core principles and our core objectives when you're making those decisions?

MR. GOODE: Yes, Chair and Ms. King --

CHAIR MOLINA: Mr. Goode?

MR. GOODE: --we do look at those and we reflect on those and those are generally core principles that our employees find consistent with their values. Unfortunately when you're running a department, you also have all these other practical considerations, right? People wanting certain things and if it's reasonable, you know, I guess we do it, if it's unreasonable we don't do it. So, I'm certainly open to it. I'm not stuck on we

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have to keep SHPD, you know, on a short leash. But our experience has been the areas where we've had issues are areas already approved by SHPD.

COUNCILMEMBER KING: Okay. I'm getting information otherwise. But and I also think that, you know, the danger with saying is something reasonable, that's a very subjective term. To some people it's not reasonable, to some people it is, so that's why there needs to be a coming together and I don't know, has there ever been an effort to have a community meeting on this and talk to the developers and the folks who are, you know, crying out to preserve, you know, stop the sand mining to preserve their ancestral burial grounds. And I haven't seen that effort to have that broader discussion so that we can have an agreement of what our...I mean to me the agreement of what our priorities are was, happened when we built, when we made this document years ago and it's in ordinance. So, that's a big concern for me. And kind of leading into that is the letter from the attorney Lance Collins of January 10th, where he's asking to rescind a permit that was done extremely hastily which he's saying is, was done by an employee who didn't have the authority to renew a grading permit. And I'm just wondering if you had a chance to respond to that letter, if you...you have thoughts on that request? I don't, yeah, I don't think it's a, in litigation at this point, but it's a request from someone representing a group of people who are...but if it is in litigation, I'm happy to set that question aside.

CHAIR MOLINA: Council Chair King, I've just been informed we need to take a short recess to address a matter of priority with regards to a posting matter. Until further notice, recess subject to the call of the Chair. . . . *(gavel)* . . .

RECESS: 11:31 a.m.

RECONVENE: 11:32 a.m.

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET meeting of January 29, 2019 is now back in session. Thank you, Members, for that break. Today is February 7th, Thursday, it is about 11:33 a.m., and we're in the process of having Director Goode respond to a question from Council Chair King. So, Mr. Goode, Chair recognizes you.

COUNCILMEMBER KING: Thank you for taking that break so I can make that decision.

CHAIR MOLINA: You're more than welcome, Chair. Mr. Goode?

MR. GOODE: Thank you, Chair and Chair King. So, I think that was from January of 2018, right, not January of 2019. I'm not aware of any letters recently.

COUNCILMEMBER KING: No, it's January 10, 2018.

MR. GOODE: Eighteen, right. Yeah, so that letter was also consistent with a couple other similar letters we received regarding the extension of a grading permit. And because

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that item was actively in litigation at that time, I believe now it's settled at least what *The Maui News* is reporting, we sent that correspondence to Corporation Counsel. And so the response letter, I'm not sure if you have a copy of that.

COUNCILMEMBER KING: No, I don't.

MR. GOODE: Okay, the response letter which either I signed or Corp. Counsel signed did not agree with Mr. Collins' analysis that the grading...the extension required reevaluation and restarting the process. And so that letter was sent back to Mr. Collins and the other writers probably within I'm going to say like three weeks or so of receiving that letter.

COUNCILMEMBER KING: Okay, so but do you agree that that was done rather hastily?

CHAIR MOLINA: Mr. Goode?

COUNCILMEMBER KING: That permit was granted?

MR. GOODE: Well, hastily implies it's kind of like being sloppy perhaps, that my understanding of the staff member who received the request, it was consistent with similar requests they receive for extension of grading permits, and she happened to be at her desk and she happened to be on her e-mail and it came in and was familiar with the file and was able to respond quickly. Now, if that person had been out, it could have taken longer. I don't believe it was done in haste or being sloppy but it was based on her knowledge of the situation. And mind you, if I could add, Chair, in that particular case, we're talking about Maui Lani Phase IX. When that issue came up, the sand mining issue came up and SHPD was here, they expressed some concerns here related to the monitoring plan and how that was being effectuated. And subsequent to the meeting, we wrote to SHPD and said, you know, you brought these concerns up in the meeting, do we need to put a hold on this permit? We would...we need to know so we can take action, and we need you tell us because you're the experts in this matter, you, it's your plan, you monitor the monitors. To date, we have never received a reply from SHPD, and I brought that up with Dr. Downer when I met with him, because it's really...puts us in such a difficult spot, you know, as a Department and all our employees. So, given the fact that SHPD never replied, that there was an issue with the monitoring plan, given that the legislation or excuse me, legislation...the court case, you know, the judge had said that they could continue grading --

CHAIR MOLINA: Excuse me, Mr. Goode.

MR. GOODE: --provided the monitoring plan was done.

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CHAIR MOLINA: I apologize for interrupting, I'd like to recognize Corp. Counsel with any concerns with regards or is it okay to proceed from, Mr. Goode to respond with that information? We're fine? Okay, I'm sorry, Mr. Goode, proceed.

MR. GOODE: Yeah, he said I could. Yeah, so two things, one, SHPD never replied and said there was an issue with the archaeological monitoring plan, and the case in Circuit Court here they had a motion they granted that grading could proceed--it never did--grading could proceed provided that there was adequate monitoring and notification to the plaintiffs. So, given all that and the fact that we routinely grant extensions if they're in general compliance with the permit, it was normal for the staff member to do that. And the timing was just such that she happened to be there and on her e-mail at that time.

COUNCILMEMBER KING: Okay, I, yeah, I've never seen a permit happen that quickly and all we usually get it is complaints about how slow it is but that one seemed like breakneck speed.

MR. GOODE: It was just an extension --

COUNCILMEMBER KING: No, I understand that.

MR. GOODE: --it wasn't a new permit.

COUNCILMEMBER KING: But it was, the timing of it was, you know, was a little disturbing to a lot of people in the community because we were...well, I won't go into that. But so, you know, we were talking about the issues of climate change and sea level rise, and we have a project proposed in South Maui that was the old Maui Lu site that I understand they're going to attempt to redevelop on the ocean side of the South Kihei Road which is probably in our lifetime going to be underwater. So, what are your thoughts about that and is there a way to rescind those types of developments that are...I mean this is left over from years ago so I understand at the time that they were not...they didn't have those, the climate change or the sea level rise adaptation and vulnerability report. But now that we have that, what are your thoughts on those types of developments and how to rescind something like that?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Wow, that's a really tough question, Ms. King.

COUNCILMEMBER KING: It's a tough decision.

MR. GOODE: Yeah, it is and it's not, you know, it's obviously not a Departmental decision, right? It's a really big question for us as an island and a society. And I think that, you know, the report that the State provided on sea level rise, it's going to give us a lot of guidance, you know, along with, you know the island plan now speaks to this too

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and we've been looking at that carefully as it relates to what we're going to propose at Kaopala Bay. It's very tough so we're focused on the roads portion, I think that's all we can bite off at this point. We would like to be a participant in any discussion related to what to do with these shoreline lands that look like they will eventually be underwater. And should development continue or should for instance repair and replacement permits? Should we issue an electric permit, you know, if this thing's eventually going to be underwater? So, those are big questions that I don't have the answers for, but I certainly pledge to work on with you folks.

COUNCILMEMBER KING: Okay. I think we're going to have to work on it, but I just was hoping to get a commitment to, you know, to sticking to our prioritizing the sea level rise issues. And I think the developer in that one just to be clear, I think the developer started working on those plans a long time ago and needs to seriously take another look at that. And then the last question I have for you is more personal and in your financial disclosure, you disclosed a business called Hoomohala Pono, LLC which is described as a consulting to construction management. And I know it's not a huge amount of your income, but can you speak to whether that will be a conflict of interest for you when you're...because you're giving out permits and you're consulting at the same time.

MR. GOODE: Yeah.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Yeah, thank you, Chair. That's an LLC that I just kind of hung on to when I was from the private sector. It costs me \$13.50 a year to keep active, and it's there in case, you know, I felt like later on in life I wanted to do some type of work. But I've done absolutely no work in there other than a few years ago my mom had a lot and my brother built a house on it, and I worked on the weekends and the LLC was paid as part of that. So, other than that, I don't do it. It just kind of sits there and for \$13.50 I keep it alive every year.

COUNCILMEMBER KING: Okay, so the...I guess the claim of the letter A under income was just that was because that was the minimum, says minimum of a thousand, but there's nothing that's less than that so you just put A in there 'cause...

MR. GOODE: Yeah, it would have been Z or zero. Yeah.

COUNCILMEMBER KING: Okay, okay. That's, you know, that's probably a little bit of a concern, just the fact that there is that consulting business there so I just wanted to bring that up and clear that air.

MR. GOODE: Yeah, thank you.

COUNCILMEMBER KING: Okay, thank you, Chair.

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CHAIR MOLINA: Thank you, Chairman King. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. This question is probably for Mr. Kushi. Are there any pending litigations with the Department that we can't speak to?

CHAIR MOLINA: Mr. Kushi, are you able to respond? I presume as it relates to Public Works, correct?

COUNCILMEMBER SINENCI: Correct.

MR. KUSHI: Mr. Chair, to my knowledge I believe the only pending one would be the sand mining case, but I'm, I think it's been settled or the County's not a party to it. There were other cases which have been settled, but aside from that, to my knowledge anyway, I don't think there are any.

CHAIR MOLINA: Councilmember, if you prefer, the Committee can maybe make a request from Corporation Counsel to formalize that in writing if that is your so choosing just to get you and the Members up to speed as to what potential or what the existing cases are. And, Mr. Kushi?

MR. KUSHI: Yeah, Mr. Chair, these are litigation cases filed at your Circuit Court or District Court, Federal District Court. Not to say there's any kind of employee issues, grievances which I don't know any.

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

MR. KUSHI: What?

CHAIR MOLINA: Hang on.

MR. KUSHI: Excuse me.

CHAIR MOLINA: Okay, Member Sinenci has the floor. Ms. Paltin, you want to...I'll allow you to just add a clarification to Mr. Kushi, is that your wish?

COUNCILMEMBER PALTIN: Yeah, there's a constituent in my district with some pending stuff.

CHAIR MOLINA: Oh, okay. Mr. Sinenci, you want to proceed with your line of questioning now that you've been given a response by Corporation Counsel?

COUNCILMEMBER SINENCI: Yes, thank you. Mr. Goode, does the Public Works have their own paving equipment?

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MR. GOODE: Chair --

CHAIR MOLINA: Mr. Goode?

MR. GOODE: --and Mr. Sinenci, yes we do.

COUNCILMEMBER SINENCI: And do you guys utilize it or do you find...at what circumstances that you find the need to contract out to private entities?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: That's a great question. What we find is that when we contract out, we have to do survey, plans, bidding, contracts, et cetera, and they're pretty big jobs. When we do 'em internally, we don't have to do much of that at all, because we buy our asphalt one time at the beginning of the year, we get a fixed price. For any larger job, you know, more than, you know, like a quarter mile, we're probably not competitive due to the cost of the asphalt. And it takes a tremendous amount of resources from our entire Highways Division to pave, between flagmen, truck driving, et cetera. What was that number, like 20 some odd guys? So, we're taking a huge chunk of resources away from our other activities. So, that's why we're concentrating on slurry seal, you know, the thin coat using the slurry seal machine in neighborhoods, residences, areas where we can preserve the life and we're easily as cost effective as the private sector. So, we pave where we can because we can get right on it, right, if something blew out, you know, we can get on it, or we take on a special project every now and then.

COUNCILMEMBER SINENCI: Thank you. My second question is what are the Department's costs of its, the Public Works' vehicles, acquisitions and the maintenance of them? Like a yearly number as part of your budget.

CHAIR MOLINA: Okay. Mr. Sinenci, thank you for that question. And again please, you know, tie in your question to Mr. Goode's I guess involvement if you... 'cause it's a good question to ask especially during the budgetary session, but again, we're trying to... I know we want to get information...

COUNCILMEMBER SINENCI: It's just a prelude to --

CHAIR MOLINA: Yeah, okay.

COUNCILMEMBER SINENCI: --my, to the second part of the question.

CHAIR MOLINA: Okay, thank you. Go ahead, Mr. Goode. Thank you.

MR. GOODE: Okay, I'm going to have to answer generally 'cause I can't answer it specifically.

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COUNCILMEMBER SINENCI: Yeah.

MR. GOODE: Obviously we procure all our vehicles and equipment through a competitive bid process, right, we draw up the specifications and go out to bid. And maintenance, we have some really great garages. You got a great garage in Hana, I mean they make magic over there making a lot of the equipment run on a daily basis in a really tough place to do that. And what we also do is every job has a work order, has a cost, we understand the cost of every spark plug, everything that went into that. And so by vehicle or equipment we can look at all the maintenance activities over time. And as things get older, they fall apart more and it helps us to justify when we come to you folks and say hey we need new equipment. So, I don't have an average cost per vehicle, we could certainly get that because we have the data which is key.

COUNCILMEMBER SINENCI: Okay.

MR. GOODE: I hope that helps.

COUNCILMEMBER SINENCI: Okay, and what does the Department do with aging vehicles?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: So, and thank you, Chair and Mr. Sinenci. So, when it's aging and we say we replaced it so we no longer need it, in procuring the new vehicle, we may have allowed for a trade-in, right? So, the dealer just gets it and they do what they want with it. Or we have an auction, so we did an auction, I don't know, was it March or something like that? We auctioned some vehicles, that's allowed under the Code, procurement code. And finally if it's junk then it gets junked.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: Okay, thank you --

MR. GOODE: You're welcome.

CHAIR MOLINA: --Mr. Sinenci. Members, any other questions for this final round prior to the recommendation from the Chair? Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, my first question is regarding workload as Councilmember Paltin brought up. So, on Molokai, public worker...Public Works' employees are the ones who do the refuse pickup as you know, two days a week every week, in the middle of the week. Losing three workers in the middle of the work week is very disruptive. Is there a reason this hasn't...has been an ongoing problem and not addressed long ago?

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: Yeah, thank you. That's, and that's a great question and this happens in Hana as well. And so this is a legacy of when the Department used to have Solid Waste, right? So, we were...in fact my first time around in the Lingle and Apana Administrations, it was the Department of Public Works and Environmental Management and we had Solid Waste and Wastewater. So, it was inside the Department, we could trade people in and out. But we've been separate departments now for like ten years. We would love the Department of Environmental Management to take that over. And it's really a question of their manpower and equipment. So, I think what we call the one-arm bandit, right, actually Lanai started this in the late '80s, that's why Lanai does it themselves. If we can get that kind of equipment over there then DEM could be solely responsible. And basically we're losing six man days, right? Three guys out, twice a week, six man days, we could theoretically give them a position, right? And so I've made that offer in the past to DEM, it hasn't stuck yet, but we'd love to work with you on that because it would give more continuity to our highway guys, especially when we're doing like these slurry seal jobs, right? We need manpower and you lose one day, you come back, it's just, it's not ideal. So, love to work...continue working on that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, mahalo. My second question is so in 2001, it looks like Mayor Arakawa sent you a notice recognizing that the deferral agreements were not being accounted for and tracked; regardless, your Department continued to issue deferral agreements. Would you say that doing this has created a bigger pickle as Councilmember Kama called it?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Okay, so 2001 or 2011? 'Cause 2001, he wasn't the Mayor. In 2011 --

VICE-CHAIR RAWLINS-FERNANDEZ: Oh I'm sorry, yeah.

MR. GOODE: --I was here so I'm assuming it's 2011. I don't recall the memo but so in 2007 is when the deferral agreement stopped, right? And so...and in there...and when you pass an ordinance there's where it says, called the effective date, right? And sometimes there's grandfathering. That ordinance grandfathered in everybody that already had a preliminary approval prior to 2007 or the date of that ordinance. So, even though you didn't start a new one after 2007, whatever the date was, in 2008, '09, '10, these older subdivisions that had started prior to 2007 still had the ability to use it under the law. So, we had to grant that, right? It doesn't mean they all used it, it's always been a option, or an option for a developer or homeowner. But we did have to approve some afterwards because the law specifically allowed it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you.

MR. GOODE: Hands were tied.

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VICE-CHAIR RAWLINS-FERNANDEZ: My next question is about the Olowalu subdivision. What is the current status of follow-up on a notice of failure to comply with an SMA permit for the Olowalu subdivision dated April 26, 2010, has the permit been pulled, have fines been imposed?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Chair and Ms. Rawlins-Fernandez, I don't know. All that activity happened while I was not with the County, and if it's an SMA concern, that's the Department of, Planning Department. And I believe the tie-in was on the State highway so we're really not that involved that I'm aware of. I'd be happy to look into it and reply back but I don't have any knowledge of that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay, my next questions are about meetings with the Council. Okay. In reviewing meetings where you're speaking as the Director in front of the Council, there have been various issues where you're unaware of issues within your Department's control. Why is this and how do you manage your Department currently?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Well, thank you, Chair. It would be...I don't know it would be a burden or a benefit to be all knowing, I think it'd be burden. So, that's why we have a great staff. The Director can only, you know, or the Deputy, we can only absorb so much, right? We can only be aware of so many things that are happening. You know we issued 1,500 building permits, 200 grading permits, 3,000 electrical permits. There's no way I would know about almost all of those because they're done at the staff level. But things that we should know, yeah, that's definitely on me. But I'm not afraid to go hunt for information and ask the right people, because one thing I do know is I know who to ask.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And my last question is on roads. So, road conditions in the more rural parts of Maui County have been a longstanding reputation...have had a longstanding reputation for being severely degraded and causes damages to residential...residents' vehicles. How have you been managing maintenance to upkeep our rural roads in good condition and how can this be improved?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Rawlins-Fernandez. It's tough for the rural residents for sure, because they don't generate as much traffic as roads in urban areas. So, what we've done is to categorize all our roads on a five-year basis. We hired an outside consultant who has no family, no ownership of anything here, and

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they go through and look at all thousand miles of our roads, including Molokai. And they generate a report that helps to characterize and categorize all the roads including what type of treatment is needed, whether it needs to be resurfaced or slurry seal or reconstructed. And that helps guide us in our plans when we submit, you know, for budget amendments or particular projects to be redone. So, part of that analysis includes, you know, how much traffic is on it. And I wish we could get to every road, you know, sooner rather than later, but we have a very good prioritization system and we modify it. So, even, you know, if the...it's been three years since say, since they did an evaluation and by the way they just finished one, but, you know, three years into it, we could have a series of storms that messes up a certain area and we've got to internally reprioritize that list. So, that's how we manage that list. And so the Highways Division and the Engineering Division do a great job of taking their portions of that list and making it happen.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you, Chair. Thank you, Mr. Goode.

CHAIR MOLINA: Thank you, Member --

MR. GOODE: You're welcome.

CHAIR MOLINA: --Rawlins-Fernandez. Any final questions for Mr. Goode? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, based upon Member Keani Rawlins' questions and your experience with working with the MPO, Metropolitan Planning Organization, how do you prioritize needs that the County has with what capabilities the MPO has in terms of their funding sources and bringing this all together? I know you were the chair of MPO when I was first started on the committee, so.

CHAIR MOLINA: Mr. Goode?

MR. GOODE: Thank you, Chair and Ms. Sugimura. So, the MPO is really I think an incredible opportunity for the County going forward, even for the last few years, because that helps us determine our Federal funds. And we can't use Federal funds on every rural highway, we can only use it...I wish. We can only use it on certain roads that the Feds have categorized as being of a certain capacity in terms of, you know, volume of traffic and et cetera. So, I think, what was it, like 60 to 80 miles is all we have of Federal roads out of our thousand. But those roads get a lot of wear and tear, truck traffic really beats up roads. So, we were able to prioritize and look at those roads and say these need to be reconstructed. So, like a lot of Kahului, Kokomo Road, Haliimaile Road, Makawao Avenue, the four roads we're doing in South Maui right now are all Federal highway roads. So, that prioritization program, that was the first big task for the MPO, and I think our Executive Director Lauren Armstrong did a super job along with the board to get the public outreach. The public outreach was extensive. It went to all different communities, different ways of getting data from the

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folks that were interested in this program. And we were able to come up with a list that prioritizes not only our projects but State Highways' projects for that limited amount of money that we get from the Feds every year. So, it's a, it is another prioritization process outside of what we do with our County roads. And the Engineering Division--looking at Chico out there--have done a great job, you know, making sure we get those monies and getting those projects done to the satisfaction of the State and the Feds.

COUNCILMEMBER SUGIMURA: Thank you. And also with roads, I got to work on the Market Street improvement project years ago when the improvements or beauty...I think it was beautification project. And when does the Public Works Department decide to work during the day or at night?

CHAIR MOLINA: Mr. Goode?

COUNCILMEMBER SUGIMURA: And how often does that happen and what does it do to the cost of the project?

CHAIR MOLINA: Proceed.

MR. GOODE: Chair, so generally working at night is, can be more expensive and it depends on the project. So, things we would typically look at is how many residents are in the area and what traffic is being disrupted during the day versus at night. We actually have a night project coming up, I think starts next week, Hukilike from Dairy Road to Wakea is going to be resurfaced, but that thing is heavily used by all those businesses in there, and there's cars and trucks parked all over the place. The contractor wanted to do it at night, because they knew they could get it done more efficiently. So, we've got our employees who watch those projects are going to have to work at night and have to adjust their schedules, they get paid night differential and things like that. But it's generally a balancing act between, you know, the needs of the community and, you know, efficiencies.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Thank you, Councilmember Sugimura. Mr. Goode, Chair has one question before calling for a recommendation. Years ago when I was on the Council before the creation of the Department of Environmental Management, Public Works oversaw cesspool pumping, yeah, and then I believe at that time you had come to the Council to I guess recommend that Public Works not do cesspool pumping anymore. And I know some residents were a little disappointed with that, because well it was a lot cheaper than going to the private guys but I understand the scope of work was quite different. I guess the County would just pump water versus the private companies, although you pay more but they would do water and sludge. And cesspools in our district, especially Councilmember Sugimura's and mine has certainly been at the forefront of news lately because of the Department of Health wanting to ban cesspools

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and then looking at imposing a tremendous cost on homeowners who have cesspools. As the Director that formerly oversaw cesspools, have you been in...had a chance to engage or share your thoughts with the Department of Health or any other officials and maybe be an advocate for the residents who could be experiencing these very high costs should any State laws be passed requiring cesspools to be closed and to have septic systems installed? Can I pick your brain on that?

MR. GOODE: Yeah, thank you, Chair, for the question. That really jogs my memory going back to when we pulled out of, slowly but surely pulled out of cesspool pumping, and I think that was successful for the County for a lot of reasons. And I think it also helped all the homeowners rehabilitate their cesspools to make 'em more functional. But it is a big issue Upcountry, I think it could be a big issue on Molokai and Hana as well. And the Department has not engaged in that process to date mainly 'cause we're just, we're not in that business really anymore. We do involve a slight way as it relates to building permits. So, building permits Upcountry would go to the Department of Health, and so the Department of Health here on Maui would make the call as to whether they need to upgrade a cesspool to a septic tank. So, generally our relationship with DOH and cesspools is at that level. And we would be happy to participate in any way either the Administration or the Council sees fit for us.

CHAIR MOLINA: Yeah, thank you 'cause, you know, it is a tremendous expense that could be imposed upon our residents so we certainly would like to have an advocate for the residents in that area. Councilmember Kama, you had a question?

COUNCILMEMBER KAMA: Thank you, sir. Thank you. So, Mr. Goode, what steps have you taken or maybe not taken to reach out to predominantly Native Hawaiian communities to be able to consult them on issues affecting and impacting them?

CHAIR MOLINA: Mr. Goode?

MR. GOODE: And thank you, Chair, and thank you, Ms. Kama, for the question. We reach out in a variety of different ways, on projects, certain Federal-Aid projects have a certain process that's prescribed, and non-Federal projects, you know, through our folks and I'm looking at the Highways Division, Engineering, Rowena does a lot of great outreach. We'll reach out to OHA. We've reached out to the Aha Moku a number of times. And we've done other kind of other projects, you know, a couple that come to mind if I may? In Lahaina for instance, we have to maintain Kahoma Stream, it's a Federal flood control project, and recently, a couple years ago we noticed all this water was coming down all the time. And we reached out and I'll give Mike Tihada a lot of credit for this, we reached out Kai Keahi, and Kai's a real advocate for stream restoration in that area. And he helped educate us on what was happening because I guess he'd work with the Kamehameha Schools to release some water. There was action going on with the State, right? And we worked with Kai folks to better understand how we can maintain to help preserve the stream and the stream life. And so there's opae running up and down that stream now as a result of that

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consultation and the actions that Mike folks took in Lahaina to kind of redo their work in a creative way that the Corps wouldn't ding us and made these things happen. We did the same thing in Wailuku River. We worked with Na Wai Eha, they came to us and said hey, and we got questions about like we got water coming all the time. Before, we used to do our work in Iao when it was dry because there was no more water, now we have water all the time, and so again we have aquatic life going in there. So, we've worked with Na Wai Eha, they came to us, we outreached to OHA and Skipppy Hau from DAR to find out ways that we can adjust the way that we maintain our responsibilities in that flood control project and still preserve aquatic life to the maximum extent we can. So, those have been some great outreaches. Recently, we worked with the Aha Moku in Kihei for the signs, remember the ahupuaa, the moku signs project? And that was a great project, that was I think OED had the funds, Vernon Kalanikau and his group got the funding, they made these really cool signs, but then they needed them installed. So they came to us and we helped out and we installed those signs, 'cause you actually gotta pay attention where you put 'em, how tall they are, and all these other requirements. So, we're, you know, we reach out and they reach out to us, because a lot of folks know we have an open-door policy and they reach out to us. And so it's a two-way street, we're happy to assist. We can't please everybody all the time, but we please a lot of people a lot of the time.

COUNCILMEMBER KAMA: Another question, Chair.

CHAIR MOLINA: Proceed, Ms. Kama.

COUNCILMEMBER KAMA: So, you know, in talking about, earlier we were talking about the State Historic Preservation and how they don't have an archaeologist and it seems to be stymieing a whole lot of our projects here. And so we ____ to take action by doing nothing or we can do something, but I'm always thinking there has to be something that we can do. I hate not...I hate hearing no can, I hate that word. You know my grandma used to always tell hiki no, hiki no, everything was can do, can do but you gotta think about it, you gotta talk about it. So, I'm sitting here thinking I don't want to wait for SHPD and I know that's a State issue, but, you know, I mean, you know, when I was a kid the word hoomanawanui, I don't know for all of you guys who are my age but that was a word we learned from our kid time. It was like oh my God, gosh I'm hitting, you know, I'm getting up there and I'm still hearing that word. I can't believe that I'm hearing that word, be patient. Well, there are times when you don't want to be patient, you can't be patient. So, here's my question, is it possible to pay for an archaeologist on certain, on the sites that we need to pay for them and just hire somebody, contract somebody? I don't know and then just invoice the State of Hawaii. Can we do that? I mean we should be able to do something because doing nothing doesn't work, and somebody defined I think insanity as doing the same thing over and over and over expecting a different result. We gotta stop doing that. So, sir, please.

CHAIR MOLINA: Mr. Goode?

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MR. GOODE: I think that's a great saying and I agree, it's tough to be patient when we feel like our hands are tied. But I am open to any solution, that's why I went and met with Dr. Downer to try to find something on his side that they could do. And on our side, I think Mr. Sinenci's already talked about it, we hire an archaeologist and you're bringing up a private archaeologist, I mean those are all wonderful suggestions if we can make that work. That would be great. If we sent them a bill will we get paid? I don't know. We'd probably have to talk to them about that in advance but yeah, something, please, be helpful.

COUNCILMEMBER KAMA: So, sir, that was why the question of consulting the Hawaiian communities. I know you've been talking to certain people, but when you go into a community such as Leialii or Waiohuli or Keokea, they have groups of people who are knowledgeable about so much stuff that, you know, you put 'em in a room and they can help you get through a lot of your problems in terms of Native Hawaiian issues. So, that is my gift to you, sir.

MR. GOODE: Thank you.

CHAIR MOLINA: Okay, thank you, Member Kama. All right, Members, the Chair's going to end questioning for the Director at this point. He's been certainly saturated with a lot of questions, a lot of them very tough, and the Chair appreciates your attempt at answering them, Mr. Goode. Chair recommends adoption of the revised proposed resolution entitled Approving the Mayor's Appointment for the Director of Public Works; and to also incorporate any nonsubstantive revisions that may be needed; along with the filing of the proposed resolution entitled Disapproving the Mayor's Appointment for the Director of Public Works. A...Chair is looking for a motion on the floor.

COUNCILMEMBER SUGIMURA: So move, Chair.

CHAIR MOLINA: Moved by Member Sugimura --

COUNCILMEMBER LEE: Second.

CHAIR MOLINA: --seconded by Member Lee. Member Sugimura, as the movant you have the floor for discussion.

COUNCILMEMBER SUGIMURA: Thank you very much, Mr. Goode, for going through this process. I think it's a process that you probably are getting asked more than the basic qualifications that the body created last year and more, but I can hear your knowledge and information that you have collected over the many years that you've been a Director so I value that. I totally support your confirmation to continue on the work that you have started. The number of your employees in the Chambers sitting here as your support team, to me exemplifies the leadership that you possess as well as my communication with the, you know, the Makawao District, your Public Works' team

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and your leadership with them, I think that was very encouraging for me. Some of the questions that you've received, I know that there's nothing perfect, that we all are responsible for some of the actions that you took as a Department, because it's the Council that makes the policies and you implement it. So, I hope you will not get blamed today in the vote of things that you have effectuated based upon what the policy read. So, Members, I'm supporting member [sic] Goode, and I hope that if there's policies that we can change to make it better, that we will walk together in step with the Department so that your employees can do the right thing which I think is something that you uphold. So, thank you.

CHAIR MOLINA: Thank you, Member Sugimura. As the second of the motion, Chair recognizes Member Lee.

COUNCILMEMBER LEE: Thank you, Mr. Chair. I, as I said earlier I have worked with Mr. Goode before and I think he's an extraordinary Director. He certainly has the support of the majority of his workforce, his Department. And we were just handed out this letter from Ed Sniffen, Deputy Director, Highways Division, Department of Transportation for the State. Goode is a proven partner in road projects on the islands of Maui County, and his leadership has greatly assisted the State in reducing the unexpended Federal funding balance, ensuring continued Federal funding towards the safety, maintenance, and dependability of the Maui roadway system. For these reasons, I humbly request that the Maui County Council advise and consent to Mr. Goode's appointment as the Director of Public Works. I'm sure that many people in various capacities, whether on the Federal, State, or County level feel the same way, feel support for Mr. Goode. And I'll be voting in his, on his confirmation--thank you--in his favor.

CHAIR MOLINA: Thank you, Member Lee. Members, any other discussion as it relates to the motion on the floor? Going once, going twice...Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Director Goode, thank you for your service to Maui County. You're clearly knowledgeable about Public Works, roads, drainage, procurement, and everything in between when it comes to administration of the responsibilities that fall under the Public Works Department. That knowledge can be creatively used to effect a certain outcome, sometimes in favor of the County of Maui that includes its populace as an entity but other times perhaps in favor of private interests who also come to the Department of Public Works for services. There are multiple references in our Code granting discretionary authority to the Public Works Director, that authority should always be used cautiously and with care. The basis for your decision making somewhat concerns me, and I don't believe your decision making sometimes goes far enough to the other side of caution or protection on behalf of the taxpaying general public, some of Phase I, II, III of Lower Honoapiilani Road and South Kihei Road and specifically in the interest of Hawaiian protections that are a part of our State Constitution, Hawaii Revised Statutes, and our County Charter. Some of your comments referenced other entities being involved with stalling decision

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making or allowing decision making to fast track issuance of permits like SHPD as it related to example, for example to iwi as well as Moomuku, Makena. When an activity or decision raises threat of harm to the environment or human health and in the case of Hawaii, threat of harm to ability for Hawaiians to practice their culture, access to their environment, protection of their burial grounds, and to resources such as water, precautionary principle measures should be taken, even if some cause and effect relationships are not fully established scientifically. The precautionary principle is most powerful when it serves as a guide to making wiser decisions in the face of uncertainty. Any action that contributes to preventing harm to humans and the environment, learning more about the consequences of actions and acting appropriately is precautionary. Precaution does not work if it is reserved only as a last resort and results primarily in bans or moratoriums. It is best implemented through methods of exploring alternatives to possibly harmful actions, and by placing the burden of proof on proponents of an activity rather than on victims or potential victims of the activity, and bringing democracy and transparency to decisions affecting health and the environment. Time is of the essence for Maui County. Should you receive favorable confirmation for this appointment, I would really like to see you initiate a paradigm shift within the foundation of your decision making to incorporate and to err in favor of the precautionary principle in your day-to-day work. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Paltin. Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Goode, I would first like to thank you for supporting the Molokai Public Works team to use the Public Works equipment and time to assist in, with disaster relief on Molokai, and also mahalo for helping with the Aha Moku O Kula Makai signage, the signage project. I think these are things that I would hope that the Public Works Director would do. This confirmation process is more than an exercise in checking off minimum qualification boxes. Directors...the Public Works Director has a tremendous amount of discretion and as Councilmember Kama mentioned, because of this power it's also about character. Listening to your responses today while also being familiar with your past decisions and actions, I can't help but feel a deep sense of appreciation that I was gifted the time to pay attention over the years, never knowing that I would find myself here in this moment able to apply that knowledge and use it for frame of reference in my new decision making capacity. I have been sitting astonished by the incredible ability you possess to deflect accountability for both your actions and inactions equally. Using deductive reasoning I am led to believe that it's that same deflective ability that you've mastered in your job over the years that you apply to your naau that allows you to sleep at night knowing the role you've played and the deplorable decisions you have made time and time again to assist in the desecration of countless culturally sensitive areas that are crucially important to kanaka oiwi, our history, our heritage, and to our ancestors. I have found the approval process of the Mayor's nominees difficult at times. I stated more than once that it can be really hard to say these things to nominees before us, and a couple of times it has even brought tears to my eyes to have to say it to them. If

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I am brought to tears today, it will be because it will be for the unforgivable and irreparable harm you have brought to Maui over your time and under your watch. If I cry, it will be for the iwi kupuna that you have allowed to be violated for Iao, that you allowed to be raped of its mana, reducing sacred pohaku to material rubble, the blind eye that you turn while development projects were allowed to destroy the ancient wells of my people, to level heiau and previously protected cultural sites. Auwe. I'm saddened by the deflection of accountability and I am sad that I couldn't stop this hewa sooner than today. And for that reason, I cannot support your nomination. Mahalo.

CHAIR MOLINA: Thank you, Member Rawlins-Fernandez. Members, any other discussion as it relates to the motion on the floor prior to the Chair giving his closing comments? Member King?

COUNCILMEMBER KING: Yeah, thank you, Chair. And thank you to my colleagues for a really long session and some really thoughtful questions. I agree that the decision before us today is much more than the minimum qualifications and that's a basis for the decision, but there's a lot more to it. And there's been a lot of very good experience with Director Goode on my part and some real questionable experiences too with some of the decisions that are made. Originally I thought when I looked at the original list, I thought this would be an easy one, but until you get into exploring some of the reasons and the lack of response on some of these issues. And so for me it comes down to begin committed to our Countywide Policy Plan and our shared vision and our shared goals. And it really, I think the hardest thing I have as far as a problem with these, the goals and the objectives is the issue of preserving local cultures and traditions, and the divisiveness that I've seen over the last two years in some of these Public Works projects with regard to that issue. I, you know, I've seen divisiveness with the KCA and I've seen you be able to work with the community association as well, so I think even our organizations and our communities are torn between, you know, the logistical knowledge and the, you know, certainly the ability to do the work of Public Works as paving roads and sidewalks and things like that. But it just for me I am so tired of having this, these documents be set aside and not addressing these issues that are...that we've decided as a community long ago that we adhere to the vision and the goals, and I don't see them being honored by all the...by the past Administration or by the continuity that's being claimed of, you know, having that go forward. So, I'm just telling you I'm having a really time and I'm not going to say yes or no right now, I will when we get to the vote, Chair. But my decision is going to be based on this policy plan, because I want us to start honoring this and stop making decisions based on who gets their road paved or who had a good experience with a certain issue and who didn't have a good experience. But looking at the protect the natural environment and preserve local cultures and traditions which are the first two items in this plan and whether those two issues are being honored across the Administration. Because I understand and I appreciate Member Kama asking that question that what did the Mayor tell you if you don't do your job that you're going to be fired. The Mayor said a lot of things when he was running for office, and one of

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them was about fresh start and let's start with a clean slate and we're not getting that certainly. Everybody...there's nobody who hasn't worked in County government in any of the nominations. I mean there's some that are...and I think some of them are good and I voted for some of them. But I also wanted to say, Chair, that, you know, we've been...the...I want to address a comment that was made in the last meeting about preordained. We've had four Members on this Council that have preordained decisions. I mean everybody who comes before us knows that they have four "yes" votes already. So, I would like, you know, us to start looking at individual questions and who's really asking the tough questions on this Council. And, you know, for us it's a struggle. It's a struggle to say yes or no to these nominations, it's going to affect our County for four years, and so I appreciate those who are asking tough questions and really digging into why did this happen, you know, what was the intent here, are we looking at our shared vision and our shared goals and our shared objectives that we've institutionalized in this document? So, I don't see any of these decisions as being easy for the five of us who were accused of preordaining anybody's future. And I just wanted to make that statement for the public that it is a tough decision, and I had a really good conversation with Director Goode, and I've had good experiences and bad experiences. So, I'm going to leave it at that until we get to the vote. Thank you.

CHAIR MOLINA: Thank you very much, Chairman King, your comments are appreciated. Members, any other comments?

COUNCILMEMBER SINENCI: Yeah.

CHAIR MOLINA: Hana Councilmember, Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. I've been sitting here listening to all of the discussions and I just wanted to let you know that I've had some phone calls and some e-mails from kupuna, and they've, you know, who've I guess been, have worked with you in the past and asked, you know, for my support of you. And, you know, listening, you know, I am torn too because of kupuna that I've never heard from long time and calling me about these things. And I hear some of my colleagues here and I feel their, you know, frustration and their pain about, you know, some of the issues that happened, albeit in the last Administration, have definitely, you know, affected the culture. You know as the Aha Moku rep too, I can see where desecration of ancient sites is, it runs deep and it hits deep. It's...and I don't expect everybody, I know people can easily say it's a Hawaiian issue, but it...and...but that just kind of, you know, it doesn't portray how deeply it, you know, it affects our host culture. And, you know, working with kids, you know, what do we teach them? You know we try to...working with kids for 20 years, I've tried to teach them their identity first, you know, 'cause without that identity going forward, how can they be successful citizens whether it be here or abroad? So, I'm conflicted with that and I've seen that desecration in the last Administration. I hear that, I hear your qualifications and the support has been numerous of you. And like some of my colleagues they bring out that you've been giving, you're given such power and a large budget to work with and

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some of your decisions have been to you can. I mean with our housing crisis, with what we need as a community for Maui nui, you know, you can make a difference, you can effect that change, you can push us into these . . . *(inaudible)*. . . You know, this is an affordable housing project, we can do these amendments and deferrals just to keep the cost down. You have that knowledge, you have that ability, you're in that position to make these decisions that could help all of us, all of Maui County, and I'm hoping that you will from today on and I'm going to support your nomination with reservations. And I'm going to take that responsibility, but you will...we'll be working very closely if nominated. Thank you.

CHAIR MOLINA: Thank you, Mr. Sinenci. Members, any other final comments before the Chair gives his? So be it, thank you, Mr. Goode. You've been through quite a process this morning. And I know for you and I guess all directors in general, you're going to have to make some tough calls. No one is perfect. You know and I know you have tried your best to base your decision on existing law. And there may have been times when you cannot make decisions because of other agencies having authority over you, SHPD, State, and so forth. I want to share with you and the Members one interesting testimony that I got from Mr. Earl Kukahiko, who comes from a very respected Native Hawaiian family and a spiritual man. And yes, he was an employee for many, many years out on the west side and I'll take an excerpt out of his testimony. He states as our nation goes through these difficult times of turmoil of which our County too may soon feel the effects of, there's no better team with the experience, knowledge, and integrity that will carry us through these hard times. And I've reflected on that because the simple things that Public Works does that we sometimes take for granted. When a hurricane comes, who's out there with the Police and Fire? It's Public Works helping to clear our roads and the flooding that goes on, fires on the West Maui and wherever else, they're also helping. And your employees, Mr. Goode, I must say they will stop short of taking a bullet for you, they will go all out for you, and it takes a good leader to instill that kind of dedication in his employees. So, I look at that, and granted there may have been mistakes made with as far as the _____ desecration issues and so forth, and I know it was certainly there was no maliciousness intended with, if there were mistakes made, you did your best as a leader. And that's to me in my eyes what you have shown, you've shown great leadership. And in your opening comments, you mentioned how many different Administrations picked you up, Democrat Administrations, Republican Administrations, and so forth. And so that for me speaks volume. You've been out in the community as a...during my first go around as a Councilmember, you was always out there for those community meetings, and especially in the district that I come from, Makawao, you got a lot of vocal people out there. And they especially care about their roads or any trees that fall down and whatnot, and typically Public Works will be right out there and that's very important. And as I see it from the person on the street, they look at response time from the counties and their various departments, and I must say and no disrespect to our other departments, I think your Department along with Police and Fire of course is one of the first in terms of just getting out there when a constituent calls. I don't ever recall a time when I was a Councilmember and also as an Executive Assistant for the Mayor

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where when I called your Department with a concern from a constituent, you guys were on it. And as a matter of fact, we've had several letters to the editor written in *The Maui News* complimenting your Department and your response time. So, the proof is in the pudding. And granted I, everyone's entitled to their opinion on the performance of you or your Department. And we are both in occupations where there are no absolute 100 percent satisfactory, but in my opinion you come pretty close to that with your leadership of this Department. So, that is why I will, you know, certainly support you 100 percent, and I'm hopeful that you can continue to lead this Department. And I know you will learn from the concerns that have been expressed by the Councilmembers here, you will take a proactive approach. I have that confidence in you, Mr. Goode. And you have a great team. I appreciate the approach you're taking now to address problems that have occurred and encourage your workers to get out there and say...tell you if there's something going on with your Department. You're going to jump on it. I think every person who's in a leadership role, director, should learn to keep building upon and improving. If there were mistakes made, you certainly jump on that and don't sit down and rest on your laurels. Because I think you're the type of person that will take it on and will not be afraid of the challenges. You have thick skin so I certainly respect that. Members, any final comments before the Chair calls for the vote? Seeing none, Ms. Espeleta, Chair requests a roll call vote. And again the motion is to approve the resolution for the Mayor's nominee for the Director of Public Works; along with the filing of the proposed resolution to disapprove the Mayor's appointment for the Director of Public Works; and incorporating any nonsubstantive revisions that may be needed.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Yes. I'm sorry, Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. I'd like to move to amend the motion --

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: --to remove filing of the disapproval resolution.

CHAIR MOLINA: Okay, a motion has been...do you have a second?

COUNCILMEMBER PALTIN: Second.

CHAIR MOLINA: Okay, please state your case, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I would like to give Councilmembers the opportunity if they change their mind to have this on the full Council agenda. By filing it, it will not be on the full Council agenda. So, I would like the Councilmembers to have that opportunity to change their mind if they so choose.

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CHAIR MOLINA: Okay, Members, you've heard the proposed amendment to the motion. Council Chair King?

COUNCILMEMBER KING: Yeah, I just, I think we need an opinion on that, because my understanding is that it's not filed until it's filed at the full Council meeting.

CHAIR MOLINA: Okay. Corporation Counsel and Staff, do you...are you ready to respond to that or do you need a brief recess to consult? Mr. Kushi?

COUNCILMEMBER KING: I think he waved it over to the Staff.

CHAIR MOLINA: Okay. Staff?

MS. ESPELETA: Mr. Chair, at the Council meeting is where the recommend...the recommendation would be made at Council, and the filing would take place at the Council meeting if the body so chooses.

COUNCILMEMBER KING: So, the...okay. So, just to be clear, the opportunity to change the...to bring up the disapproval is still, will still be there at the Council meeting when that happens?

MS. ESPELETA: Both will be posted at the Council, on the Council agenda.

COUNCILMEMBER KING: Right. So, yeah, so we have not filed...by filing it in Committee it hasn't been filed completely.

CHAIR MOLINA: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: I withdraw my motion.

CHAIR MOLINA: Okay, thank you. And is there a withdrawal for the second, Member Paltin, yeah?

COUNCILMEMBER PALTIN: Sure, why not.

CHAIR MOLINA: Thank you. I know we had a great exercise with something similar to this a couple of days ago, so, but yeah, my understanding is nothing...whatever action is taken in Committee is not final, what is final is the action taken at the full County Council. So and this is just, whatever happens here is just a recommendation to the full Council. Okay, if there are no other comments I'm going to ask Ms. Espeleta to do the roll call. Proceed.

MS. ESPELETA: Thank you, Mr. Chair. Starting with Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

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MS. ESPELETA: Councilmember King?

COUNCILMEMBER KING: I vote no with reservations.

MS. ESPELETA: Councilmember Lee?

COUNCILMEMBER LEE: Aye.

MS. ESPELETA: Councilmember Hokama is excused. Councilmember Paltin?

COUNCILMEMBER PALTIN: No with reservations.

MS. ESPELETA: Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Aye.

MS. ESPELETA: Councilmember Kama?

COUNCILMEMBER KAMA: Aye.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: A`ole.

MS. ESPELETA: Chair Molina?

CHAIR MOLINA: Aye.

MS. ESPELETA: The vote is five "ayes," three "noes," and one excused, Member Hokama.
The motion passes.

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VOTE: **AYES:** Chair Molina, Councilmembers Kama, Lee, Sinenci, and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama.

ACTION: ADOPTION OF REVISED RESOLUTION TO APPROVE THE APPOINTMENT OF DAVID GOODE AS THE DIRECTOR OF PUBLIC WORKS AND FILING OF RESOLUTION TO DISAPPROVE.

RECESS: 12:35 p.m.

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET meeting of January 29, 2019 is now back in session. Members, it is 1:35 p.m. on Thursday, February 7th. Thank you so much for your hard work, Members, and also for that well-needed break. Chair certainly appreciates and again wants to just state for the record his appreciation for all of you in working with the Chair to get through this deliberation process and to make sure we walk the line as it relates to the Sunshine Law and so forth.

CHAIR MOLINA: We are now down to our final nominee, last but not least the quintessential Mr. Will Spence who is the Mayor's nominee for the Director of Housing and Human

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Concerns. And of course we have Ms. Tegarden, Chief of Staff of the Mayor's Office who I'd like to now call upon to provide opening remarks. Ms. Tegarden?

MS. TEGARDEN: Thank you, Chair, and good afternoon, Councilmembers. Aloha. The Department of Housing and Human Concerns plays such a vital role in housing but also providing services to help our greater community, our kupuna, our children, and the many Maui nonprofits who really make Maui no ka oi. Mr. Spence comes to this job as the Director of the Department of Housing and Human Concerns ready to hit the ground running and tackle the issue of obtainable housing and also homelessness. In Mr. Spence we have a Director who is established, who understands the entire County process, and who knows both the housing providers, including our housing nonprofits. The Mayor believes that compassion is also a very important character trait in his directors, and based on this and his qualifications, Mayor feels very strongly in his appointment of Mr. Spence. Thank you for allowing me to say a few words, Mr. Chair and Members. Mahalo.

CHAIR MOLINA: Thank you very much, Ms. Tegarden. And now I'd like to yield the floor to Mr. Spence for opening comments for the Committee's consideration. Proceed.

MR. SPENCE: Thank you, Mr. Chairman. Thank you, Members. As you know, I'm here before you to be confirmed for the Director of Housing and Human Concerns. I want to first go over a little bit why I would like to do this, some things about my qualifications, and then what I plan to do with the Department. First off, I'm here to help. This is something that has been intrinsic with me since I became, you know, I went to college, I became a planner so many years ago, 30 years ago. I want to help the Mayor of course, but I also want to help you in your pursuit of providing affordable housing, more than anything though I want to help the people of this County. I want to help our residents, I know there are great needs out there. When I go around town, I see a lot of different people. I go to Longs and Walmart and I see the aunties and uncles and they're doing their shopping and sometimes I see them struggling with different things. I go to a restaurant and I interact of course with the waiters and waitresses. I go to high school graduations and I see all those cute kids with their leis piled up to their nose and I look at them and I know those people need housing, those people have needs. I drive by our homeless on Kaahumanu Avenue, I am very aware of Hawaiian homelessness in their own homeland. I'm very aware of the staff in my own Department as well and their needs. What I see are people and they have needs of all different types. I want to help them and this is why I volunteer for public service. This goes to my beliefs that I try to live by every day, you do unto others as you would have them do unto you. Also, as you do unto the least of these, so do you unto me. In other words, you treat people like you want to be treated, and I feel I have a personal responsibility to everybody who comes to me or my Department for help. In the past when I was Planning Director, in the midst of doing all the big projects, all the big zonings and all the everything, I was very cognizant of the little landowner who was coming to the Department for a building permit for an ohana unit or to try to correct, you know, mistakes perhaps they made with after-the-fact, and they're trying to get

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after-the-fact permits. Those people you want to treat with the same kindness and the same dignity that you would want your own family treated with. Now, as Housing and Human Concerns, I'm finding there's a whole Department that does exactly the same thing that I believe in. It's a department, it's all geared toward helping the individual within our community. Whether it's providing housing, whether it's services, it's for those people specifically. I know the need for housing is dire and our people need good, decent places to live and raise families and to be a community. We can point to all the studies and all the facts and I hope sometime to share all this with the Council. But I'll tell you, when we did the first-time homebuyer's lottery and the people's names were drawn and they have, now have some money that they can put towards a down payment, the look on their face is just beyond words. It was quite an amazing experience for me. But the housing issue isn't also just for somebody else, it's personal to me. I have lived in any number of places since I've been here 27 years ago. One was a house in, up in Keokea where you get the rats crawling around in the rafters and you can hear them in the middle of the night. Floors are all kapakahi, the...lived in another place that was barely hanging on to the side of a cliff and actually somewhat dangerous until the landlord fixed it. The...now with, married with children, adult children, I witness their struggles to find decent housing. The...one of them spent a year within a construction zone as they could only afford to buy the worst house in the neighborhood and they spent two years living in the construction. Another one was looking for a place, one landlord offered him half of a living room with a sheet down the middle and wanted to charge him \$700 a month. That to me is not acceptable for family and it's not acceptable for the citizens of our County. And let me say too while we have a goal to build units for our citizens, if we, all we do is warehouse people, if we build thousands of units and people just are existing in them, we will have failed in our duty to these citizens. We need to build communities. We need to pay attention to smart growth principles. We need to pay attention to the policies in our General Plan, our community plans, those things house the values of our communities, and we have to observe those as we pursue the opportunities for them. With human services, this Department touches the most vulnerable within our community. Particularly, I find very personal the Office on Aging, they do many of the things, they connect our elderly, oftentimes our most frail with services, with people who can help them. I relate to it because as, you know, I was with my mother a decade ago when she passed away, and I had no idea what I was doing, I had no place to go, and people helped me. And they hooked me up with services, they hooked me up with caregivers and different things. And the burden that that takes off of you in caring for your loved ones is just amazing. I could go through the other different divisions that we have for immigration, for early childhood, our Grants Division and how we help our nonprofits. Homelessness is a huge issue and how our volunteer coordinator helps the nonprofits with volunteers. But the human services side, how it touches our people is simply amazing. The qualifications I bring to the table, I'm unique and I've known I don't know how many past Housing directors. I, what I bring is unique because I have a formal education in urban regional planning and I also of course have been a planner on this island for 27 years. The, my degree is from California State Polytechnic. It's unique in its own planning right because the motto is

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learn by doing, in other words we're not so much emphasizing the theory of planning but we're looking at what works, how is it actually applied which fits my personal model very well. What it means to have a degree in planning is that it's, everybody thinks of land uses, you know, the housing goes here, and that's very true. You know the churches go here or the shopping, the hotels, the parks, public services, you know, this building, but it's more than that. It's really about people's lives and how all these different uses work together, and it's also about the, how all the agencies work together to make things happen. Planning is a holistic view about how government works, how land uses work, and mostly how our communities work. I've, like I said I've been here 27 years, working with the very laws that regulate housing. Ten of those were as a staff planner in the Planning Department. Nine of those was as a consultant, and I helped small landowners get through our permitting process. One of those, I'm really proud to say that I helped Ron Sturtz who was the former director of, or excuse me, president of Maui Tomorrow, and we worked on a project in Kihei together and we obtained special use or Special Management Area use for that particular project. So, I, I'm not looking at who's who, I'm looking at what is it providing for our community. I'm going to say...and then of course I spent seven-and-a-half years as Planning Director and I'm sure there'll be some questions about that. I'm going to address one thing right up front, some people are concerned I have ties to industry. I look past who I'm working with as a developer, I look at the end product that we're providing housing for people. The need is with our residents, the need is not so much with the developers, and so I want to see our people get good, decent housing. I don't think that just anything goes. I don't know if the Members are aware, I did not support the Spencer project at Maalaea. Personally I thought it was, that's just a rotten place to live because of the climate and the wind and the dust. The...and that community plan says we should build there, and, you know, time goes on and people start differing with the community plans and their age. The, I had a very hard time with the project at Olowalu partially because of environmental concerns with the reef, the other one the traffic. They did all the right things for design, they did not do the right things I thought in addressing the environmental concerns. I'm also going to note and I really strongly want to take credit, there's been a lot of questions about the sand mining at Maui Lani, when I first learned that there was sand mining going on and I forget whether it was a phone call or whether I saw it on the news through the activism of some of our Members, the very next day I sent inspectors down, they followed the trucks down to the harbor, and within a couple days we looked and we saw okay, are there zoning violations here? And yes, we found some and that very Friday we issued zoning warnings. We issued a warning and, you know, the stuff kept going, it was end of business on a Friday, we were afraid they didn't get their warnings, so we followed up on Monday with a hand-delivered warning saying you're in violation of your zoning, you can't do this. And so through that, that's when the trucks stopped or at least, you know, I don't know the history since then, but that's to me, that's when the truck stopped and the actual mining stopped. I have to add too, if you want somebody to help build housing in this community and with the kind of numbers that the studies say are necessary and the overcrowding I think all the Members are aware of, you need somebody who understands the system. It's

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not a system of people, it's a system of our laws, our zoning codes, what David Goode deals with, what Department of Health deals with, DLNR, the multiple levels of DLNR, State agencies, State law, et cetera. If you don't have somebody that understands those things, you're going to set yourself back. You don't want somebody that doesn't understand those things. If they have that kind of experience, it does mean they know developers but it also means, I like to think it means they care. Okay, where would I like to go with the Department? I know Chair King sent us a questionnaire with certain things, and a lot of Members have asked well how come there's no housing plan? And honestly I can't tell you why we don't have one. I got into the Department, I was actually kind of surprised that there's no...and I should say we have the Countywide Policy Plan, we have the Maui Island Plan, our community plans, those are extraordinarily important documents, they have all the policies and stuff we need. Nobody has ever taken those and gone okay, these are the steps we need to take to accomplish those goals. So, they're there. One of my biggest beefs as when I was Planning Director is that the plans sit on a shelf and don't do anything. So, what I want to do is be able to take all those policies, consolidate them into one place, then look at what the TIG report says, what the SMS report recommended and start plugging those things in where the, our policy documents say we should be doing those things. I also want to institute a, and this goes right along with that, I want to institute a program to build housing. This is something that is done in many communities, I can't say all of them, in many communities across the nation where you go find pieces of property, you partner with a developer or you partner...you purchase it and put it out, put out a request for proposal and act on those things. The, Kauai has a very similar and very successful program. I'm not big on reinventing wheels if we have models that we can adopt here. There are a number of properties that we have to deal with, certainly the Maui Lani property is at or near the top of everybody's list. The 58 lots there, what we're going to do with those. The college dorms, we are actively working to get those back under County control, and we're going to come to the Council with some considerations on what to do with that property. I find our website is really pretty bad. It's not informative to the public, it doesn't tell landlords what they can do with Section 8, it doesn't tell people what they can do to build additional housing, it doesn't tell tenants what their opportunities are. So, I want to revise that. And then something suggested both by staff and members of the public, our Section 8 image needs to be changed. Here's a program where we have \$22 million to help people with their rent, Federal dollars every year. There's, landlords have an idea in their mind of what Section 8 people are like and we find by and large that's not the case at all. But so we want to work with the landlords, work with the tenants to make those things better. And so, Chairman, I know I went on a little bit. I appreciate your indulgence and I'm here to answer any questions.

CHAIR MOLINA: Okay, thank you very much, Mr. Spence. And thank your patience for being the last nominee for this Committee to consider. Members, before the Chair opens the floor up for questions, the Chair would like to recognize Councilmember Rawlins-Fernandez to our proceedings. Thank you. And as far as your questions go, if at all possible, please confine your questions to Department of Housing and Human

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Concerns related questions. This is the position that Mr. Spence is applying for. This is the position he's currently serving in as the interim Director. However, I do want to let you know you have some leeway in the Chair's opinion to ask Mr. Spence about his previous experience as the Planning Director in terms of for example handling personnel. For example, if I would ask Mr. Spence in dealing with your personnel in Planning, in the Planning Department, how would you bring that experience and would it provide some benefit, what can you incorporate into the Department of Housing and Human Concerns with your past experience in dealing with personnel in the Planning Department, so, something along those lines. We'll kind of play it by ear so if at all possible. So, we'll just sort of gauge it as we go along. Council Chair King?

COUNCILMEMBER KING: Yeah, thank you. Thank you for the, you know, playing it by ear part.

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: I was just going to say, you know, that Mr. Spence has, you know, himself based his application on his experience as Planning Director so I think that should be pertinent, especially for those of us who have worked with him as Planning Director.

CHAIR MOLINA: Yeah, yeah. The Chair's more concerned about just delving, straying on into a Planning Department related issue that had some litigation. You know maybe...I just want to keep everybody focused and not stray off too much into talking about details of that one issue. And again it's more the Director's involvement. So, anyway, those are the parameters I'd like to work with as far as the line of questioning goes. So, we'll just see and take it as we go along. So, Chair would like to recognize subject matter Committee Chair Councilmember Kama to open up this round of questioning for Mr. Spence. Councilmember Kama?

COUNCILMEMBER KAMA: Thank you, Chair. So, my question to you, Mr. Spence, is that you have reiterated what I wanted to hear in terms of so we need a plan, that's what we were told last year. And I just want to know why didn't you do this last year? 'Cause when you were appointed Housing chair [sic], the SMS report had already come out, right, and it recommended that we look for a development director and also to create a housing plan. So, that was last year and so here we are six, eight...seven months down the road, and we could have been starting that last year, we could have been talking about implementation of that plan today.

MR. SPENCE: Right.

COUNCILMEMBER KAMA: So, why wasn't it done? 'Cause it seems redundant. Thank you, sir.

CHAIR MOLINA: Mr. Spence?

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MR. SPENCE: Okay, thank you, Mr. Chairman. Thank you for the question. The...when you step into a new department and you, first off, I'm not making excuses, I'm just telling you this is, you step into a new department, there's a big fat learning curve. Particular to the SMS report, that was something that the then the Council Chair...I, first off, I know that there's some controversy about that report and did it really provide direction to the County and stuff. It gave some implementing actions that I think we can use but why weren't they used? Some of them have been, particularly I know there's questions about a development director, and I should say there's also a, the TIG report talks about having a housing tsar who is not attached to the County, somebody outside the County. The Council chose to put a position within my Department as a Development Coordinator. We have been recruiting for that and we have been unsuccessful in filling that. The position, the way that the Council laid it out didn't pay very much, and if you get somebody with the qualifications that we're looking for that actually knows how to do development, you know, as busy as our economy is right now, you're not going to attract somebody for \$65,000 when in private industry they could be making three times that amount at least. So, we've had a difficult time recruiting. We just went through Personnel Services and we, he agreed we can hire above the grade, and I think we have a couple of applicants that are going to be looking at that. Okay, that's internal and that's what the Council decided, they decided to put a position in my Department. Outside of the Department, I'm not really clear why you want to go outside or why the recommendations were made to go outside of the County, particularly when there's a, I don't want to call...there's an inherent mistrust in, I mean if you're looking at hiring somebody like that, contracting with somebody who knows development, they're going to be from the development industry. And so I'm not sure what checks and balances you put in place to assure that they're really working for us rather than themselves. I'm not trying to impugn anybody, I'm just...those suspicions exist there and so I'm not sure why hiring somebody on the outside would satisfy those concerns.

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: Okay, thank you. Member Kama, you have another question?

COUNCILMEMBER KAMA: No, I'm going to yield to my colleagues.

CHAIR MOLINA: Okay, thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Mr. Spence, so as you may know, my Committee with this new Council is Multimodal Transportation, it is not a Committee we have had just singularly by itself before, it was tied in with Housing and Human

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Concerns. So, the Committee, I'm very excited about the possibility of supporting transient [sic] oriented development which there's a bill before the Legislature for half a million dollars being, we're lobbying for it so that we could create a TOD community. And a big part of that is housing --

MR. SPENCE: Yes.

COUNCILMEMBER SUGIMURA: --besides having the other elements of transportation like buses and whatever else. But I would like to hear what you have to say about how to provide housing in this kind of community planning mode and what your thoughts are? Because I think Department of Housing and Human Concerns plays a big role in the success of this.

MR. SPENCE: Okay.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. Thank you, Councilmember Sugimura. Transit-oriented development, if you...I don't know if there's a formal definition of that but really what it is, is it's building housing with transit in mind. So, if you're talking about on Oahu, the State is looking at building just, I mean tons of housing along the rail line, because then it's, you're taking cars...you're still providing housing but you're not impacting the streets nearly as much. As...it's...really when I talk about smart growth, that's...transit orientation is a part of that. So, I know when we've done some 201Hs, the Council and the Planning Department and my Department have supported bus stops, you know, those kinds of things that'd be integrated within the projects. That's crucial. If we're providing affordable housing, part of affordability is being able to get to work in an economic manner or to shopping or whatever. And instead of building roads, more roads and widening them and widening them, you're putting buses. For Maui it's going to be buses at least for a long time. But you put buses in there and it transports a lot more people instead of individual cars. So, it's crucial that as we go forward and we provide housing that this be incorporated into the plans.

COUNCILMEMBER SUGIMURA: Chair, one more question.

CHAIR MOLINA: Sure.

COUNCILMEMBER SUGIMURA: So, just as a statement before I go to my next question is that the TOD route that the County has been advocating for goes Kahului-Wailuku, and so I hope to see in your housing plan some way of incorporating that to tie into the TOD model. When your Department came before me, I think they said the UH Maui dorms was the only thing they said, I'm not sure if there's other things. So, I hope to see more within the thought process from your Department.

MR. SPENCE: Thank you. There's a lot more.

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COUNCILMEMBER SUGIMURA: The next question is about HUD vouchers, Section 8 housing vouchers. So, when the Federal government shutdown happened and your Department would, I would imagine may be affected because of the many people who have the housing vouchers, Section 8 housing vouchers. So, how did you prepare for this Federal shutdown?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay. As...that was a huge concern within my Department. As the shutdown drug [sic] on and on and as we have been threatened to, you know, I've seen the news. I haven't followed recently, within the last day or so but I know there's another threat of shutting down. We have many landlords who are very concerned about getting paid. We have renters who are very concerned about being evicted. And, you know, we hear stories, you know, landlords are super concerned and they are, they're starting to prepare their 45-day eviction notices. We have a plan in place. We have some reserve funds that we can utilize. We have about three or four months' worth of funds that will cover the program. If it was...if it looked like it was going to go even longer, we would come to the Council and talk about getting additional monies so these people aren't out on the streets, and that's a crucial part of what's going on. We don't want people to, obviously to be let out on the streets. The...we sent out a letter to the landlords, trying to reassure them that there is a plan in place and there are funds to cover months' worth of the vouchers and there's no need to panic at this time.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Thank you, Member Sugimura. Councilmember Paltin?

COUNCILMEMBER PALTIN: Aloha, Chair. Thanks. I kind of had a lot of my questions relating to Planning, because, you know, that's the most relevant thing but I can, I'll shift courses totally.

CHAIR MOLINA: Member Paltin, why don't you go ahead and ask some of those and Planning questions, 'cause I...yeah, they're...you can make a tie I believe, especially when you're talking about personnel and decisions made as a director and how Mr. Spence could incorporate maybe some of those decisions. And as I stated earlier...

COUNCILMEMBER PALTIN: Okay. I'll try and hold back and see --

CHAIR MOLINA: Yeah.

COUNCILMEMBER PALTIN: --how it goes.

CHAIR MOLINA: We'll test the waters a little bit so don't feel too inhibited.

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COUNCILMEMBER PALTIN: Okay, thank you. So, I'm going to try go, follow the advisement and then see how it goes.

MR. SPENCE: Okay.

COUNCILMEMBER PALTIN: So, you've had six months to get up and running and up to speed and the learning curve, you feel pretty confident at this time?

MR. SPENCE: Pretty confident where we should be going...where we have come from and where we should be going, yes.

COUNCILMEMBER PALTIN: So, how many employees are in this Department?

MR. SPENCE: We have 148 employees. I should say we have 148 positions, we're still trying to fill a few of those positions.

COUNCILMEMBER PALTIN: You have three vacancies?

MR. SPENCE: I would have to look up the exact number, but yeah, I know we have vacancies.

COUNCILMEMBER PALTIN: How many divisions and the structure?

MR. SPENCE: Nine divisions, do you want me to name them?

COUNCILMEMBER PALTIN: You don't have to name them.

MR. SPENCE: Okay.

COUNCILMEMBER PALTIN: Yeah. Main thing you can name them if you had to.

MR. SPENCE: Yes.

COUNCILMEMBER PALTIN: So, you know, I don't have concerns really with your industry ties. We truly have an affordable housing crisis and my concerns are more directly related to your attention to detail, you know, and, you know, kind of as how it relates to the planning. And if I could just, you know, quote one of the testimonies that came in early this morning, and it's kind of...so, what...like as the Housing and Human Concerns Director, what do you think about transient vacation rentals and B&Bs and short-term rentals and their effect on us as a County being able...like the regulation of them and us as a County being able to provide, you know, long-term rentals? Including to, you know, I don't know if the ohana bill, you know, to me it kind of makes housing out of reach for local people. It makes them be like how you just said, they're going to be renters for the rest of their life. It adds value to the property that

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they won't ever be able to purchase. If you have a \$500,000 home, a \$200,000 ohana, another \$200,000 ohana, now you have a million-dollar property, and I don't see how like, you know, off-street parking issues can be enforced and things like that. So, I want to know like how these things that happen within the Planning Department tie into Housing and Human Concerns?

MR. SPENCE: Okay. Mr. Chairman?

CHAIR MOLINA: Go ahead, Mr. Spence.

MR. SPENCE: Okay, thank you. There's a number of really good questions in there.

COUNCILMEMBER PALTIN: Thank you.

MR. SPENCE: And let me address, the most what I heard was about ohana units and then also about vacation rentals. Okay, so ohana units, first off, there's always going to be a need for rentals. That's, the ohanas within Maui County currently provide...I don't know the exact number but it provides a huge number of rentals within our County. There will always be people who cannot afford to purchase and I think that's too bad but I, you know, that's our society as well. There are safeguards within that most recent ohana bill that you, you know, say I know some things changed that say you could build an extra ohana on 7,500 square feet, you still have to provide an off-street parking spot for that ohana. You're not...you can't build it if you can't provide parking for it. So, a lot of those things were built into that bill. We're hoping too that if I could build an ohana, that would make my own mortgage more affordable. I can't afford to build an ohana right now, but if I could, it would certainly make my living where I do much more affordable for me, and so that there's a good interplay between those two things. And if I don't answer completely, I'm...please follow up. The, with regard to vacation rentals, the...there's a place for vacation rentals within our community, and the Council passed an ordinance with a limited number of permits. What is out there right now far exceeds what the number of permits that we have. Many people...I haven't asked Planning in quite a while what their estimates are, I know at some point there was an estimate of like 5,000 illegal vacation rentals. That means people...and I've...I used to receive the calls. Mr. Spence, I was just evicted because my landlord wants to open up Airbnb, and so we would go follow up and cite them. It's still within their right to evict, but it's not the landowner's right to open up a vacation rental without proper permits. But if we...I'm very hopeful for the enforcement efforts within the Planning Department. If we could, let's say we could just, if we could eliminate 3 or 4,000 of those rentals, we would have 3 or 4,000 more homes that could be rented to our residents. That's a huge...this industry has been a huge impact on this community. So, I'm all in favor of enforcing on that.

COUNCILMEMBER PALTIN: So, I mean part of my attention to detail concerns, I have this testimony from Leina Wender and she's saying that you drafted the TVR bill that was introduced to Councilmember Baisa...by Councilmember Baisa in like 2000 [sic] and

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2012, and you followed it and were present at all the relevant bodies, Maui Planning Commission, Hana Advisory Committee to the Maui Planning Commission, Planning Committee of Maui County Council, and the Maui County Council itself. And she's saying that you failed repeatedly to mention that the community plans have the force of law and that the proposed bill was in direct conflict with the Paia-Haiku Community Plan as well as the Hana Community Plan and perhaps others. Most often she claims you remained silent. In the few situations where you gave advice, you did not state the law correctly. And then she goes on to say in 2017, Mr. Spence finally acknowledged the conflict but blamed it on the Council. He admitted the community plans do have the force and effect of law. Said that the Department thought the Council was aware of the community plan guidelines when it passed the 2012 bill, but in retrospective, it was not clear the County Council was aware of this particular policy. What he didn't say was this lack of clarity had been provided by Mr. Spence himself and that your solution was to change the community plan to accommodate this bill.

MR. SPENCE: Okay.

COUNCILMEMBER PALTIN: So, that's the type of detail that concerns me being that we have an affordable housing crisis.

MR. SPENCE: Okay.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: With all due respect to Ms. Wender, she's not remembering some of the facts. I did not write the, either the B&B bill or the vacation rental bill. That was done in house within the County Council. The...I recalled as we were having those deliberations, I recalled that we did discuss the conflicts within the community plan. And the Paia-Haiku Community Plan doesn't outright prohibit vacation rentals. I mean it...okay, it's...it outright prohibits vacation rentals but it allows bed and breakfasts. I would have to look at the exact language. And so I recalled that that was discussed with the Council. Now, when this big brouhaha came up, I looked back in the minutes and I couldn't find where it was clearly identified to the Council that there was a potential conflict. The Council then went ahead and passed the law and said okay, we can have X number of vacation rental permits in the Paia-Haiku Community Plan area. Okay, so later on we're going okay, so how do we reconcile these two things? Let's go back to the community and reconcile it. It was the efforts...there was not a, an effort to hide anything. It was an effort to be transparent with the community and go look, we have an issue here, we're here to help discuss how we should decide this. And so we drafted a bill, it went to the Planning Commission, we went out to the community. And it came back up to the Council and ultimately the Council dealt with it. But we took responsibility for any oversight with that.

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COUNCILMEMBER PALTIN: So, one last question and I apologize because I'm working on the fly here but, you know, Chair Molina was saying about the oversight of staff and whatnot, and in my vetting of Director McLean as the Planning Director, it did come up that you were the former Director of Planning. And I know that there are philosophical differences between you and Director McLean, but the vast majority of employees that I spoke to didn't have the confidence that you should be allowed to manage anything. I was wondering if you had any remarks on that.

MR. SPENCE: Sure.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. I have known the...let me just say planning in general will always have controversy. Congratulations on being Chair of that Committee. You're in store for lots of controversy and lots of very strong opinions, and you're going to deal with conflicts in the law and all kinds of things. It's exciting but it's very passionate too. Planners by nature are very passionate. I have known the last ten Planning directors including myself and I worked under four of them. And I'll tell you there's always members of the public who are upset at the Planning Director. There are agencies, there are County Councilmembers who are...will disagree with the Planning Director. Internally there are still strong opinions and there are people who have disagreed with every Planning Director, some more than others, but there...I'm sorry, I lived through that I know there's always going to be disagreements between staff. Very strong opinions with staff, very professional opinions, so it's not surprising to me that some people disagree with me, I'm aware of a lot of those things.

COUNCILMEMBER PALTIN: Thank you. I apologize for the harshness of that.

MR. SPENCE: No.

COUNCILMEMBER PALTIN: Thank you, Chair.

MR. SPENCE: No worry.

CHAIR MOLINA: Thank you, Member Paltin. Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Spence. Mahalo --

MR. SPENCE: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: --for meeting with me. Okay. My first question, what kinds of efforts are being made to address the homeless, houseless issue on Molokai?

CHAIR MOLINA: Mr. Spence?

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MR. SPENCE: Thank you for the question. It has only come to my attention recently, I was talking with Chair DeCoite or excuse me, Representative DeCoite and then I followed up with you in our meeting and I asked you specifically about that. It seems we've had a number of people move from the Big Island as a result of volcanic activity and the loss of their homes. I followed up with our Homeless Coordinator, he reached out to Family Life, and they are looking into the numbers that are there. And I...this is something very concerning to me. I know that there's a lot of care within your community about this. I would really like to follow up with you further provided I get passed today. But I would like to follow up with you on this issue as well, and I'll come over. I'm happy to do that, to follow up.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, is...for clarification, is the answer nothing? You haven't done anything?

MR. SPENCE: No, we're looking into it. We're inquiring of the nonprofit who works with homelessness particularly on your island, and our Homeless Coordinator is also making inquiries and investigating it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, you're looking into it?

MR. SPENCE: We are doing things about it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. What experience do you have with social service agencies addressing homelessness and the underserved and disadvantaged in our County, Countywide?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: That's...Mr. Chairman?

CHAIR MOLINA: Go ahead.

MR. SPENCE: That's pretty broad. I know as a planner for 27 years, I always looked forward to working with nonprofits and did so all through my career. Specifically now to, in this position, I have gotten to know a number of the nonprofits very well and I'm familiar with their plans and where they want to go, and I stand ready to help them in any way that I can.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. With the current Federal government shutdown just occurring and still posing a threat in the very near future, it is important for us to make sure that our directors are forward thinking and being proactive with solutions. What have you been doing as the past and Acting Director of Housing and Human Concerns to address the impacts of the shutdown for HUD, SNAP, WIC, and Federal employees who are affected?

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CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. And thank you, Ms. Rawlins-Fernandez, for the question. I, as I had said, the biggest issue for us is the Section 8 where the funds would...when the shutdown happened, the HUD employees went home. There was no funds flowing into the different accounts that we could tap into and then disseminate to the landlords. The, that's a big issue. The funds, we have some funds there in accounts, even...and so we are pretty safe for about two months. If it goes farther than that, HUD has set aside...there's a limited number of workers in the case of a shutdown. HUD has set aside funds just for these kinds of issues, and we can tap into, it's more than a month's worth of rental assistance. So, we know where those places...we know those things are in place and particular to other programs that you're talking about, I'm not 100 percent sure but I have very amazing staff that knows these programs inside and out and warn me far ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, next question. How do you currently track the various affordable housing projects? Is there transparency within your Department to the community on these timelines? And if so, where can we access that information?

MR. SPENCE: Okay.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. We maintain a list of projects, whether they've been just approved, whether they are under construction, what just...exactly what status they are, we track those things. We received a letter from Ms. Kama's Committee asking for that list and we're going to be providing it. It's something we update regularly. So, we'll be getting that to you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, I guess the second half of that question --

MR. SPENCE: Sure.

VICE-CHAIR RAWLINS-FERNANDEZ: --how would the community be able to view these timelines and access that information? Is it only through giving it to us?

MR. SPENCE: No, no. It's...one of the things in my openings remarks is how...I'm sorry, our website, I'm very dissatisfied with it. I would love to publish information regarding the numbers of projects that have been approved, what their status is, you know, when the Council approved them, et cetera. That's part of the goal of improving our website is providing that information to the public.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you. According to the housing TIG report, two of the largest factors that contributed to our housing crisis are one, lack of enforcement to deter short-term rentals and complications with the permitting process

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is two. These were two items that were completely under your control as the Director of Planning. Why trust that you can turn this around as the Director of Housing and Human Concerns if you didn't prevent it from happening in your previous position?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. And thank you for the question. I'll, let me give you a little background and then I'll give you the complete answer. As Planning Director we recognized...the whole Department recognized the impact of vacation rentals on the availability of housing, and we...really it's...I always thought of it, I never said this publicly, I said it privately, it's like a whole bunch of cockroaches. You know you can kind of get one at a time, but you only have six enforcement people when you have thousands of units. So, the enforcement staff is very good. They tried their best to do what they could with the tools that they have. Unfortunately they didn't have all the tools, and I give credit to Ms. Cochran for putting money in the budget for additional tools and hiring out a, hiring out for a service that can go search the web and search the different platforms and come up with addresses. That's probably the hardest place that we have is, or the hardest task in enforcement is finding the actual physical location of the vacation rentals. So, we've hired that service. You're going to have to ask Ms. McLean what the status is, but just being given that tool to pursue that level of enforcement and find out where the thousands are, that's going to be huge for them. Permitting, when I was Director, I fully recognized how old our Zoning Code is, how old our processes are as a result of that Zoning Code. And back then I started...I wanted to change the Zoning Code altogether, I thought we needed a new one. The...I knew I couldn't come to the Council and say hey, give me half-a-million dollars so I can hire a consultant, and the Councilmembers would go hey, what do you mean? And so I knew they wouldn't just take my word on it so I requested money for a zoning audit, and we hired a firm with national experience to come and take a look at our Code and do outreach to various members of our community, whether it just be community associations or just the developers or whoever and find out how is everybody dissatisfied. It was pretty much across the board that nobody liked our Code, and so we presented that audit to the Council and subsequently requested budget for money to hire a consultant to redo our Code. So, my hope is and I know Ms. McLean is very supportive of that and will follow through. I know they put out an RFP, I don't know the status of that. But so I made efforts within...when I was Director, I recognized these issues. As Housing Director, I have no authority in enforcement. As Housing Director, I have very little authority with regards to permitting, but I know that that those are very important issues and I'm sure they're going to be followed up on by others.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Just a last follow-up question, so I agree that LODGERevs [sic] was an important tool and I'm happy that it was helpful for you and your team. My question is why did it take so long for you to take advantage of that tool? I think it was Ms. Cochran passed that in the 2017 Budget, Fiscal Year 2018, and it wasn't until the following, over a year later did you start using that tool.

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CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. That is just an excellent question. We put out...okay, when we first talked to the first contractor and I was in the phone conference with former Councilmember Cochran when we were talking to somebody, and we asked them so how much, you know, how much would your service cost? And we talked to them and they said about \$35,000 and we went okay. And Ms. Cochran, then Councilmember Cochran put that in the budget. And, you know, procurement law that it is, we can't just go hire somebody, we have to go out for proposals. And that very contractor came in at like \$65,000 even though they previously told us 35. So, we hired somebody that maybe was...and I can't speak too much about this because I wasn't involved in the ultimate selection, but we hired somebody that I understand has not done this before but they have the capabilities to do it, they just had never done it. They focus on tax issues. So, it's taken quite a while to work with them. And that's...I'm treading on thin ice here, because I wasn't, like I said I wasn't involved working directly with that contractor. There are others within the Planning Department who know the story better than I do and I don't want to missay something. But it has been an effort to work with this particular contractor, and my understanding is they are now onboard full guns and working at it. It took a while to get what we wanted out of them.

VICE-CHAIR RAWLINS-FERNANDEZ: Just quick clarification, so I was working for Ms. Cochran at the time, and I believe it was \$80,000 that was allocated --

MR. SPENCE: Oh --

VICE-CHAIR RAWLINS-FERNANDEZ: --at that time.

MR. SPENCE: --it could be. All I remember is once we out to RFP, the bid that we got back from that one company that we talked to was way higher than what they told us it would be, like double. So, we couldn't hire them so we looked at the other proposals. And that's, again, there are others within the Planning Department that have a better history of this than I do. That's...would be excellent questions for them and they'll give you much more accurate information I'm sure.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Mr. Spence. Mahalo, Chair.

CHAIR MOLINA: And thank you, Committee Vice-Chair Rawlins-Fernandez. Okay, Chair would like to recognize now Councilmember and former Director of Housing and Human Concerns, Ms. Lee.

COUNCILMEMBER LEE: Good afternoon, Mr. Spence. I think you added more divisions than we actually have but that's okay. I don't think we have nine. Anyway, do we have any shovel-ready projects?

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CHAIR MOLINA: Mr. Spence?

MR. SPENCE: We mostly have projects that have just started and we have a couple that are ready to start, not quite through the regular building permitting process. As you know we have Kaiwahine in North Kihei. They broke ground a couple of months ago. They're going full guns. The, also the Catholic Charities project on Kane Street and Vevau. That's one that it also started just a couple months ago and I'm very proud to say that I helped those permits along. I got to streamline those permits. Once the SMA permit was obtained for Catholic Charities and a couple of other things, you know, I implemented something that the former Mayor did and that the Council has now pretty much codified and that's to fast track those permits if it's an affordable housing project. And what I did was issue a certificate and it comes bright pink and what it does is it shines out on the pile of all the rest of the permits so when you, when a staff person in whatever department sees these bright certificates signed by the Mayor, signed by myself, they know this is an affordable housing project and they put those at the top of the heap. Now for Kahului Lani, I must say this particular project or this particular directive probably saved them six months to a year in permitting. When you have construction loans and you're trying to get things going, if you're trying to avoid increases in Federal interest rates, six months to a year means hundreds of thousands of dollars. So, I'm very proud to have been able to fast track a couple of projects. And I give credit to the other departments too, they recognized this directive and they all got onboard and they all processed their permits very quickly towards creating these homes.

COUNCILMEMBER LEE: My understanding is that most of these projects were subsidized by the County, is that correct?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. There's a number of different funding sources. The one source that we have is the Affordable Housing Fund and what that does, the...okay, the big bucks come from Hawaii Housing and Development...HHFDC, Development Corporation. That's where the low-income housing tax credits are. They have some other big funds that the Legislature puts in there. They want to see some kind of match from us, so if we put in a few million dollars, that helps leverage those State or those Federal dollars. I know the Kaiwahine project, 120...100 percent...120 units, 100 percent affordable was \$50 million. They leveraged five different sources. Catholic Charities, 36 million for 164 units, senior housing, 100 percent affordable, they...I think they also got some funds from us. I would have to 100 percent check on that. But they got funding from the State in three different places as well as some, I believe some private financing. So, we, you know, the County is playing its part in doing all this. It wasn't 100 percent funded by or 100 percent subsidized by the County but we did add into that.

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COUNCILMEMBER LEE: For the future, are you willing to have the County be the developer of affordable housing?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. Just to be honest, my history as a planner and listening to other cities around the country and their issues and how they've approached things, the County itself should not be the developer, but we should partner with people who know how to get it done in a timely manner. Either, like I said we're either going to purchase property and have them build for us, and then we can utilize our leverage to be able to finance it, or partner with somebody. There's, you know, there's a number of different ways that we really need to explore, but we should not be the builder all by ourselves. So, and I'm looking out, in saying that I'm looking out for taxpayer dollars and speedier delivery of units.

COUNCILMEMBER LEE: So, if we let's say found a piece of property or Ms. Kama found a piece of property like for instance the old Kmart as an example and we use that adaptive reuse model and build interior units, you would be willing to partner on a project like that?

MR. SPENCE: Oh, absolutely. Especially with a preexisting building, there's a lot of things you can do. I'll just tell you for that particular property, I think it's zoned Heavy Industrial and I know it's in the flood zone so that particular one not, but there's others within the area.

COUNCILMEMBER LEE: Well, there's Sports Authority and other places --

MR. SPENCE: Yes.

COUNCILMEMBER LEE: --the old Safeway --

MR. SPENCE: Correct.

COUNCILMEMBER LEE: --and even Sears maybe.

MR. SPENCE: I know and Safeway is going to be moving and so I know there's...

COUNCILMEMBER LEE: The old one will be available.

MR. SPENCE: Very possibly. I have not talked to them yet but I'm aware of that property and the need within that area.

COUNCILMEMBER LEE: All right, thank you.

CHAIR MOLINA: Thank you, Member Lee. Council Chair King?

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COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Mr. Spence. I kind of have a combination of questions and the first one I wanted to start with was do you consider yourself an expert on housing?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: I'll give you a qualified answer. No, I don't. I, as much as I know, I'll tell you after 27 years as a planner with, you know, a formal degree in that, I...one, that lends itself a lot to housing, but two, I'm the kind of person that always thinks there's something to learn. So, it doesn't matter how much...I mean I know a lot more than most people, but there's always something else to learn. I'm one of those people that goes hey, there's always somebody that has expertise that I don't, and when I don't know something, I know where to go look for it.

COUNCILMEMBER KING: Okay. Can you describe your knowledge of the various Federal, State, and County tax credits and programs for affordable housing? You were talking about that earlier and I know there are some developers that are working on projects in this County who have extensive knowledge. And so I just wanted to get a sense of how much you know about all these different, you know, where to find all these different tax credits and how to access them.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay, thank you. The big one that everybody is very fond of is the low-income housing tax credits from the Federal government. It's actually run by the IRS, it's a program. And what it does is you...based on population, there are so many credits given out to every state and those are available every year. The...those are administered by the HHFDC which is the housing agency for the State. They have a scoring system, developers come to them and say hey, I want to do this project. There is...they have a scoring system and they award credits by the number of points that a certain project gets. Those, when those credits are awarded and once the units are built, after the units are built, those credits can be sold. And you have investors, big banks, what those credits are for is to lower corporations or banks' tax liability so they get that one-to-one reduction in their corporate tax liability. The County and I'm...the State tax credits operate similarly, they're not one to one. I'm forgetting exactly the ratio, it might be one to two but it's...but that program is also available and it's also competitive. The County has a tax credit program. I'd have to look at the specifics in 2.96, but the developers are given credits, can be given credits for every affordable unit that they build. So, there's a number of those different...that's just the tax credit stuff. There are also low-interest loans available through USDA. There's other funding sources available that I'm not 100 percent sure that we have totally utilized as yet.

COUNCILMEMBER KING: Okay. Do you have an inventory of those, all those programs?

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MR. SPENCE: I'm sorry?

COUNCILMEMBER KING: Do you know if the Housing Department has an inventory of all those programs?

MR. SPENCE: Yes, we do have an inventory. There are so many little nooks and crannies and qualifiers for those programs. I most definitely think those are things we should be pursuing.

COUNCILMEMBER KING: Okay. I'm asking because, you know, when people have told me about that project in North Kihei, the...on Kaiwahine that it wouldn't ever pencil out, and yet we have a developer who was able to find all those programs and --

MR. SPENCE: Yes.

COUNCILMEMBER KING: --make it pencil out. And I'm wondering why isn't our Housing Department, you know, should have an inventory of all those same types of programs and credits and everything that the developers in this, that come into this County have accessed already.

MR. SPENCE: Would you like me to address that?

COUNCILMEMBER KING: Sure.

MR. SPENCE: Okay, the Ikaika Ohana, I've spent some time with them. They are a unique developer in that those kinds of programs they're very complex. They are...they apply to only certain kinds of projects and it takes a very special expertise by those...by people to be able to utilize those. We can have a list but it's their expertise that they are capable of grabbing on to those funds and making them work. I know they're looking at doing a couple other projects on Maui and they're looking forward to doing that.

COUNCILMEMBER KING: Okay, thank you. I'm just hoping we get that expertise in our Housing...developed in the Department --

MR. SPENCE: Yes, I'm --

COUNCILMEMBER KING: --because it's been --

MR. SPENCE: --looking forward to that too.

COUNCILMEMBER KING: --missing. I have questions on your attitude towards community plans and specifically as it relates to location of housing, because I think I agree with everybody that affordable housing is our number one issue, but I also think that it's

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really important to have it be appropriate so that we don't have like we have in Kihei which is not an affordable housing project 100 percent, but we've got a project in Kihei that's been on the books for 25 years. Everybody's heard of it, Wailea 670 and it still has not broken ground. And so if you don't work with the communities, you know, that's what happens.

MR. SPENCE: Yes.

COUNCILMEMBER KING: And so I want to get your, for the record, state your position on community plans because...and let me just preface this by saying I wanted to follow up on Councilmember Paltin's concern about the community plan issue in Haiku and Paia. Because what we were told by your successor in the Planning Department is that the Council...there's a statement in the community plan that says no short-term rental, that they must be owner occupied meaning they have to be bed and breakfast. The Council went ahead and passed an ordinance that put a number on that area which what I was told by Corp. Counsel that doesn't necessarily put them in conflict until the Planning Department starts issuing those permits. And so Planning Department issued those permits even though the community plan said there should be no short-term rentals that are not owner occupied. So, in that context of, you know, the community plan is, if you feel it's owned by the community then why are there constantly violations like that? And, you know, what is your opinion of that, I mean why that happens? Because once it happens we can't undo it now, now we're stuck with this conflict.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay. I, I'm not sure that I understand the question. Could you...

COUNCILMEMBER KING: Okay, the...just to run by the issue. The community plan in Haiku-Paia area --

MR. SPENCE: Right.

COUNCILMEMBER KING: --says there shall be no short-term rentals or tourist accommodations that are not owner occupied.

MR. SPENCE: Correct.

COUNCILMEMBER KING: I mean they all have to be bed and breakfasts. Yet the County Council at that time passed a, or after that time, passed an ordinance that put a cap, a number on how many short-term rentals you could have in that area. But what your successor said to me when I asked the question when she was sitting right where you're sitting, about why that conflicts exists was that the conflict did not exist until the Planning Department actually issued those permits. So, in other words, if you had

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looked at the community plan and said we can't give any permits, because it says there shall be none and you didn't issue any, there would be no conflict.

MR. SPENCE: Okay.

COUNCILMEMBER KING: But because you issued permits, there's, now there's this huge conflict.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay, thank you, Mr. Chairman. Well, first off, I believe the conflict has been resolved through the efforts of the Council. There was a...I forget the exact ordinance.

COUNCILMEMBER KING: I think...I'm sorry but just to let you know I believe...what I was told was it got referred back to the committee --

MR. SPENCE: Okay.

COUNCILMEMBER KING: --so it still sits there unresolved.

MR. SPENCE: Oh, okay. I'm not familiar with that. The...we believed at the time that the Council, when the Council passed the vacation rental ordinance, you were setting policy that this was okay to do in that, in the Paia-Haiku area. We, ultimately we went wait a second, this is wrong. We have two things that are conflicting and we need to resolve this. So, we took ownership of that issue and went out to the community and tried to resolve it. The conflict...I'm not trying to lay this on the Council, and I think I've already responded, I believe it was Ms. Paltin's question, there's a conflict when you established, when the Council at that time established a cap and the community plan. I thought it was fairly communicated to the Council that what the community plan said and that turned out to not be the case. And so when we looked into that, we sought to correct that error. I don't know how else to correct there, we had already issued some permits.

COUNCILMEMBER KING: Okay. No, well I just would have hoped that...I mean I wasn't there at the time that the Council did that, but I would have hoped that there would have been, you know, strong advice from Planning Department that well, here's what the community plan says. Because we're constantly finding that, you know, as things go ahead despite what the community plan. And so, you know, I wanted to kind of go back to something you said about addressing the hard issues with communities, and you were kind of challenging Councilmember Paltin about taking on the Planning Committee which I have to differ with because I, actually it is hard work --

MR. SPENCE: It is.

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COUNCILMEMBER KING: --but I didn't find it...I found it wonderful working with the community of Molokai, what I was frustrated with was the Department and why I got no support anytime I went to Molokai. And so if you're willing to address the hard issues, why would nobody ever...I mean I got, the pushback I got was well, I'm not going over there, they attack you verbally. And so, you know, but you have to work through those things.

MR. SPENCE: Sure.

COUNCILMEMBER KING: You know you have to work with people and you can't be afraid and that's...that disturbed me from the day one of taking over that Committee was that attitude. And so I just want to get your take on why... 'cause you were Planning Director at the time, why we...I got no support for that?

CHAIR MOLINA: Mr. Spence?

COUNCILMEMBER KING: And how it's going to be going forward?

MR. SPENCE: Okay. Mr. Chairman? Okay, first off, let me just say I had no intent of challenging Ms. Paltin. I'm...it's a very, it's going to be a very lively discussion and that's not a challenge. I mean I'm not challenging her with it, it's the Committee's going to be very interesting and I look forward to watching that stuff. Yes. So, that's not challenging her at all. When I was Director, that was...going back to Molokai, that's after we had transmitted the Molokai Community Plan to Council, there was a lot of discussion. And at that point, perhaps we should have gone back with you, but that was the time it was felt that, you know, this was the Council's plan and you were running that Committee and, you know, there was a lot of issues and stuff. And we thought that you should take care of those things.

COUNCILMEMBER KING: Okay. Well, I, no, I just want to say that I did take, I mean I did work with the community, but the Planning Department made several proposals after it was handed over to the Planning Committee, and one of those was to remove the East End and West End --

MR. SPENCE: Right.

COUNCILMEMBER KING: --Policy Statements. Another one was pushing to put in a different land use designation appendix, and another one was a disclaimer page you put into the plan which totally infuriated everybody which I had to answer for. You know and also there was a statement about the plans being non-regulatory. So, you know, I think if you are serious about...because housing is a hot-topic issue and --

MR. SPENCE: Sure.

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COUNCILMEMBER KING: --you know I don't want to see, I don't want to have a director in there that says, you know, I'm not going with you there once the heat gets turned up. Because to me that's when you need to go into the community and you need to stand up for if you really felt that those proposed changes that you were doing were honorable then you need to stand up for them and you didn't do that. You left that for me to try to explain your Department's proposals.

MR. SPENCE: Okay. No...well...

CHAIR MOLINA: Go ahead, Mr. Spence.

MR. SPENCE: With all due respect, we tried to explain those things in Committee and some of those were when I wasn't there, at least that's my recollection. But that was...what we were trying to do...what the Planning Department throughout the process was trying to do was follow the guidelines...actually not guidelines, the law within 2.80B that prescribes okay, this is the content of the community plan, this is the process that you go through. And maybe we could have done that better. I apologize if, you know, it certainly wasn't my intent to leave you hanging out in the cold on that. And if I could continue just --

COUNCILMEMBER KING: Okay, go ahead.

MR. SPENCE: --you know I've also worked with you already at the Kihei Community Association on looking for problems...resolving homeless issues, looking at other possible affordable housing projects within your district and going to the Kihei Community Association. I think that's entirely proper that we go out and we solicit their input and what's acceptable and what's not.

COUNCILMEMBER KING: Okay. Well, I appreciate that but that was the easy thing. The Molokai one was not. And my biggest problem with that was these were proposals that were put in after the fact by the Planning Department which is what was, you know, your successor insisted that no, we don't make changes. Well, the proposals were there, yeah. And if you're going to hand off the plan and say now it's the Council's plan then you're hands-off at that point.

MR. SPENCE: Yeah.

COUNCILMEMBER KING: And so, you know, that didn't happen so that was just, you know, that's kind of an ongoing issue for me, because we have ongoing community plan processes.

MR. SPENCE: Okay.

COUNCILMEMBER KING: And I know you won't be part of that but, you know, it's...I don't want it to be a legacy that was left from your administration that continues on

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through the next community plan and the next. So, that's my big concern about that. And I do want to work together on the housing and the homelessness issues. It's interesting that your, put as one of your initiatives was our mobile hygiene unit which was, came out of the working group in Kihei that --

MR. SPENCE: Yes.

COUNCILMEMBER KING: --I started but that's good, I'm glad you're supportive of that. I have a question about, do you know...are you familiar with IDA programs and would you support integrating that into our first-time homebuyers program?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: I'm sorry, which programs?

COUNCILMEMBER KING: IDA, individual development accounts. Are you familiar with that?

MR. SPENCE: No, I'm not.

COUNCILMEMBER KING: Okay. That's a program that came...that's actually being proposed by RAM, the REALTORS® Association of Maui. Just was looking because we have a former representative here. And what it does is it's sort of like a first-time homebuyers' grant but it requires a level of education, financial literacy education and sort of handyman-type education and, you know, home ownership education. It also requires a minimum of...and it's different in each community but it requires a minimum for the homebuyer to save ahead of time, and then it gives matching funds, it could be up to five or seven times as much. But it's...but right now we're giving out first-time homebuyer money with just a financial require...a need requirement so there's nothing, there's no, none of that education requirement and none of the...and not necessarily a matching.

MR. SPENCE: Okay.

CHAIR MOLINA: Okay, Mr. Spence?

MR. SPENCE: Okay, thank you. That's...okay, I'll say I'm unfamiliar with the term, I'm very familiar with the program because we fund a homebuyers' education program every year with Hale Mahaolu. They go out and in so many of the projects that the Council approves, there's a requirement from the builder that they go through this education program, so they're not buying something that they can't afford and they're not getting themselves into trouble. The...so there...it's...a lot of people they don't know that you can't buy a big monster truck and a home often at the same time. The, Habitat for Humanity has a similar program, they go through a financial education program. I

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don't think either one of them go into the, provide any kind of funding but they definitely are on the education side.

COUNCILMEMBER KING: So, my question...yeah. So, my question is would you support integrating that concept into our first-time homebuyers program?

MR. SPENCE: Sure.

COUNCILMEMBER KING: Okay.

MR. SPENCE: Absolutely.

UNIDENTIFIED SPEAKER: Chair?

MR. SPENCE: And, Mr. Chairman, may I clarify?

CHAIR MOLINA: Hang on, hang on.

MR. SPENCE: Okay.

CHAIR MOLINA: Member King, you had one more question? I'm sorry, Member Kama, is there a point of privilege you're asking for?

COUNCILMEMBER KAMA: I...please.

CHAIR MOLINA: Yes.

COUNCILMEMBER KAMA: My understanding of an individual development account is that it's an actual matching account that is sponsored by some other agency that matches your dollar and put that together, it becomes...and part of the idea is to do financial literacy if the goal is home ownership. But the goal could also be a college education, it could be something else in which the IDA is saved by the family for that particular purpose. So, I wanted to clear that up because it's not just financial literacy for home ownership.

COUNCILMEMBER KING: Right, but that was my question.

COUNCILMEMBER KAMA: But it's...yeah, so.

COUNCILMEMBER KING: My question was, you know --

MR. SPENCE: Okay.

COUNCILMEMBER KING: --would we...would he support integrating it into the housing...

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CHAIR MOLINA: Thank you, Member Kama, for that --

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: --clarification.

COUNCILMEMBER KING: Thank you.

CHAIR MOLINA: And I can see you've done some, a lot of study on that. Well, so we all appreciate that.

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: Chairman King, continue with your question --

COUNCILMEMBER KING: Okay, thank you.

CHAIR MOLINA: --and for Mr. Spence and he can add his response.

COUNCILMEMBER KING: Would you, you know, there's some things that you said in your...in answering your questionnaire that...and you said there are aspects of 2.96 that need to be revised, and, you know, were these things that you already proposed or, you know, is this kind of a hindsight or are you...I mean I'm...I just want to figure out how involved you are getting or have gotten? Because I haven't seen a whole lot of these proposals come out before, but they certainly could have come out of the Planning Department. In the last six months I think there was a...there were some things that come out of the Housing Department and through the Housing Committee and some things that, you know, came out of the Planning Department in trying to look at 2.96. But do you have some...have you formulated some proposals for that already --

CHAIR MOLINA: Mr. Spence?

COUNCILMEMBER KING: --with your six months of being...

MR. SPENCE: Thank you, Mr. Chairman. I'm not familiar with any proposal by the Planning Department. I think that they would have run that by me. The...what I'm referring to, some of the things that need to be changed in 2.96 are some of the limitations on qualifying for affordable units. I know that we've had a number of discussions with homebuyers or condominium buyers that say, you know, hey, I make \$75 a year too much to qualify for an affordable home. Or I have too much money in the bank, I no longer qualify. You know they...we're taught from childhood you should be saving, saving, saving for your retirement, well, then you have too much money in your bank account to...you can't...even though you don't make a whole lot of money, you don't qualify 'cause you're, you know, you have too much money in the bank. So, we need

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to look at those things. I want to go out to the lenders and say okay, what works for you? What doesn't work for you? What would make your jobs easier? Not just the lenders but the builders, you know, there are a lot of builders out there that are trying to do the good...the right thing, and they find themselves limited in what they can provide because of some of the limitations in 2.96. And so no, I have not had the time to go out and form those groups and discuss with them and come back to you with a proposal.

COUNCILMEMBER KING: Okay. But and that wasn't something that was done under...when you were in the Planning Department so you intend to do that as Housing Director?

MR. SPENCE: Yes, the --

COUNCILMEMBER KING: Okay.

MR. SPENCE: --Planning Department deals with the Zoning Code and SMA and those kinds of things, they're not...and we work side by side with the Planning Department. But if they had thoughts on 2.96 and I'm happy to involve them as well. But that's really...

COUNCILMEMBER KING: Okay. No, I was just wondering about your thoughts when you were Planning Director but I guess that wasn't top of mind, so.

MR. SPENCE: Okay.

COUNCILMEMBER KING: Okay, so I have one last question on the human concern side.

MR. SPENCE: Yes.

COUNCILMEMBER KING: And that involves the animal shelter contract and --

MR. SPENCE: Okay.

COUNCILMEMBER KING: --since I've gotten on this Council, it's been disturbing me that we have a contract with the animal shelter and we fund two-thirds of it. So, and I don't know if you're aware of this, but you should be as head of the Housing and Human Concerns is that they are expected to go out and fundraise for the activities that we require them to do that are not funded under this contract. So, would you be supporting fully funding their contract?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: I don't know, that's something we will have to look at. We're about...the Administration is about to finalize its budget proposal, we can most definitely look at that. And I would like to clarify with you a little bit more what your concerns are.

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COUNCILMEMBER KING: Okay. Well, I don't know how to say it more clearly but my concerns are take a look at their contract and take a look at how we fund it.

MR. SPENCE: Okay.

COUNCILMEMBER KING: Because it's not 100 percent and, you know, they're basically a contractor that we're shorting. I'll yield for now. Thank you, Chair.

CHAIR MOLINA: Thank you, Chairman King.

MR. SPENCE: Mr. Chairman?

CHAIR MOLINA: Hang on, Mr. Spence, I'll give you a chance later. Chair would like a recess right now. And when we come back, we'll recognize Mr. Sinenci and any other comments Mr. Spence has. Meeting in recess till 3:20. . . . *(gavel)* . . .

RECESS: 3:08 p.m.

RECONVENE: 3:25 p.m.

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET meeting of January 29, 2019 is now back in session. Today is Thursday, February 7th, just before 3:30 p.m. Thank you for that break, Members. We last left off with Councilmember Sinenci to ask questions. I'm going to allow Mr. Spence to very quickly to clarify a response he gave earlier. I believe it was to one of Councilmember...Council Chair King's question. So, very briefly, Mr. Spence.

MR. SPENCE: Thank you, Mr. Chairman. And one of the questions that Chair King asked, am I an expert in housing? Okay, and I, part of my response was no and I would like to clarify that. Absolutely I'm an expert in the rules and regulations, all the zoning laws, the State laws, Special Management Area laws, the grading permits, the County processes, the...all...what all the different agencies require that affect our ability to provide housing, that I'm an expert in. When you talk about hiring out a contractor to start the grading, putting in the utilities, the actual construction part, that I would say I'm not an expert in.

CHAIR MOLINA: Okay, thank you for that clarification, Mr. Spence. Mr. _____, you have the floor.

COUNCILMEMBER SINENCI: Thank you, Chair.

COUNCILMEMBER KING: Mr. Sinenci.

VICE-CHAIR RAWLINS-FERNANDEZ: Sinenci.

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CHAIR MOLINA: Pardon me?

COUNCILMEMBER SINENCI: Mr. Spence...

COUNCILMEMBER KING: You called him Mr. Spence.

CHAIR MOLINA: Oh, I'm sorry. Did I say that? Councilmember Sinenci. Thank you.

COUNCILMEMBER SINENCI: Thank you, Mr. Spence --

CHAIR MOLINA: Long day.

COUNCILMEMBER SINENCI: --for being here and for meeting with us last month. Just a couple questions here. How much does it cost to build a multifamily affordable housing unit in Maui?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: The...and this is one of the things I would love to share with the Affordable Housing Committee, it's between 400 and about \$550,000 a unit. That's for multifamily, that's like Maui Lani or excuse me, Kahului Lani and the Kaiwahine project. That's what it averages out to.

COUNCILMEMBER SINENCI: Okay. How many affordable housing units are there in Maui County right now?

MR. SPENCE: Oh, I would have to...Mr. Chairman?

CHAIR MOLINA: Proceed.

MR. SPENCE: Sorry. I would have to look that up. I know...I did a couple of...I would have to specifically look at what's under construction, what has recently been sold. I can tell you that as Planning Director I supported a number of projects that amounts to about 2,500 units and those are in various stages of permitting. It's hard to say what's actually online right now. And when I say supported, it means I had a direct impact on their approval, whether it was writing a staff report or to the Planning Commission or something presented to the Council, so.

COUNCILMEMBER SINENCI: Okay, thank you. Do you know how many are in the...well how many more are needed in the next six years?

CHAIR MOLINA: Mr. Spence?

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MR. SPENCE: Thank you, Mr. Chairman, and thank you, Mr. Sinenci. The 2016 housing study estimates that Maui County needs 14,000 additional units by the year 2025. And I know we have several thousand coming online or, you know, either in various stages of permitting and construction, but that says yeah, we need a lot more.

COUNCILMEMBER SINENCI: Okay. Do you think that increasing the fee from 2 percent to 4 percent for affordable housing projects would be enough to provide additional housing? And how much each year does that 2 percent equal out to?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay. First off, let me say I think that would be an excellent idea to up the amount of tax revenue that goes into the Affordable Housing Fund. The...that's...was something both recommended by Ms. Cochran's TIG as well as the SMS study, and there's a number of people that said that would help a lot. I want to...I'm...I want to say we get about \$12 million a year from that. I'm, I would hate to claim that that's accurate. I know we have...last year we had about 19 million in the fund. I'd have to look at those figures exactly.

COUNCILMEMBER SINENCI: Okay. Do you think that the County should make a major change in its affordable housing policies to subsidize affordable housing projects like other communities do?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you. Yes, I do. And the reason I say that is we have a lot of builders who are willing to build and can build housing that's in the say 80 to 140 percent area median income, your average middle income residents on Maui, but where the real need is, is on the lower end, people who...and I know we need to explain AMI a little bit better in committee. The...when you start getting below 80 percent of a household's income, we have a large population and that's where the housing is the scarcest. That requires some kind of subsidy and to help build just like the, a couple of the projects that I've mentioned already, those are all subsidized by better...by different funds, whether it's County or Feds or State.

COUNCILMEMBER SINENCI: Okay. Do you have any ideas or plans to mass produce affordable housing?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: I know this is part of the topic of many studies for many years and it's just, you know, I talked about doing a plan earlier. It's putting those particular things from the temporary investigative group, from the SMS study, from our General Plan, our community plans, taking those actions and outlining them. And sitting down and going okay, these are the things we're going to tackle now, these are the things that

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are the most important and will produce the most houses. Mass produce, I want to build a lot of units. I...if we do it without careful consideration, we're going to lose sense of community and we don't want to do that. We want to build in observance with our...our General Plan out...and when I say that, our community plans, et cetera, they outline the character that the community wants to keep. So, we have to build not just masses of numbers of units but we have to build lots of units in accordance with keeping that sense of place of our communities.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Councilmember Sinenci. Mr. Spence, I'm going to ask you this line of questioning based more on history if you will with regards to your appointment as the Housing and Human Services [sic] Director under the former Administration. If I may ask and of course your predecessor in the Department left the Administration I believe it was in June to pursue other private opportunities which to some in the Administration caught some of us by surprise but the nonetheless it is what it is. Did you approach the former Mayor about your interest in serving in this capacity, or were you approached by the Mayor to consider this position?

MR. SPENCE: It was a little bit of both. There was definitely a need that...I mean I've, like I expressed in my opening remarks, I have always had an interest in housing and caring for the little guy if you will. The Mayor had talked to me about that after my predecessor left and we just went from there.

CHAIR MOLINA: Okay. And in your former Department, there were, I have been told there were customer service issues with some of the employees there, people who have applied for permits and so forth have told me that the staff, some of the staff and not all of course in the Planning Department were rude, overbearing, condescending, short, and oftentimes, you know, not very responsive to applicants' e-mails and phone calls. Tell me what did you do to address that and how, should you be confirmed as the Director of Housing and Human Services [sic] how you're going to prevent this from occurring in this particular Department?

MR. SPENCE: Okay, thank you, Mr. Chairman. And yeah, there...I would say, you know, you're going to hear complaints about speeds of permitting and those kinds of things. I tried to work with staff the way that I...when I would get a complaint, hey my permit's taking forever or I'm, you know, I'm being treated rudely. I...that's only one side of the story, there's always two sides, and that's something...okay, so you hear this one side, you get an e-mail that says, you know, something negative. You go to that employee and you involve that person's supervisor and you go okay, what's the other side of the story? And a lot of times you find out that the application that the person applied for or they gave you was incomplete and they don't want to add that additional information. That's pretty common. Staff, you know, staff asks for more information, they don't want to provide it, that happens as well. But sometimes yeah, we do find out that people could be treated more kindly and we work with that as well.

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I have to say I have great respect for Planning Department staff, they have a very difficult job, it's very busy, and they, overall they do a very good job.

CHAIR MOLINA: And thank you for that response. I mean you did make a good point, you have to hear two sides of the story, and I asked that because our new Mayor has placed a great emphasis on customer service, to clean areas like that up from all departments. Please help me understand, I had heard that the selection committee, did you actually go physically before the selection committee? 'Cause I had heard one report that you were...did not even go before them, and then suddenly you were informed that you were, you know, you're nominated by the Mayor. Can you confirm that for us?

MR. SPENCE: Sure. I was surprised to hear that there was only one person who was not interviewed or at least on that first go-around. That was me. I can't answer any more than that. I was surprised I wasn't interviewed. I was equally surprised since...and this...the second part is, was just an oversight after I checked in. I was not called about attending the, you know, the Mayor's announcement of his department heads and that was just a simple oversight. So, that's...I don't know how else to answer that.

CHAIR MOLINA: I mean yeah, that was something probably out of your control but it is certainly a great mystery in my opinion. You know all the talk of the selection committee interviewing people, and then I've...we hear that, you know, lo and behold you weren't...been...come before the committee physically to answer any questions, which leads me to my next question. It's related to 2.14.060, Director of Housing and Human Concerns, the ordinance, Members, regarding qualifications which, you know, I've stated to all of you to be one of my high priorities when considering any of the nominees. Number three it says as part of the criteria for qualification, as a part of or in addition to the five years of administrative experience, three years of experience in developing, supervising, and coordinating programs and projects designed to meet housing and/or human needs. Now, the point here is that I find I'd like to get more clarification on, it specifies three years. Now, Mr. Spence, you've been on the job for six-seven months. Can you tell us in...how do you meet this criteria being that you're currently on this job for seven months, where do you meet this criteria for housing and human needs of three years at a minimum?

MR. SPENCE: Okay, thank you for that question. And before I answer that I would...I need to say I did submit a resume. This was not to the selection committee, that's not...I wasn't hired out of the blue or anything like that. The processing I don't know about but that's...my resume was submitted. The programs regarding...projects designed to meet housing and/or human needs. As Planning Director I was there for seven-and-a-half years. We engaged in programs that were most definitely aimed at providing housing whether it's proactively amending our Codes, whether it's proactively looking to build housing through the approval of discretionary permits with the Planning Commissions or even on the Legislative programs with bringing projects

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before the County Council. That's, I mean that's the fundamental basis for being able to build housing is that you have the proper entitlements in place. So, and that's...

CHAIR MOLINA: So, that's basically what you believe the selection committee took that as a consideration to meet this qualification of three years as the...

MR. SPENCE: I would guess that, yes.

CHAIR MOLINA: And I apologize for being, you know, asking this question, because I'm still trying to figure it out to see where...how, you know, what you've just stated meets this qualification here. So, but I appreciate the response.

MR. SPENCE: And that's, that experience is fundamental to being able to provide housing is entitling property. And we have a system in place within the Planning Department and we pursued that with all environmental concerns and community plans, et cetera, in mind. But yeah, the current planning program within the Department is directly related to housing.

CHAIR MOLINA: Okay. And I guess for me in my simplistic view of things, I would have thought maybe three years as a director of like a Lokahi Pacific or some other...Na Hale O Maui or maybe in another municipality as a housing director, three years minimum of that.

MR. SPENCE: Yes.

CHAIR MOLINA: So, anyway, that's just my take on it. All right, Members, second and final round for questions if some of you do have? Councilmember Paltin? Oh and excuse me, Member Sugimura, you had your hand up?

COUNCILMEMBER SUGIMURA: I'm going to have to leave soon, sorry.

CHAIR MOLINA: Okay, the Chair acknowledges that. Again, I know some of the Members still have a question or two that they may ask, but thank you for letting the Chair know. And you did inform the Chair that you had another commitment this afternoon. Thank you. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I got some questions more in line with your guidelines. Thank you for providing that. So, I think we can all agree that the HUD guidelines in the area of median income or household incomes don't equate with Hawaii's high cost of living. Are there ways or laws that can be enacted to reflect more realistic figures that can be adopted or recognized in your opinion?

CHAIR MOLINA: Mr. Spence?

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MR. SPENCE: Thank you. And thank you for the question. We do...well okay first off, the HUD guidelines are tied to so many Federal programs that we can't ignore what the Feds say as far as what our median incomes are and those are based on Census data and other data that they collect. You know those are household income so two income within the house. We do make...and so those things are tied to the housing credits and other funding sources that developers utilize to build housing. Okay, that said so we can't ignore those. We do make adjustments for Hana, Molokai, and Lanai 'cause those areas, they're rural in nature and there are adjustments made. So, yes, we can make some adjustments but by and large we can't ignore the Feds either. That it's...those area median income numbers are tied to too many programs, if we change them too much, we're going to find that projects don't qualify and we will not be available for funding.

COUNCILMEMBER PALTIN: Thank you. So, Lahaina doesn't or West Maui doesn't qualify for those adjustments that Hana, Lanai, and Molokai qualify for? We do have rural areas in --

MR. SPENCE: Yes.

COUNCILMEMBER PALTIN: --Lahaina and I mean it would solve a lot of like, you know, traffic problems and stuff if those guidelines could be applied to West Maui as well, because a lot of our jobs are in West Maui but a lot of people can't afford to live there.

MR. SPENCE: Right.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: And I concur, probably one area of greatest need is West Maui, and because I know so many people commute from Central and even Upcountry and Haiku out every morning. It's...yeah I know, and I know you witness the traffic every day. We can look at that. I have asked the HUD administrator in Honolulu and he said we could start...we could look at different block areas. I just need to follow up with him on that. That's going to make a lot of jobs a lot more complex but we can definitely take a look.

COUNCILMEMBER PALTIN: Thank you. And, you know, when we talk about building affordable housing for our residents, how do you define our residents? Like do you have ideas to ensure that these units actually go the recipients that they're initially intended for?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman, and thank you, Councilmember Paltin. That is one of our biggest challenges. I know we've had these discussions with Corporation Counsel and there's Supreme Court cases about right to travel and all that stuff. It's difficult for me because the need is here. It's not with people moving here. The...we

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think we have some ways. We've found some developers that can specify where people...not where people come from but they live and work on, in West Maui. Like the Kahoma project, the developer specified that they either live or work in West Maui or are retired from a company in West Maui. I don't know how they do that but I am entirely in favor of whatever we can do to make sure that housing goes to residents who've been here a long time. That's where the need is, is our multigenerational families who have been here forever.

COUNCILMEMBER PALTIN: So, you're willing to do what it takes, including providing infrastructure for DHHL lands?

MR. SPENCE: For which lands?

COUNCILMEMBER PALTIN: Department of Hawaiian Home Lands.

MR. SPENCE: Well, I'm not the...if it was up to me, I would say yes, let's provide infrastructure to Hawaiian Homes. That's not my decision. I will support that need through the, whatever agencies who are responsible for providing that, whether it's drilling a well or waterlines or wastewater lines or whatever it takes. I'm right there to support that. It's...

COUNCILMEMBER PALTIN: Have you been in discussion with the negotiations currently ongoing that our water treatment plant is located currently on Hawaiian Home Lands in West Maui, and have you been a part of the deal in saying like, you know, we've never paid any kind of rent or anything to Hawaiian Homes for having this water treatment tank that benefits all of West Maui? And yet they can't put in infrastructure, they can't take advantage of the water, they can't take advantage of the sewage treatment plant which was supposed to be, you know, originally. Have you been in active negotiations with that? Because I'm not confident that that's being taken into consideration in the negotiations that are ongoing.

MR. SPENCE: Yeah.

CHAIR MOLINA: Mr. Spence . . . *(inaudible)* . . .

MR. SPENCE: Thank you, Mr. Chairman. I am not directly involved with those discussions. I am aware there are infrastructural needs with that regard and I'm there to help. If I can help Environmental Management or Public Works in their CIP projects, I am very happy to do so. And I'm willing to go talk to Hawaiian Homes with any of our infrastructural agencies to help make that happen if it helps.

COUNCILMEMBER PALTIN: So, oftentimes with 201H projects we see developers, you know, offer these great projects, the right project in the wrong place. And, you know, it's a fast-track proposal and after investing lots of money and conceptual plans, but ultimately the community feels it's a good project but it's in not a right place, and it

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gets all these exemptions and then it kind of ends up dividing our communities. Do you have any ideas on how to get ahead of this division within our community, right project, wrong place, prior to the investment of money by the developer?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you. It's not uncommon at all for developers to come to me and say hey, I want to do this project, what do you think? Something...I have no authority to require them to go to talk to the community, but I tell them you should, that's the right thing to do. But also I caution them strongly, if you don't, you're going to get up to Council and you're going to face a whole lot of grief so you better go talk to the community. So, and a lot of times I find that if those discussions are made, changes can be made to a project that...and then maybe the community will find them more acceptable. Sometimes not, but I expect that any developer wanting to do a 201H they gotta go talk to everybody that they can. Nobody likes surprises.

COUNCILMEMBER PALTIN: Since Fiscal Year '20 deliberations will be your first budget as the Housing and Human Concerns Director, what decision-making processes will you be applying to rate or determine whether certain line items are funded or if they may have reached their shelf life?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Interesting. And I'm guessing you're talking about line items to certain nonprofits? I...that's mostly what our line items are related to. Okay. I know that the nonprofits come talk to us, they talk to the Mayor, and this is traditional. And they will come to talk to the individual Councilmembers too. So, for this particular Department, I'm not aware that some of the grants have outlived their useful purpose. I know previously as Planning Director we had one or two grants that...and well actually one grant that really went nowhere and was not producing anything for the community and we shut that off. So, I'm not, I'm certainly not above looking at different grants and saying hey, can we change this or is this even really applicable anymore? I'm certainly willing to look at all those.

COUNCILMEMBER PALTIN: And maybe create a process to look at them all if you don't personally have the time or something?

MR. SPENCE: Okay, well...yeah, and we have an entire Grants Division and they, I want to say they oversee about \$14 million of taxpayers' funds. They are very diligent. When they come up with a nonprofit that's doing something, they...that perhaps they shouldn't be doing or they're not being accountable, they come to me and we sit down with the nonprofit and either sort it out or go hey, you know, we can't pay you, you're not doing what you're supposed to be doing. That happens on occasion.

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COUNCILMEMBER PALTIN: So, in light of no longer having the grants review board to independently consider County grants to third parties, how would you accommodate or measure new projects and proposals that have been waiting to be considered for a grant by the County?

MR. SPENCE: Okay.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. We have an application process. If somebody wants County funds we have an application process. They come to us, they present what they believe is a need in the community. I know that our grants people will... 'cause they're very familiar with all the other grants. They go all of this is already being covered or maybe you can partner with that other nonprofit or something like that. There... it's... all I can say is they're very accountable for, you know, the taxpayers' dollars. When people come apply, they're not going to spend taxpayer dollars needlessly or in programs that aren't going to produce something. I'm not sure that 100 percent answers. I'm happy to look into that more for you.

COUNCILMEMBER PALTIN: That was a good effort.

MR. SPENCE: Yeah, and I'm sure we'll talk about it at budget too.

COUNCILMEMBER PALTIN: So, what would your best-case scenario look like for the County-owned infrastructure installed Maui Lani Fairways project?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay, my best outlook on that project, well, I can tell you what hasn't worked before. There has been a number of times when former Budget Director wanted to outright sell the properties, Council was not in favor of that. We also put out a request for proposal and to build I believe it was 80 percent and below and only one developer came forward with a proposal and they couldn't build it at that rate, and their proposal was rejected. I know we need to come back, the Council needs to make a decision. I'm very willing to help the Council either put it out for proposal for something that would work or the Council may end up deciding to sell it. I can't say... that's, you know, pretty much your decision but I'm, I want to aid in those discussions.

COUNCILMEMBER PALTIN: So, if you had no other considerations or points of view to incorporate, what would your best-case scenario look like for the County-owned infrastructure installed Maui Lani Fairways project?

MR. SPENCE: The... my best case, my wish, I wish we could build affordable housing at 80 percent or below on those properties, but I don't think that that's possible.

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COUNCILMEMBER PALTIN: Similar question for the college dorm property, your best-case scenario, what would that look like?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: That's...sorry. Mr. Chairman?

CHAIR MOLINA: Go ahead.

MR. SPENCE: That's a little bit different. That's a really unique property because it's right there by infrastructure and roads and has water, et cetera. The...that property is leased to the university, they were supposed to use it for dormitories, they have not. They were built. Those buildings need to be taken down now. We should take those back, put out a request for proposal. So, what can we build there? Perhaps we can use...my preference is we use that property for...without overcrowding it but for a lot more than the six units that are on it. And maybe we could get 15 or 20 units on it, I'm not entirely sure. But that would be my preference. And I think we could...there's probably either ohana zones funds if we're planning on housing the homeless, you know, long-term housing, not, I'm not so in favor of just shelters. Or even, but even lower income housing at say 60 percent area median income and below. That's my dream of that property is get it used for housing.

COUNCILMEMBER PALTIN: So, you know, during your intro, you stated that you want to institute a program to build housing as done in many communities throughout the country. I was wondering if you can elaborate on what you envision this to look like?

MR. SPENCE: Okay.

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. It could happen in a number of different ways, but we can identify certain properties that are privately owned and that are being underutilized or vacant, maybe that need some additional entitlements. I think of certain ideal locations that I could go into greater detail at another time. And we either come to the Council and we purchase those, we negotiate with the landowner and purchase them outright, or we can say hey, we will...we can partner with them and say hey, we will provide you with your zoning, we will provide you with infrastructure if you build a certain amount of affordable housing on these properties. So, but it's to actively pursue the projects where I'm a little bit surprised when I came into this job, we have only waited for developers to come to us. I think we should be the more aggressive party and go find the projects. Then we can deal with both the developer housing and stuff that we want to do.

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COUNCILMEMBER PALTIN: You know so I'm listening to that and it seems so like it's right in front of us with Maui Lani Fairways. We got...we don't need to buy the property, we have it, it has the infrastructure. Like...sorry, I don't have a question. I'm done, sorry.

MR. SPENCE: No --

CHAIR MOLINA: All right, thank you.

MR. SPENCE: --and that is...

CHAIR MOLINA: Thank you, Mr. Spence. Member Paltin's --

MR. SPENCE: Okay.

CHAIR MOLINA: --made a statement.

MR. SPENCE: To me that is the low-hanging fruit --

CHAIR MOLINA: Okay.

MR. SPENCE: --and we should be dealing with that property.

CHAIR MOLINA: Okay, thank you, Mr. Spence. Members, any last questions before the Chair makes comments? Member Lee, followed by Member Rawlins-Fernandez?

COUNCILMEMBER LEE: Mr. Spence, we've spent a lot of time on housing. On the human concerns side, do you have any new ideas on how to improve let's say the grants program? I'll give you an example, over 15 years ago I proposed that a lot of our grantees try to become a little bit more self-sufficient so that we could have extra money to provide new --

MR. SPENCE: Right.

COUNCILMEMBER LEE: --nonprofits. And that went over like a lead balloon with the grants review committee. But I think it's really important that you might want to consider something like that, because not only is it good to help new organizations, it's important to encourage the existing organizations to try other sources of revenue.

MR. SPENCE: Yes.

COUNCILMEMBER LEE: Yeah. What do you think about that?

CHAIR MOLINA: Mr. Spence?

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MR. SPENCE: Thank you. I...nonprofits and the services they provide and for community involvement so it's not just...I don't think we should just provide a free ride for every nonprofit that comes along; otherwise, we would be having new departments within the County essentially. So, I think that we should be aiding our nonprofits, we should not be 100 percent supporting them. They...yeah, I agree, they should be doing other fundraising and being...reaching out to the community for other financial involvement as well.

COUNCILMEMBER LEE: And along those lines, have you instituted anything new either in, on that side of the program or within housing in the last six months?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: I know I've, have started the housing staff down this path of creating a, I don't want to call it a strategic plan but I want to call it an action plan, because we have so many documents that tell us what to do. I want to put it in one place and say okay, this is where we're going with this. So, we've started down that path and I hope to bring something to the Council and go out to the communities and talk about it. As far as financial, like with the grants program, I, maybe I'm not quite understanding, I'm trying to match those things up. I do think what we should be looking at other sources of funding that perhaps we haven't looked at before. I know we haven't utilized...I see some really funny projects go up using USDA rural funds, and I'm like, how come we can't get some of that stuff? So, yeah, we need to touch on those things in a greater way.

COUNCILMEMBER LEE: Thank you, Mr. Spence and Mr. Chair.

CHAIR MOLINA: Thank you, Ms. Lee. Prior to recognizing Committee Vice-Chair Rawlins-Fernandez for our last round of questioning, Chair needs to take a brief recess for a procedural matter. I'll impose upon you a three-minute recess. Meeting in recess. . . . *(gavel)* . . .

RECESS: 4:08 p.m.

RECONVENE: 4:13 p.m.

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET meeting of January 29, 2019 is now back in session. Members, today is Thursday, February 7th, 4:15 p.m. Thank you for that break to allow the Chair to address a procedural matter. Chair right now recognizes Committee Vice-Chair Rawlins-Fernandez for her last line of questioning for Mr. Spence. Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, I wanted to ask this first question because Councilmember Hokama's not here and I wanted to make sure that Lanai's issues are discussed as well. So, the Lanai affordable housing project that's

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been on the books since 2010, under your leadership what can we expect to see as far as that project goes?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay, thank you for the question. This was...and I know this project has been hanging around for a very long time. It's...bottom line we found out it was too expensive to build in its current...the way it's currently designed. What that means is they had to go do some redesign, some new estimates on the infrastructure, that was the biggest deal. So, that has to come back to committee for an amendment, because we're not building it the way it was originally designed. It has to come back to probably Councilmember Kama's, well, I know it will be Councilmember Kama's Committee to amend the 201H. And then we have to go back to State Land Use Commission, because on every boundary amendment that they do, it's...requires that you build in substantial compliance with the representations made. Okay. The representations, it's...that's changing. The way that the project was presented is not the way that we're going to be able to build it. So, the process is almost complete. We'll come to Affordable Housing Committee first. I'm not sure when, I'm hoping it's soon. I've been in contact with the consultant. And then once that's done, we can schedule for the State Land Use Commission and go back there. So, hopefully we'll get the entitlements in place, then we start bidding out...it's not my Department but it'll be...gosh, it'll...maybe we'll...I'm sure we will have some kind of involvement but we'll go out to bid for the construction and start down that road.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

MR. SPENCE: Happy to see that come about.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, great. As Director and in leadership positions in general, the public and employees operating under your direction will be looking to you as an example and standard for conducting the business of the County. How do you feel about your demonstration in leadership with your decision to circumvent the normal procedural...normal procedures surrounding the Hololani seawall approval? And in hindsight, how do you feel you will conduct yourself differently in your new role?

CHAIR MOLINA: Mr. Spence?

MR. SPENCE: Okay. Well, thank you, Mr. Chairman. And thank you for the question. I anticipated this coming up. Okay. First off, the...I'm trying to figure out which part I should address first. As Director of Housing and Human Concerns I have no authority over SMA issues. Okay. The question came up and I'm happy to explain the seawall issue, they had, Hololani had gone...had done an EIS. They had gone to the State for permission to build not just a revetment but as a part of that construction an entire cofferdam that would dry out the ocean so they could construct the seawall, pretty

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heavy duty kind of project. They got permission from...and a part of that was some sheet piles behind mauka side of the rock revetment. So, they got permission from the State, from the Land Board. They came to the Maui Planning Commission and because it's in the Special Management Area, and they got a permit from the Planning Commission. One of the conditions that...and what happened then is they still needed an easement from the State and they failed to get that from the Legislature. I, as far as I know they're going to try again this year. One of the...they wanted to then go okay, let's build just the sheet piles, that'll provide us some additional protection, and we'll move it back three feet so it's no longer on State land but it's on our own. There's a condition of their SMA permit that says, you know, you have to build in substantial compliance and that compliance can be determined by the Planning Commission or by the Department. And I'm happy to provide that documentation to you. I looked at that and I went okay, it's mauka of the shoreline, we're not building in the ocean, they're not doing a big cofferdam, they're not taking heavy equipment into the ocean side of that property. I asked them for additional information regarding the environmental impacts of moving it three feet, average of three feet. And I found that...I thought the...I found substantial compliance with the permit that the Planning Commission had issued. It's only a portion of the project, it's less impactful. The County got sued over this issue. And so I...and I want to read something. The judge...I'm looking in the minutes of what the judge decided. He did decide I needed some additional information, but he also said he was unclear on what information had been provided to me. He says the argument here is that, constituted that it failed--my decision--failed to follow the procedures that were required by the Planning Commission rules or related amendments. As I've already indicated, I'm in the view at, view that the action did not amount to a violation of those rules. So, the judge in saying this is saying I'm within my authority to make that determination of consistency. Since that time...and the judge goes on and he invited all the parties, he goes I know there's going to be requests for reconsideration, he just invited the parties, please provide me with more information. He felt like he did not have all the information in front of him, and so all the different parties have gone ahead and done that. So, and most recently the parties that are suing the County, in one of the motions he, the argument is yes, I did act within my authority. So, I'm not circumventing anything. I most definitely consulted with Corporation Counsel before making any decision. They thought it was sound because of the wording of that condition. And, you know, we'll see if it goes...where it goes from there. It's not over. I thought I was acting in the best interests of the County in that situation.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. Mahalo, Mr. Spence.

MR. SPENCE: Thank you.

CHAIR MOLINA: All right, thank you very much, Member Rawlins. Well, Members, we've come to what the Chair believes is the zero hour if you will. I believe we've put Mr. Spence through an exhausting Q&A session and I want to thank Mr. Spence for making himself available to go through all of this and also the Administration.

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Members, based upon some of the responses to the questions and as I've stated to all of you from the very start of this, these whole proceedings, qualifications of the nominee is a high priority for me and I'm sure for all of you as well. And I mentioned the 2.14.060 with regards to the ordinance and the qualification number three. And Mr. Spence did provide a response as to what he believes he has met three years of experience in developing, supervising, and coordinating programs and projects designed to meet housing and/or human needs. Well, I appreciate the response. I'm still just not convinced yet as to whether he meets that criteria. So, the Chair's recommendation at this point will be...will go as a no recommendation to the full Council; however, in fairness to the body, if there's another consideration the floor is open. If there's no consideration, it will move forward as that, Members. So, going once...

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. Go ahead.

CHAIR MOLINA: Yes?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, so moved.

COUNCILMEMBER KING: No, Chair --

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: --I would like to move for disapproval.

CHAIR MOLINA: Okay. You move for disapproval. So, if you'll allow me to read it into the record as...

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: Right, okay. So, the motion by Member King...and is there a second to the motion? By Member Rawlins-Fernandez --

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR MOLINA: --will be to recommend adoption of the revised proposed resolution to disapprove the Mayor's appointment for the Director of Housing and Human Concerns; along with the filing of the proposed resolution to approve the Mayor's appointment for the Director of Housing and Human Concerns; and also for nonsubstantive changes as well. Am I correct?

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COUNCILMEMBER KING: Right.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Right.

CHAIR MOLINA: Okay, so there you have it, Members. The motion made on the floor by Chair King is the resolution to disapprove. Discussion. Member King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, as you pointed out there's the three years of experience that I wasn't quite satisfied either that we have a candidate who meets that minimum requirement. And also, for me I need to see somebody in the helm of this Department who has a greater sense of urgency. And there were...TIG recommendations have been sitting on the floor for about three years and SMS report recommendations as pointed out, and there's other projects that need to be jumped on right away that I had hoped I would see some movement on in the last six months. And so, you know, I...there's really not much more to say than that. I think that's self-explanatory. Thank you.

CHAIR MOLINA: Okay. Thank you, Chairman King. Member Rawlins-Fernandez, as the seconder of the motion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I would echo Committee Chair and Council Chair's concerns. Mr. Spence did provide an explanation but I do not believe that the minimum qualifications has been satisfied. Developing, supervising, and coordinating planning programs for housing is not the same as developing, supervising, or coordinating housing or human concerns programs. And housing as Ms. King just said is one of our most vital socioeconomic challenges currently. It is paramount that the director of this particular Department be well versed, extremely experienced, visionary, progressive, and aggressive in their solution-oriented approach to goals, and most importantly to take swift actions. And so for this reason I will be supporting the motion. Mahalo.

CHAIR MOLINA: Okay, thank you, Members Rawlins-Fernandez. Members, any other further discussion as it relates to the motion on the floor which is to disapprove? Councilmember Lee?

COUNCILMEMBER LEE: Mr. Chair, I can understand everybody's concerns, but for me I do support Mr. Spence because he brings a wealth of knowledge and experience in the area of planning, the Code, and so forth which oftentimes new directors lack that background which is actually very important to have. Yes, he's not the most perfect candidate but, you know, who is? So, I will be voting for him. Thank you.

CHAIR MOLINA: Thank you, Member Lee. Any other considerations?

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COUNCILMEMBER KAMA: Chair?

CHAIR MOLINA: Member Kama?

COUNCILMEMBER KAMA: Thank you very much, Chair. And thank you, Mr. Spence, for sitting here with us through this process. But you know our people in this community have languished for so long, because they are in such dire need of housing that they can afford. They don't have the luxury of time because every moment and every day that passes by, they suffer and I want them to get the best person in this seat that we can possibly get and hire. And I want them to have as much of the resources. So, Mr. Chair, the budget for affordable housing, I don't know what it is now, but we're going to increase that by maybe 100 percent. But if we all said housing is critical and it's a crisis then let's put our money where our mouth is and let's give our County the best person we can. And therefore I too will have to deny this confirmation. Thank you.

CHAIR MOLINA: Thank you, Member Kama. Members, any other discussion before the Chair offers his comments as it relates to the motion on the floor? Okay, seeing none, Mr. Spence, you know, you in terms of qualifications as a Planning Director, I think you're way above that. Quality and in terms of your character is just you're one fine person, dedicated individual to your endeavors. For me again it's trying to be consistent with the qualification aspect of it, and some of your responses just didn't light a fire in me so to speak as it relates to housing. Granted, I know you had stated that the former Mayor had asked you and then you wanted to be a part of housing as well and leave your duties as the Planning Director. So, my initial preference was first to just send this matter out with no recommendation based on the fact we are, we don't have two voting Members as well here so we're down to seven people. But nonetheless I cannot support you and I sincerely apologize to you for that. And this is a rough, rough business and it's one of those times I...one of the most unpleasant aspects of this business. I nonetheless have a sincere admiration for you. You certainly have your heart in the right place, but because of the reasons that I've stated, I will regrettably have to vote no on this or excuse me, support the resolution which is to disapprove. Members...Miss...if there's no other discussion, I will ask --

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: --Miss...oh I'm sorry, Ms. Rawlins-Fernandez --

VICE-CHAIR RAWLINS-FERNANDEZ: I just wanted to comment --

CHAIR MOLINA: --for the second time.

VICE-CHAIR RAWLINS-FERNANDEZ: --on one of the comments that you made.

CHAIR MOLINA: Okay.

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VICE-CHAIR RAWLINS-FERNANDEZ: I think we've...this Committee has already set a precedent on taking a vote without two Members present.

CHAIR MOLINA: That's right.

VICE-CHAIR RAWLINS-FERNANDEZ: So, that's already been done, so.

CHAIR MOLINA: You got me on that one. What a good Committee Vice-Chair, couldn't get you guys on that. Anyway, well...

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Anyway, no apologies necessary.

COUNCILMEMBER KING: Chair, just...

CHAIR MOLINA: Mr. Sinenci, anything to say? No? Okay.

COUNCILMEMBER KING: I was just going to ask you to clarify the motion again...

CHAIR MOLINA: Yes, again, the motion on the floor is to approve the resolution to disapprove. Okay, well the motion on the floor is the disapproval resolution of the Director of, for the Director of Housing and Human Services [sic]; to make nonsubstantive changes; and to file the resolution to approve the Director of Housing and Human Services [sic]. Okay. So, again, a vote in the affirmative means that Mr. Spence is being disapproved. If you vote no that means you're basically for Mr. Spence and not in support of the resolution to disapprove. Is that clear enough, understandable enough? I know this can be sometimes a bit confusing, because it's not too often you hear a motion to disapprove initially. All right, so I will ask...if there are no other questions, I will ask our fine Staff Analyst, Ms. Espeleta to do a roll call.

MS. ESPELETA: Thank you, Mr. Chair. Again, starting with Councilmember Sinenci?

COUNCILMEMBER SINENCI: Aye.

MS. ESPELETA: Councilmember King?

COUNCILMEMBER KING: Aye.

MS. ESPELETA: Councilmember Lee?

COUNCILMEMBER LEE: No.

MS. ESPELETA: Councilmember Hokama is excused. Councilmember Paltin?

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COUNCILMEMBER PALTIN: Aye.

MS. ESPELETA: Councilmember Sugimura is excused. Councilmember Kama?

COUNCILMEMBER KAMA: Yes.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

MS. ESPELETA: Chair Molina?

CHAIR MOLINA: Aye.

MS. ESPELETA: So, that would be one...two...three...four...five...six "ayes," one "no," and two excused.

CHAIR MOLINA: Okay.

MS. ESPELETA: The motion passes.

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,
 Councilmembers Kama, King, Paltin, and
 Sinenci.**

NOES: Councilmember Lee.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and Sugimura.

MOTION CARRIED.

**ACTION: ADOPTION OF RESOLUTION TO DISAPPROVE THE
 APPOINTMENT OF WILLIAM SPENCE AS THE DIRECTOR
 OF HOUSING AND HUMAN CONCERNS AND FILING OF
 REVISED RESOLUTION TO APPROVE.**

CHAIR MOLINA: All right, thank you very much, Ms. Espeleta. So, the motion will be...or the resolution to disapprove will be moved on to the full Council where a final vote will be taken. Members, this concludes the agenda for the January 29th GET meeting.

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The Chair thanks all of you for your very, very hard work and I know it got very excruciating at times. The Chair would like to thank the Administration and all of the nominees, whatever the outcome was for all of our nominees. We thank you for putting yourselves out there, 'cause it certainly wasn't easy and it was a learning experience for all of us. So, Staff, is there anything the Chair needs to be made aware of before the meeting is adjourned?

MS. ESPELETA: No, Mr. Chair.

CHAIR MOLINA: Okay. Members, it is February 7th, 4:35 p.m. on February 7, 2019. The recessed GET meeting of January 29th is now adjourned. . . . *(gavel)* . . .

ADJOURN: 4:35 p.m.

APPROVED BY:



MICHAEL J. MOLINA, Chair
Governance, Ethics, and Transparency
Committee

get:min:190207r:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

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

DATED the 28th day of February, 2019, in Kula, Hawaii



Daniel Schoenbeck