

 You forwarded this message on 5/29/2009 12:15 PM.

Tim Bynum

From: Tim Bynum **Sent:** Tue 5/26/2009 2:05 PM
To: 'oip@hawaii.gov'
Cc:
Subject: Kauai County Council meeting May 6, 2009
Attachments:

Aloha,

I am requesting guidance and a written response to questions regarding the agenda item (C-2009-166) discussed at the May 6, 2009 Kauai County Council meeting (minutes attached). During this agenda item regarding a federal grant the Kauai County Prosecutor gave a presentation that included a detailed account of the restructuring of her department. She went on to present data from the Sexual Assault Treatment Center on Oahu about the potential impact of statewide budget cuts by the State of Hawai`i for victim services. As I attempted to follow up and clarify that she was sharing one source of funding (State of Hawai`i) and there is in fact other sources of funding for victim services including the grant that is the subject of the agenda item she narrows the focus to just the grant on the agenda. The Council Chair (page 30) picks up on this prompt interrupts me and tells me that he will not allow further discussion and a recess is called. At this point instead of the discussion occurring in the Council Chambers the Council Chair takes me to a back room and tells me that he will not allow me to continue to speak and that he will continue to "cut me off" if I continue to ask questions.

I find it ironic that a State law intended to bring sunshine to public discourse is being used, selectively in my opinion, to shut down public dialogue. Although the agenda item was about a grant for victim services on Kauai, I believe it was appropriate to discuss how the use of this grant fits into the mix of funding available for victim services, the impact on overall victim services and the impacts on the County Budget. I also do not object to the questions and discussions that were allowed about vertical prosecution, community prosecution and other matters although they arguably were further from the agenda than the questions I was asking about victim services. I do not believe that the sunshine law is so narrowly defined as to preclude discussion about how a decision on one aspect of government integrates or impacts others.

Questions:

1. During the discussion on this agenda item were there any violations of the sunshine law?
2. Were my lines of questions to the Prosecutor inappropriate or in violation of the sunshine law?

3. Did the Council chair have any grounds to censor my line of inquiry?
4. Given that the grant in question is funding for victim services is it inappropriate to question how funding for victim services from other sources integrate and how the decision on this grant impacts the delivery of victim services?

Thank you for your consideration of this request, please feel free to contact me if you have any questions

Sincerely,

Tim Bynum

Councilmember

Kauai County Council

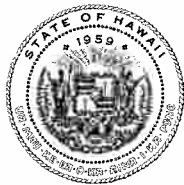
4396 Rice Street #206

Lihue, Hawaii 96766

808 241-6366

cell: 652-4575

[*tbynum@kauai.gov*](mailto:tbynum@kauai.gov)



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE LIEUTENANT GOVERNOR
OFFICE OF INFORMATION PRACTICES

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
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www.hawaii.gov/oiip

PAUL T. TSUKIYAMA
DIRECTOR

May 29, 2009

VIA EMAIL: tbynum@kauai.gov

Tim Bynum
Councilmember
Kauai County Council

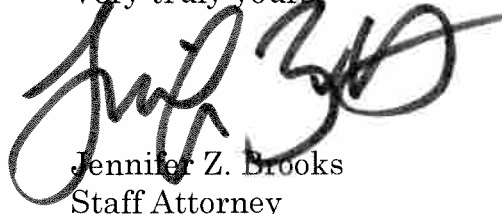
Re: Request for Opinion (S INVES-G 09-1)

Dear Mr. Bynum:

The Office of Information Practices ("OIP") has opened the above-referenced file relating to your request for an investigation regarding the Kauai County Council meeting held on May 6, 2009 under the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes.

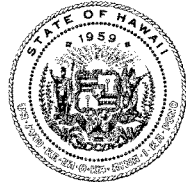
We will contact you if we require any additional documentation or information from you. Should you have any questions concerning the status of your request, please do not hesitate to contact our office at 586-1400.

Very truly yours



Jennifer Z. Brooks
Staff Attorney

JZB:dms



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GOVERNOR

JAMES R. AIONA, JR.
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PAUL T. TSUKIYAMA
DIRECTOR

May 29, 2009

VIA FACSIMILE: (808) 241-6349

The Honorable Bill "Kaipo" Asing
Chairperson
Kauai County Council
4396 Rice Street
Lihue, Hawaii 96766

Re: Request for Investigation (S INVES-G 09-1)

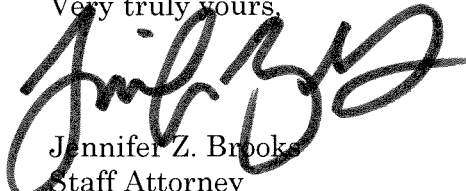
Dear Chair Asing:

The Office of Information Practices ("OIP") has received a request from Councilmember Tim Bynum that this office investigate whether the meeting held by the Kauai County Council (the "Council") on May 6, 2009 violated part I of chapter 92, Hawaii Revised Statutes (the "Sunshine Law"). A copy of Councilmember Bynum's request is enclosed for your information.

We ask for your assistance in our review of this request. Please provide us with a detailed explanation, including any relevant legal citations, setting forth the Council's position on this matter and any other information you deem relevant to this inquiry. We request that the Council provide this response to OIP no later than ten business days from receipt of this letter.

Thank you for your attention to this matter. If you have any questions or would like to discuss this matter, please do not hesitate to contact the undersigned attorney.

Very truly yours,



Jennifer Z. Brooks
Staff Attorney

JZB:dms
Enclosure

cc: Tim Bynum, Councilmember (w/o enclosure)

COUNCIL MEETING NOTICE and AGENDA
WEDNESDAY, MAY 6, 2009

9:00 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS
Historic County Building
4396 Rice Street, Room 201
Lihu'e, Kaua'i, Hawai'i

MEETING CALLED TO ORDER.

ROLL CALL.

APPROVAL OF AGENDA.

MINUTES of the following meetings of the Council:

Council Meeting of April 22, 2009

Public Hearing of April 22, 2009 re: Bill No. 2306, Bill No. 2307, Bill No. 2308, and Bill No. 2309

COMMUNICATIONS:

C 2009-161 Communication (04/01/2009) from the Purchasing & Assistant Contracts Administrator, transmitting for Council information, the Fiscal Year 2008/2009 Third Quarter Statement of Equipment Purchases. ***(Report on file in the County Clerk's Office.)***

C 2009-162 Communication (04/16/2009) from the Director of Personnel Services, transmitting for Council information, the following classification requests which the Department of Personnel Services will be reviewing and taking appropriate action:

- Fire Department, Position No. 614 (Reallocation of Present Class of Lifeguard to Water Safety Officer II)
- Fire Department, Position No. 2527 (Reallocation of Present Class of Water Safety Officer II to Water Safety Officer I)
- Fire Department, Position No. 240 (Reallocation of Present Class of Water Safety Officer II to Water Safety Officer I)
- Fire Department, Position No. 2521 (Reallocation of Present Class of Water Safety Officer I to Lifeguard)
- Fire Department, Position No. 741 (Reallocation of Present Class of Water Safety Officer I to Lifeguard)

- C 2009-163 Communication (04/22/2009) from Councilmember Tim Bynum and Councilmember Lani T. Kawahara, requesting the Administration to be present to give an update regarding the erosion and water safety issues at Po'ipū Beach.
- C 2009-164 Communication (04/07/2009) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend \$8,340 of Federal Highway Safety Funds from the State of Hawai'i, Department of Transportation, to be used towards travel and training for Deputies to gain knowledge and skills relating to vehicular crimes.
- C 2009-165 Communication (04/09/2009) from the Mayor, requesting Council approval to apply for, receive, and expend funds in the amount of \$9,813 from the Hawai'i Community Foundation's Housing/Community-Building Stronger Communities and Families Grant to implement the Parent Project® program in Kōloa for residents of the Kawailehua and Pa'anau Village (State and County affordable housing projects).
- C 2009-166 Communication (04/22/2009) from the Prosecuting Attorney, requesting Council approval to:
- 1) Apply for, receive, and expend Federal funds for the Kaua'i VOCA (Victims of Crime Act) Expansion Program in the amount of \$193,208; and
 - 2) Indemnify the State of Hawai'i, Department of the Attorney General.
- The funding received will be expended on salaries, fringe, operational expenses, and training cost for the Office of the Prosecuting Attorney, Victim/Witness Program (Use of these funds will be for the term commencing on August 1, 2009.)
- C 2009-167 Communication (04/27/2009) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend \$335,000 of Federal funds from the Recovery Act: Edward Byrne Memorial Competitive Grant Program Category VII, Supporting Problem-Solving Courts, to be used towards establishing a Community Prosecution Program.

C 2009-168 Communication (04/30/2009) from the Fire Chief, requesting Council approval to apply for, receive, and expend the Assistance to Fire Fighters Grant (AFG) to purchase a Fire Truck Driving Simulation System which the cost estimate of this project is \$263,785 which the AFG would cover 80% or \$211,028 and the County would be responsible for 20% or \$52,757, and will be shared by the Kaua'i Police Department, Public Works Department, and Transportation Agency.

LEGAL DOCUMENT:

C 2009-169 Communication (04/14/2009) from the Director Parks & Recreation, requesting Council approval to secure a shared-use path easement at the Sea Shell Restaurant Parcel (Tax Map Key No. (4) 4-1-05:14) which will provide adequate room for safe access from Wailua Beach to Papaloa Road as part of the Lydgate Park to Kapa'a Bike/Pedestrian Path:

- 1) Grant of Easement by Coco Palms Ventures, LLC, conveying Easement "A-1," Wailua Houselots, 3rd Series, to the County of Kaua'i for bike/pedestrian path purposes (Tax Map Key No. (4) 4-1-05:14).

CLAIMS:

C 2009-170 Communication (04/16/2009) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Norman J.N. Holt, Sr., for damages to his driveway, pursuant to Section 23.06, Charter of the County of Kaua'i.

COMMITTEE REPORT:

BUDGET & FINANCE COMMITTEE REPORTS:

CR-B&F 2009-09: on Bill No. 2306 AN ORDINANCE AMENDING ORDINANCE NO. B-2008-672 AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$500,000-Kaua'i Visitors Bureau Economic Stimulus Grant)
[Approved.]

CR-B&F 2009-10: on Bill No. 2307 AN ORDINANCE AMENDING ORDINANCE NO. B-2008-672 AS AMENDED RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATION ESTIMATED IN THE GENERAL FUND (\$300,000-Consultant Services-Special Counsel)
[Approved.]

CR-B&F 2009-11: on Bill No. 2309 A BILL FOR AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-9.2 OF THE KAUAI COUNTY CODE, 1987 RELATING TO INTEGRATED SOLID WASTE MANAGEMENT
[Approved.]

BILLS FOR SECOND READING:

Bill No. 2306 – AN ORDINANCE AMENDING ORDINANCE NO. B-2008-672 AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$500,000-Kauai Visitors Bureau Economic Stimulus Grant) **(See CR-B&F 2009-09, Budget & Finance Committee recommended approval.)**

Bill No. 2307 – AN ORDINANCE AMENDING ORDINANCE NO. B-2008-672 AS AMENDED RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATION ESTIMATED IN THE GENERAL FUND (\$300,000-Consultant Services-Special Counsel) **(See CR-B&F 2009-10, Budget & Finance Committee recommended approval.)**

Bill No. 2309 – A BILL FOR AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-9.2 OF THE KAUAI COUNTY CODE, 1987 RELATING TO INTEGRATED SOLID WASTE MANAGEMENT **(See CR-B&F 2009-11, Budget & Finance Committee recommended approval.)**

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. (“H.R.S.”) §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4, H.R.S. §92-5(a), and Kauai County Charter §3.07E. (Confidential reports on file in the County Attorney’s Office and/or the County Clerk’s Office. Discussions held in Executive Session are closed to the public.)

NOTE: If the Council is not finished with this meeting by approximately 5:00 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

Bill No. 2310 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2009 TO JUNE 30, 2010

Bill No. 2311 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2009 TO JUNE 30, 2010

Resolution No. 2009-32 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2009 TO JUNE 30, 2010 FOR THE COUNTY OF KAUAI

For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.

ADJOURNMENT.

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, ROOM 206, LĪHU‘E, KAUAI. TELEPHONE NO. 241-6371.

The motion to approve Bill No. 2306 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawakami, Asing	TOTAL - 6,
AGAINST ADOPTION:	Kawahara	TOTAL - 1,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: Next item please?

Mr. Nakamura: The next bill for second reading is Bill No. 2307.

Bill No. 2307 – AN ORDINANCE AMENDING ORDINANCE NO. B-2008-672 AS AMENDED RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATION ESTIMATED IN THE GENERAL FUND (\$300,000-Consultant Services-Special Counsel): Mr. Furfaro moved for adoption of Bill No. 2307 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Kaneshiro, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawahara, Kawakami, Asing	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: Next item please?

Mr. Nakamura: The last bill for second reading is Bill No. 2309.

Bill No. 2309 – A BILL FOR AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-9.2 OF THE KAUAI COUNTY CODE, 1987 RELATING TO INTEGRATED SOLID WASTE MANAGEMENT: Mr. Kaneshiro moved for adoption of Bill No. 2309 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Chang, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawahara, Kawakami, Asing	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: With that, we have one item left on the agenda and what we will do is we will have... this afternoon, I believe we have a certificate at 2:30 p.m., and right after we take the certificate, we will take the last item on the agenda. So we are in recess until 2:30 when we get back, we will take the certificate, and after we do the certificate, we will take item number C 2009-166 which is the communication from the Prosecuting Attorney's Office.

Mr. Kaneshiro: Mr. Chair, can I also make a note that we have a public hearing scheduled for 5 o'clock this afternoon here in the Chambers, and this would be for our Operating Budget, the Capital Improvement, and also the Real Property tax rates.

Chair Asing: Thank you. With that, we are in recess.

There being no objections, the Chair called for a recess at 10:08 a.m. The meeting was called back to order at 2:58 p.m., and proceeded as follows:

Chair Asing: With that, Mr. Clerk, can you read the item please?

Mr. Nakamura: The last item on today's agenda is on page 2 of the Council's agenda which is communication C 2009-166.

C 2009-166 Communication (04/22/2009) from the Prosecuting Attorney, requesting Council approval to:

- 1) Apply for, receive, and expend Federal funds for the Kaua'i VOCA (Victims of Crime Act) Expansion Program in the amount of \$193,208; and
- 2) Indemnify the State of Hawai'i, Department of the Attorney General. The funding received will be expended on salaries, fringe, operational expenses, and training cost for the Office of the Prosecuting Attorney, Victim/Witness Program (Use of these funds will be for the term commencing on August 1, 2009.):

Chair Asing: Thank you. With that, what I would like to do is suspend the rules and have the Prosecuting Attorney up please.

There being no objections, the rules were suspended.

SHAYLENE ISERI-CARVALHO, PROSECUTING ATTORNEY: Good afternoon Council Chair, Council Vice-Chair Furfaro, and the rest of the members, and my prior colleagues, good afternoon.

Mr. Furfaro: Good afternoon.

Ms. Iseri-Carvalho: Thank you for giving me this opportunity to be present today. As we know because of a lot of the issues of the financial economic forecast, as I mentioned in budget, we have been taking many opportunities, and we have already on your agenda today, three (3) opportunities regarding obtaining funds for grant funding that would otherwise use moneys that the County would not have to supplement with. We hope that we will be successful with that. What I would like to do is just show a history of how this funding came about and why we are requesting this funding to go to certain purposes. With that, VOCA stands for

the Victims of Crimes Act. It is an expansion program. It is, as I mentioned, 100% grant funding which means that there is absolutely no County funding involved in the application of these funds.

On December 1, I took office and at that time, many of you remember that I gave my Inauguration speech, and explained my strategic plan that was clearly different from the plan that the prior Administration had at the Office of the Prosecuting Attorney. I believe this was the true method of success of this office that we take this office out of the doldrums of having so many cases and victims unserved to take us out of that and become a successful unit. So our first goal was to restructure the office in teams. We operate under the 'ohana concept meaning that we all consider ourselves family members, that we have specialized teams. This is something that is... specialized units, something that is advocated by the National District Association of Attorneys, by the Hawai'i Prosecuting Association of Attorneys, by the Law Enforcement Coalition. Anytime that your office is able to do vertical prosecution on all of your cases, that is clearly what every office should do. It is unfortunate that in a lot of bigger jurisdictions, they aren't able to do that simply because of the volume of cases, and the number of personnel that is involved.

Vertical prosecution, many of you may not know what that concept is, but it is something that is very familiar under the law. Basically, it is a managing policy that designates the same specialized prosecutor and victim witness advocate to handle a case from the time the case is charged until disposition. This management style is extremely successful as it reduces the amount of times an individual or a victim has to recount the traumatic incident that that person goes through, and it, of course, builds a much more trustful enduring relationship between the parties. Our second goal was to create a community prosecution unit. That is on the agenda which I believe you approved. This community prosecution unit would act as a problem solver. It is different in that it does not create cases that go to the court. What it does is it offers diversion programs on petty misdemeanor cases, non-violent offenses. Currently, we have the drug court program that is a diversion program. We have a bad check restitution program, we have teen court, we are starting to implement an adult court diversion program with collaboration of Hale 'Ōpio as well as the YWCA.

Thirdly, we needed to create an investigation unit. Again, this was spelled out in my Inauguration speech of December 1 of 2008. And what happened, as we all know as we sat here (I was here for four (4) years), and every year the Police Department came in and explained to us that they were unable to serve bench warrants, they were unable to serve penal summons cases. So these cases were routinely getting dismissed because we have only 48 hours on a case that is in custody to bring forth a charge or else the defendant is released. We have only six (6) months in order to bring that case for trial whether it is a murder trial, sex assault trial, a property crime case, we only have six (6) months. The delay in not bringing those cases mean that the Judge does not have any opportunity but to dismiss the case. This was clearly a problem that was articulated for the four (4)

years that I was here, and clearly a problem that existed when I took office. So on December 1, we inherited approximately 4,000 legal documents that were unserved, hundreds of cases from misdemeanors to Class A felonies of attempted murder, sexual assaults, and other violent crimes dating back from 2004 up until I took office had not been charged. There were literally cases thrown across offices, on floors, on tables, behind desk, behind file cabinets... it was really a crisis situation. We had learned during this period that victims were being re-victimized over and over again. They would make a complaint, nobody would return their phone call, they would call back again, they would find out later that the case was dismissed. There was no interaction between the attorney, the clerk, or the victim witness counselor with the victims.

This was in numerous amount of cases as the cases had not been charged. One of the major problems in the operation or efficient operation of the office was that there was absolutely no comprehensive data base system that existed that tracked where these cases were in court or what victims were involved in each case. There was no system setup to tell us what the next hearing dates were. Basically, the office relied on the court who would send a court calendar the day before, so there was not much preparation time to know when these cases were coming up. This really provided a problem when we started applying for the grants because we were unable to prove reliable data or statistics to show the measure of the success of the grants that had been in place nor what kinds of goals we could establish without this system. We definitely needed this in place and within in two (2) weeks by the benefit of Lori Wada, my First Deputy, in knowing Peter Carlisle and coming from that office, he had us... he allowed us to bring over his IT person. We had been working with the IT Department here in the County for over four (4) years, and could not get a system established. What happened here is that the developer of that software came in and in a matter of two (2) days, setup the system where we are now able to track every case, every attorney assignment, every victim witness assignment... when the case is new, hearing date is upcoming, what was the disposition on the hearing that had already occurred. We also, as part of this implementation policy, hired an investigator. We had, as I said, 4,000 documents. We are currently, from December 1 until present, up to date on all the cases. That means in District Court, Family Court, Circuit Court, felony cases... we do not have a single backlog of cases. We have processed over 160 felony cases within a period of four (4) months.

And so, right now, what we are doing is trying to go back on the older cases, older sex assaults, older attempted murders and robberies, to try to bring those serious offenses before the statute of limitations expires. So we have been very successful. The investigator, with the collaboration of the Kaua'i Police Department with the new cases that we have charged and went to grand jury... out of the 160 plus cases, we have only... we are down to 10 arrest warrants that haven't been served. Having 90% service rate is phenomenal in light of the fact that in the past four (4) years, we consistently added on new cases that were not being served, and cases were getting dismissed.

We also, as indicated earlier, on page 2 of your agenda, applied for a community prosecution grant to increase the level of diversion programs. Okay, so how do we implement this strategic plan of trying to be more efficient with less. Basically what happened because of this 'ohana concept, we merge the office, and these transition plans have been consistently conveyed to the current staff back from July when I learned that I was not going to get opposition. And so it has been a transition process since July, and we had always felt that the Prosecuting Attorney's Office should be one office meaning that there should not be a separate office and I will go further once I go through this presentation to actually explain the structural, our organizational chart that we have managed to change.

But previously, we had two (2) divisions as you saw in the budget. We had an Office of the Prosecuting Attorney that oversees a sub-program which is the Victim Witness Program. What we have done is merged all of the budgetary issues all into one office, and we have physically changed the operation of our office. In our office, we used to have segments, all Victim Witness Counselors in one area, Legal Clerks in another area, and Attorneys in another area. We structurally moved so they would be more convenient for the victims as well as for the attorneys that they would be put into nucleases meaning separate teams. So each team has a type of specialized case that they handle which is depicted on the chart that I will address at a later point. But, basically, we have a murder felonies division, we have a property crimes persons division, we have a family court/sexual assault and DB crimes, a career criminal and property crimes division, a drug and traffic, juvenile and drug court, and a district court division. We are seeking to establish two (2) more divisions which is the crystal methamphetamine crimes, as well as the community prosecution unit. So that was structurally moving staff, so that the attorney would have direct access to the Victim Witness Counselors as well as the Legal Clerks. That would allow for more efficient operations and also integration... that the Victim Witness person didn't have to call a different number to get a Victim Witness Counselor. By virtue of setting up this unit, anytime you call the Legal Clerk or the Victim Witness Counselor or the Attorney, they would be able to provide you all of the services available to a victim. The legal process, the court dates, the kinds of victim witness compensation, restitution, victim impact statements, and all of that could be done by the unit.

Again, these are specialized attorneys. We all know, you know, if you got cancer, you don't want to go to a doctor that specializes in general practice, you want to go to a doctor that specializes in that kind of crime. Exactly what, again, the NDAA and all of the law enforcement coalition agencies support which is the specialized unit teams which we were fortunate enough to have been able to do under my Administration. We also equalize the unbalanced staff assignments. There were Victim Witness Counselors that were doing work basically providing cases out of the arrest log. That stopped. Our office does not take cases that do not come to our office from Kaua'i Police Department, so there were many cases that came through the arrest log that never reached our office. And, yet, we were going out... our Victim Witness Counselors were going up and calling up victims

identified in those arrest records to create a case. That was going beyond our jurisdiction. Our jurisdiction occurs when a victim becomes a case that is active at the Prosecuting Attorney's Office. And so we stopped that and we reassigned all these attorneys to make sure that there was a Victim Witness Counselor to make sure that Victim Witness Counselor for every felony case, there was a person that a victim could have direct access to. We also stopped the work that they were doing. For years, I understood that the Victim Witness Counselors had an agreement of doing the work of the Adult Probation Division, and I spoke with the supervisor and stopped that work as well. So there were a lot of these extra duties that they had burdened themselves with that clearly was not County level work and did not really assist our office in assisting the needy victims that we needed to address.

What I have here is a chart by County. The amount of victim witness people assigned and I hope you can see that, but... okay, so on O'ahu, Kaua'i, up until our reorganization had the highest amount of ratio of Victim Witness Counselors to Attorneys. They also had the highest amount of Victim Witness Counselors via population, and these are the numbers that they measure as far as the services being afforded to the County. So if you look on O'ahu that has a population of about one million, they have a Victim Witness Counselor to service 45,000 people. They basically have a 5:1 ratio. On Maui where the population is about 145,000, a Victim Witness Counselor services approximately 24,000 people. On the Big Island where a population of 175,000, a Victim Witness Counselor... per Victim Witness Counselor would service 14,000. If you look on Kaua'i, we would have a Victim Witness Counselor that would service our 64,000 population... 12,738, so about 13,000 which again is a 2:1 ratio. We had, again, the highest amount of Victim Witness Counselor, and that is why they had this opportunity to do all of this other extra work that were not necessary for our office. In fact, didn't have to be done by our office to the detriment of the other victims that needed more services of our office. So we had the highest amount of ratio and what we did at this point, simply by the restructuring where we eliminated two (2) Victim Witness Counselors, and we are asking for a Clerk. We basically are still providing services that are far beyond what O'ahu and Maui is providing because we have a 3:1 ratio, and we are providing one Victim Witness Counselor for 21,000 victims. So the only County that we... as far as Victim Witness Counselors per population is the Big Island, but Big Island, of course, needs a lot of Victim Witness Counselors because they have two (2) divisions (one in Kona and one in Hilo), and that is the only disparity.

But even despite that terrain up on the Big Island, Kaua'i still, before this restructuring, had a 2:1 ratio of Victim Witness Counselors to population. The next page is... what we have here is the funding that was provided from 2007 to 2010, and if you look here, you will find that the County, in 2007 and 2008, provided \$140,000. This was the budget from the Mayor. 2008 and 2009, \$120,000, so there was a reduction in \$20,000, and this upcoming year, there was a cut from the \$120,000 to \$90,337. So there was an additional cut of \$26,000. What we have provided here which is what we are requesting to utilize funding for the grant... initially, we provided \$58,000. In 2008 and 2009, \$64,000, so as the funding for the

County went down, the Prosecuting Attorney before myself as well as now, realize the essential service that the YWCA provides that our Victim Witness Counselors are unable to... by their job description and by the times that they are employed at work.

One of those things that we have advocated for, for several years was the 24/7 hotline. That was the line that was going to be cut, the crisis line, and you will see more impact in services. We just received a document from the Sex Assault Treatment Center regarding their funding cuts, that they have been advised that will take place beginning 2009. And basically what we are going to see is that there is going to be a lot of cut in services because of these funds, and we do not want to see an increase in sex assault cases that go with victims not being served. So, really, if you look at the total amount for 2007 and 2010, there was a decrease of 37% from the County, Prosecuting Attorney's Office for the past two (2) years, and then myself for this year in concurrence with the former Prosecutor of providing funds for the YWCA, there was an increase of 43%. So over the last three (3) fiscal periods, the Y's contract of what we are requesting is a simple 6% increase despite the level of clients which have exponentially increased at the YWCA.

Alright. If we could get... I think at this time because my last slide is the ending. What I will do is if I could ask permission of the Chair to approach the organizational chart that would better explain it. I may have a... if I may approach?

Chair Asing: Go ahead.

Ms. Iseri-Carvalho: Okay, so the first printout that we have here is the organizational chart that exist pre this fiscal year and actually... it incorporates some of the changes that we have already made from December 1, so what we did here was set up... initially, this is how the Prosecuting Attorney's Office was as a separate division from the Victim Witness program. We have here where the attorneys were only accessible in the sense to the Deputy and the First Deputy. The Clerks were in one division and the Victim Witness Counselors were in another. So the office was very segregated both physically and in operation. And this is the Victim Witness Counselors where right now we have a Victim Witness Director that is an EM position, and then we have two (2) Victim Witness Advocates that come under that one Director. So what we did to make more with less I guess we would say, and to allow more efficient processing of cases, and to allow specialized units which everyone agrees that that is the best way to approach cases is... right here, we have all of our units. Within each unit, there is an integrated Legal Clerk and Victim Witness Counselor. So we have a Victim Witness Counselor that does offense against property, we have a Victim Witness Counselor that does domestic violence, sex assaults, and any domestic violent related cases. And then we have a director that is responsible for direct victim services to make sure that she covers whatever balance of cases that do not fall in the other two (2) categories. Drugs and prosecution unit, we don't have really any victims in drug and prosecution.

Normally, it is the cop and doing a CI (Confidential Informant) buy, community prosecution is cases that do not go to court, so we won't need Victim Witness Counselors. District Court is, again, where we are utilizing a lot of this diversion programs. We are going to lessen the load in District Court, but the Victim Witness Director that we hope to do direct services will be handling really the small cases here which is the petty misdemeanors and misdemeanors, and then assisting with the few, fortunately, murder cases that we have up here.

So we have allowed for a more balanced and specialized unit. We have currently on this side all of my administrative staff, and then we have here, the Investigative Services Unit which will assess all of these units, and then we can go to the next one. Just flip it over. So that was, in essence, the restructuring and when we talk about the impact of services with the decrease in funding that is already recognized to be coming. We have, already, reports that have been generated based on this funding reductions on the statewide sexual violence services. And, basically, these are the consequences if we cut services. We will look at weekend sexual services will impact victim's ability to get help, reporting of sex crimes will most likely not happen, it will impact law enforcement's ability to identify sex offenders, it will impact the Prosecutor's ability to seek justice for sexual assault victims. It will impact the safety and well-being, really, of everyone involved. When we look at directly... because of the impacts that... and the fiscal reductions that were done already, this is something that they were required to do by island, a 20% reduction, and each island that provided sex assault services were required to submit a plan on the reduction, and what kind of impact of services that they are going to have.

But if you look, Kaua'i is highlighted up there. We are hoping that by this additional funding that they will... and we have discussed this that they will not reduce access to the 24/7 crisis hotline. So that is why, here, loss of services, this is why it is open because they, by agreement, which is one of the things that the Councilmembers have brought up have... I need the laser. Oh, this one is laser too. Okay, so here, this was one of the crucial things that I wanted to make sure that would continue to happen is to assure that we would have 24/7. I can tell that I am very passionate about sex assault cases as I have prosecuted them while I was at the Prosecuting Attorney's Office as a Deputy. Basically, prior to having this kind of services and integration with various law enforcement personnel as well as community members and social... social workers, we had less than a 20% conviction rate. When we had these integrated services in place, we were able to increase the conviction rate of sex offenders that were going away for 40 plus years to 97%. That is big. I can tell you that since the last four (4) years, it has gone extremely down as far as the conviction rates, and we need to beef up the level of services that we provide. Here, our Victim Witness Counselors are unable to provide a 24/7 hotline and that is what the "Y" provides. Crisis counseling for victims and this is where it is going to be impacted. We do not provide crisis counseling. We are unable to... it is not in their job description at the Prosecuting Attorney's Office, so we rely on the "Y" to provide these services. It would definitely reduce response to community

regarding sexual assault cases. We, again, are not qualified, our Victim Witness Counselors, to provide therapy for victims. This is where the "Y" comes in and this is where they are going to have the loss of services.

It is going to reduce outreach to under-served populations. This is crucial, this multi-disciplinary teams that we had discussed where we are all involved in the prosecution of the case. This is what makes cases successful and given the budget cuts, this is where they are taking away money from. Prevention programs, they also do that at the "Y" that we do not do. Prevention education in school, they expect and hope by 2011, they will be able to continue to do that. Reduce public awareness on sexual violence... all of these cuts as we see down here will seriously impact the safety of the community when sex offenders are allowed to go free and victims will not get the services that they need. Based on... so, again, this is the impact on the YWCA provider, so I am humbly asking that you approve our request to get 100% funding from the State that will not get any funding from the County. Based on this principle, our principle has always been pono kaulike, that we are here to provide equal rights and justice for all. In all decisions, especially in frugal times, we must exercise our fiscal responsibility and be objective in using our specialized skills to develop innovative and efficient operations that maximize our resources to do more with less, without ever compromising the safety of the community. These funds that come up from the stimulus package are definitely in the right direction. We are very... a lot of these grants are competitive. We would like to see that these funds be approved by the Council for us to apply because the quicker we apply, the quicker we can use the funds to get the services that this community needs. Thank you Council Chair and the rest of the Councilmembers.

Chair Asing: Thank you. With that, Councilmembers, you want to come back to your seats please? Are there any questions Councilmembers? Councilmember Bynum?

Mr. Bynum: Thank you for the presentation.

Ms. Iseri-Carvalho: You're welcome.

Mr. Bynum: The last chart with the potential reduction in services, where is that data from?

Ms. Iseri-Carvalho: That is from the sex assault treatment providers. The master contract for statewide sexual violence services.

Mr. Bynum: And they collected the data to talk about the impact of potential State budget cuts, is that correct?

Ms. Iseri-Carvalho: That is correct.

Mr. Bynum: Because we know the State has had a really difficult time this year and a lot of social service programs are experiencing budget cuts.

Ms. Iseri-Carvalho: Well, even on the County. I mean not only the State, but the County is facing a lot of difficult times too.

Mr. Bynum: I am aware of that, so SATC is Sexual Assault Treatment Centers and they kind of help coordinate or collaborate among all of the counties for these issues, so there is a collaborative team at the AG's Office, SATC... the County Prosecutors and the non-profits on various islands that work together to address victim services.

Ms. Iseri-Carvalho: Then they also got Department of Health.

Mr. Bynum: So that team this year worked together to... like most people, make their case to the State to minimize budget cuts as much as possible.

Ms. Iseri-Carvalho: Councilmember Bynum, all I can say, I am not part of that organization, the sex assault... this was information given to me on behalf of the YWCA, so any statements that you have regarding their organization and how they came up with the numbers and the cost would have to be addressed by them.

Mr. Bynum: But you were just giving us the impact on different islands and Kaua'i, and this came from SATC, is that correct?

Ms. Iseri-Carvalho: It came from SATC, yes. Well, it actually came from the "Y." I mean SATC didn't give it to me directly, this came from the YWCA when I asked them what would be the impact of cuts or any loss of funding.

Mr. Bynum: So victim services in Hawai'i have a number of different funding sources, right?

Ms. Iseri-Carvalho: I would assume.

Mr. Bynum: Right, and you know, and I will turn this into a statement. I mean, though, the victim service providers in the State of Hawai'i have been in a collaborative team for many years coordinated by the AG's Office and SATC. And like your Grants Coordinator knows that, they are part of the team, so we could ask her that question. You know that, right? There is this collaborative group that works on victim services.

Ms. Iseri-Carvalho: I think everybody knows that. That there is a collaborative team... we all want to work and help victims.

Mr. Bynum: So some potential funding for victim services come from County budgets, State budgets, Federal grants, community fundraising, all those sources, is that correct?

Ms. Iseri-Carvalho: Councilmember Bynum, what we are here for is for services of my office. What other victim services that they get from other agencies is totally irrelevant to me. I am looking at how it impacts my office which is the Prosecuting Attorney's Office and the victims that come through the legal system. Of course you realize that the other agencies also address victims that do not come through our office.

Mr. Bynum: Of course because not all victims are related to a charged crime or to one that the Prosecutor is going to prosecute.

Ms. Iseri-Carvalho: Uh huh.

Mr. Bynum: Your grant, as you pointed out for a number of years has funded the YWCA which is kind of a frontline social service agency for victim services on Kaua'i.

Ms. Iseri-Carvalho: Uh huh.

Mr. Bynum: And so, you know, but that is not their only source of victim funding. They have VOCA grants that come to the Prosecutor's Office... they also have VAWA grants, right? Which is the Violence Against Women Act grant.

Ms. Iseri-Carvalho: I think Councilmember Bynum, again, I would say that pursuant to the agenda item, we are only talking about the VOCA grant. We are not talking about any other VAWA grant or anything like that. I don't have any information regarding that.

Chair Asing: Councilmember Bynum, can you stay on the VOCA grant. This is the VOCA grant that is on the agenda. Stay on the VOCA grant.

Mr. Bynum: Council Chair, we are talking about victim services to the people of the County.

Chair Asing: No, we are talking about the VOCA grant.

Mr. Bynum: And this issue about staying on the agenda gets applied selectively. I sat through this Council for two (2) years when Ms. Iseri-Carvalho was on the Council, and she was given wide latitude to discuss various issues.

Chair Asing: Councilmember Bynum, stay on the VOCA grant otherwise I will cut you off, and you will not be able to participate. I am giving you an opportunity to stay on the subject matter. The subject matter is the VOCA grant and that is the subject.

Mr. Bynum: And rigid compliance with this agenda is not practiced equally on the Council and I would like the latitude to discuss victim services and how they are impacted.

Chair Asing: No, no, you will not.

Mr. Furfaro: Point of order, may I ask for a recess.

Mr. Furfaro moved to recess, seconded by Mr. Kawakami, and unanimously carried.

Chair Asing: We are in recess.

There being no objections, the Chair called for a recess at 3:30 p.m. The meeting was called back to order at 4:14 p.m., and proceeded as follows:

Chair Asing: With that, can we have the County Attorney up please?

There being no objections, the rules were suspended.

ALFRED B. CASTILLO, COUNTY ATTORNEY: Council Chair, members of the Council, Al Castillo, County Attorney. Good afternoon.

Chair Asing: Good afternoon.

Mr. Castillo: I would just like to remind everyone like I did this morning. If we stray a little bit from the agenda at hand, then I do have to... we do have to break it and stay on track, so I would ask that, you know, when we have the testimony here and the questions that come from the members... we are right now C 2009-166 and this is in regard to the Prosecuting Attorney asking to... making a request regarding the VOCA funding, so if we can stick on that, then we will be okay. So are there any questions? I guess not then. Thank you very much.

Chair Asing: Thank you. I'd like to call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: With that, Councilmember Bynum?

Mr. Bynum: I am done.

Chair Asing: Okay, so is there any questions?

Mr. Furfaro: I have a few.

Chair Asing: Go ahead.

Mr. Furfaro: Thank you Mr. Chair. Shay, I just want to go and revisit some of your points so I understand. I think whenever there is any restructuring in any organization, there is this period of time where people have to clearly understand the rationale for the changes and so forth. So I just want to revisit a couple of things. First of all, you talked about this... and I remember hearing at the inaugural this restructuring of the office talking in terms of vertical prosecution. So... and not being... you know, other than the basic hotelman's law, I am not real keen on understanding the vertical prosecution. So do I interpret that as saying the way that you have restructured the department from the opening complaint until the end of the process, it is now handled by the same attorney.

Ms. Iseri-Carvalho: That is correct.

Mr. Furfaro: And when we talk about creating a community prosecuting units, that is in terms of making sure that felons, assaults, rape victims, and so there is a team for that unit that outreaches? Could you explain that a little bit?

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: I am sorry. Community prosecution would only deal with non-violent petty offenses like criminal property damage, trespass, bad checks... writing nego... negotiating a worthless instrument. Any of those non-violent offenses would be, we hope, sent to this adult program of diversion that they would engage in community service, that they would give back to the community that they offended. For example, if you had a crime that occurred in Keālia, what happens now is that community service... when you go see a Judge, you can do your community service in Hanapēpē. What I would like to see is restorative justice that where the offense occurred is where you give back, and that can be done by our office as part of our diversion program.

Mr. Furfaro: Okay, I misunderstood that portion as it relates to, perhaps, this merging of the victim witness teams. I thought they were working with specific victims of specific crimes with specific attorneys.

Ms. Iseri-Carvalho: They are except not with... I mentioned not with the community prosecution unit because those cases would not go to court.

Mr. Furfaro: Okay.

Ms. Iseri-Carvalho: Those are cases that do not follow the traditional role of case processing. It is a problem solving unit that occurs without going to court.

Mr. Furfaro: And this may be one that I... you brought up, but I want to make sure that I understand it. This schedule here that you laid out for us which reflective the ratios compared to different counties, I just want to make sure that I am reading this correctly. In your organizational structure, you have... we have a County population of 63,689.

Ms. Iseri-Carvalho: And that would be page 7 for the rest of the Councilmembers.

Mr. Furfaro: Oh, yes, I am sorry. Thank you. We are going from... we are remaining at the same level... 10 ½ attorneys... the ratio is now a 2:1 ratio where it will be under your restructuring 3:1, and what you are portraying to us is, that is still within the ranges of the other counties.

Ms. Iseri-Carvalho: Yes, that is actually even higher than Maui and higher than O'ahu.

Mr. Furfaro: I do have to tell you. I take credit with understanding Maui because it is multi-island. I mean they have to have to staff on Lāna'i, on Moloka'i, and they do have different crimes statistics, but it is in the way that you are structuring it, similar to the Big Island.

Ms. Iseri-Carvalho: Yes.

Mr. Furfaro: And still a better ratio than O'ahu.

Ms. Iseri-Carvalho: Yes.

Mr. Furfaro: Okay, and now I would like to get a better definition on this. The hotline services for what you refer to as 24/7. 24/7 is for specific assaults and crimes against women and the 24/7 hotline is a hotline that is in the "Y"?

Ms. Iseri-Carvalho: Yes.

Mr. Furfaro: Okay, and how does that relate to I guess the arrest log? You know, so people calling the "Y" for an assault, a sexual assault, and so forth...

Ms. Iseri-Carvalho: Or suicide also.

Mr. Furfaro: And we are trying to get it to the point that there is this, you know, 7 day, 24-hour coverage.

Ms. Iseri-Carvalho: Uh huh.

Mr. Furfaro: Now, how does that information get conveyed to the Police Department? I don't have enough knowledge to understand that.

Ms. Iseri-Carvalho: There are instances where a victim does want prosecution and there are instances when a person does not. The "Y" takes any victim regardless whether or not they want to engage the services of law enforcement. If they do, they provide... for example, they have a Domestic Violence Coordinator now at the Kaua'i Police Department. That coordinator is immediately contacted and the detective or patrol officer is response to the victim to get the necessary information and do the necessary investigation. But there are many times the victims at that point in time do not report. Basically, there are to get crisis counseling, they are there to get medical treatment... we, in collaboration with the Police Department, and the Prosecutors and the YWCA do sexual assault examinations that are done by a forensic team. So there are these multi-disciplinary services that are offered to the person via the "Y" because they are the only organization on Kaua'i that offers 24/7 services.

Mr. Furfaro: So, you know, that is why you are implying that, you know because these services are offered, this money is directed to the "Y", but in my mind, I am trying to make the connection whose responsibility it is. If, let's say this victim wants to file a complaint and are they... is it now the "Y" making contact with the Prosecutor's Office? Is it the "Y" making contact for the Police Department? How does that work?

Ms. Iseri-Carvalho: It would be up to the victim. The victim, especially in a sex assault case, if they've been assaulted by a male, a lot of times they don't want to engage in talking to a male, so they don't go through law enforcement, they talk to the counselor, they go with the Domestic Violence Coordinator, and they try to hook up an investigator who is qualified in dealing with these kinds of cases. So it all depends on what type of victim you have, but anytime a victim wants to report an offense, that is directly made to the Police Department. The Police Department, on these cases, have a mandatory policy of sending to the Prosecutor's Office every sex assault or domestic violence cases even if it is found unfounded meaning that they didn't find enough evidence to prosecute, it is still being reviewed by our office.

Mr. Furfaro: I see. You know, those are... in my time in understanding the victim witness programs and so forth, I have always made kind of safe haven at a hotel that I managed to have victims return to testify and so forth, but I never... it is still not clear for me under standard operating procedures between police, the "Y" and the Prosecutor's Office... who's taking responsibility to

see that that victim, if they decide, I want to prosecute, I want to press charges, and obviously, the quicker it is done, the better.

Ms. Iseri-Carvalho: Definitely. You know, 85% to 90% of the cases of sex assault are delayed reporting, so it is very difficult to prosecute these types of cases, and that is why it is important to have these kinds of crisis and immediate services available. As far as the responsibility, it is everyone's responsibility. It depends on who is the victim goes to first. If they go the "Y," the "Y" will make the necessary connections because we all belong to a multi-disciplinary team. If they feel comfortable enough to go through law enforcement, law enforcement has a card, they give them the YWCA card. If they want to do a sexual assault examination, that is done... the Police Department houses it, the examination room, in the Police Department, so there are these integration of services with service providers, and law enforcement. Our office really doesn't get involved until a case is generated meaning a... there is an allegation of a crime being committed and a police report is forwarded to our office. A complaint will never come to our office with us doing the investigation. It will initiate at the Police Department.

Mr. Furfaro: And that is where the log is kept?

Ms. Iseri-Carvalho: The arrest logs are kept there.

Mr. Furfaro: There?

Ms. Iseri-Carvalho: Yes.

Mr. Furfaro: Okay, I am sorry not to have a better understanding of that process. Now during the budget meeting and we talked about this VOCA grant, it is still your intention as other opportunities for funding becomes available to support victim witness programs and so forth to pursue... even if it is jointly, pursue with other counties, all sources of funds to offset the staffing needs?

Ms. Iseri-Carvalho: That is correct. We are in constant contact with the AG's Office. There has been numerous amount of funding that has come available and each funding has a different eligibility requirement and different deadline when you have to turn it in. So it is very difficult trying to keep track, but we have established for the island of Kaua'i our coordinator as the coordinator for law enforcement. So KPD and us... all of the grants go through our coordinator which is Jamie who is here. We have other grants that, you know, will be coming up that we have also applied for.

Mr. Furfaro: Okay, I guess that is the other... (inaudible) especially in terms of victim witness and so forth as grants become available. You know, it is clearly within your jurisdiction and not the Council on how you structure your organization and I appreciate the fact that you put this here on the board

today, but at the same time, we need to look at things that provide opportunity because, you know, funding resources are limited, and we have to pursue those, and at the same time, there is a real need for the whole County to really communicate to people that may get affected in reduction. The rationale of the changes, we need to understand, but at the same time, we have to understand that the individual Division Heads... I think that is the appropriate term, that is all within their prerogatives. Okay, and thank you very much for continuing to pursue, you know, these funds, and I guess today, I have a better understanding on how you are merging victim witness staff to accomplish the goals that you were elected to accomplish as Prosecutor. So I do really want to make sure that we understand the measurements and the arrest log and, you know, how we interact with the Police Department, and how the YWCA certainly services the needs, but also the reporting. The reporting is the measurement. Thank you Mr. Chair.

Chair Asing: Any other questions? Councilmember Chang?

Mr. Chang: Thank you. Can you tell us about the staffing of the YWCA? Are they like fully staffed or are they ready for this influx of... because in the Kaua'i VOCA expansion project on page 1 of C 2009-166, everything leads up to... with the economy, more crime, more drugs, more assaults, and what have you, how, how... if we are leaning a lot on the YWCA, how well staffed are they?

Ms. Iseri-Carvalho: I guess we are leaning on YWCA, but we are also taking on an extra load at the Prosecuting Attorney's Office as well as the Police. I mean, we were initially providing 24/7 attorney services up until last month. We were providing all these trainings and meeting with the Police Department, ISB Division (Investigative Services) every week, so everybody has been having to put in a lot more hours at work. I mean, our office is constantly working on Saturdays and Sundays, and the attorneys don't get paid any overtime, neither do the Clerks. There has not been a single person that got overtime since I started. So, you know, it is unfortunate the situation that we have with the economy, and I can tell you as far as the "Y", they are hurting, they are hurting really bad. It is statewide, all of the non-profits are in that situation, but because the "Y" provides a function that no other agency on Kaua'i is able to provide with the quality of service that they provide. For me, it is a priority that the continued funding which has been the priority of the County Council because it has funded since before I even was at the Prosecuting Attorney's Office. I know they are hurting. I know they are asking for staff reductions which they had to provide as part of their 20% cut, so I know they will be losing some staff at the YWCA.

Mr. Chang: So when they are providing their service at 24/7, like if someone were to call at 11 at night or 4 a.m. or what have you, is that a recording or is that a live...

Ms. Iseri-Carvalho: No, it is a live body. In fact, I believe you have a person sitting behind you that is working as a Legislative Analyst that used to

actually man the phones 24/7 (Lianne Parangao). She did an excellent job while she was at the "Y".

Mr. Chang: Because when we were going through the budgets, I think we had a little bit of a discussion and if you can just refresh my memory. In the chart on page 7 that we are making reference to, you know, with the anticipation of, you know, perhaps more need for victims of crime, can you remind me... like I am looking at, right now, when we had four (4) positions for Victim Witness Counselors, and then we are now going to be restructured down to two (2).

Ms. Iseri-Carvalho: As far as the services, we are actually providing more services than the five (5) put together is because of this restructuring in specialized units. A lot of the work, the calling of the witnesses, etc. are being done by the attorney. The attorney calls all of the witnesses, informs the victim witness people, and when they have a meeting with the victims that come in, the Victim Witness Counselors now are requested to be present during those interviews. And so there is a lot more information sharing that didn't happen before. What happened is Victim Witness used to have their own files, the attorney had their files... the attorney never knew what victim witness did, victim witness never knew what the attorney did because their files... victim witness had their files locked up and the attorneys did not have access to those files, and that is why we centralized the system into teams because the head of each individual unit is the attorney, and the attorney had direct access to all of the information, and so does the Legal Clerk, and so does the Victim Witness Counselor. So everyone now is integrated as opposed to being segregated and that is part of the specialized team concept.

Mr. Chang: So, obviously, you are comfortable and confident with your staffing?

Ms. Iseri-Carvalho: At this point, I have asked for... I will be comfortable depending upon whether you give me the positions that we had requested in the County budget, there are other positions that we had requested that we have not, I think, received finalized word on with respect to attorneys. I asked for creation of that. I also asked for an investigator, a process server to assist, again, serving those 4,000 legal documents plus. There is definitely a need for different areas and different types of positions to address what is currently the issues that we are facing with this upcoming fiscal year.

Mr. Chang: Thank you.

Chair Asing: Councilmember Chang, I kind of gave you a little bit leeway on going outside of the parameters, but I want you to remind you to try to stay inbounds. Thank you. With that, any other questions?

Ms. Kawahara: Thank you. I know we both agree on the importance of providing witness services and victim services. I was looking at the

application for this to apply, receive, and expend the Federal funds. Had you mentioned before on one of the other ones that you couldn't use the moneys to fund personnel? Are you allowed to fund personnel under this VOCA, this particular one?

Ms. Iseri-Carvalho: We actually are funding. We are funding a Victim Witness Advocate and a Senior Clerk under this VOCA.

Ms. Kawahara: That is what I am reading. So I had thought that I heard something on one of your presentations that you couldn't do that, but, obviously...

Ms. Iseri-Carvalho: That would be an error if you heard that.

Ms. Kawahara: Oh no, it was on one of your presentations.

Ms. Iseri-Carvalho: I can tell this is... you cannot do attorneys, that is what you cannot do.

Ms. Kawahara: Oh, okay. So this is a Victim Witness Counselor and a Senior Clerk.

Ms. Iseri-Carvalho: Right.

Ms. Kawahara: So it was just for attorneys, thanks. Thank you. The other question that I had was... the project is going to use unpaid volunteers.

Ms. Iseri-Carvalho: I am sorry.

Ms. Kawahara: The other question that I had is that under personnel you were going to use unpaid volunteers?

Ms. Iseri-Carvalho: Some of them.

Ms. Kawahara: Okay, how do you... I deal with volunteers a lot in the various libraries that I worked at, could you tell me how you deal with confidentiality and especially in sensitive cases with these unpaid volunteers.

Ms. Iseri-Carvalho: They have volunteers over at the "Y" that are unpaid and our contract goes to the "Y", the "Y" makes that determination, and they provide a report to us. So at this point, they would be able to provide you the kind of personnel that they have as far as unpaid personnel.

Ms. Kawahara: So this portion is assigned to the "Y"?

Ms. Iseri-Carvalho: Yea, we don't have unpaid volunteers that work directly under us.

Ms. Kawahara: So that makes sense that is why I was worried.

Ms. Iseri-Carvalho: No, we don't do that.

Ms. Kawahara: And you were discussing about how the ratio of Victim Witness... what is the ratios for victim... this one, the one that you said that we had the highest ratio.

Ms. Iseri-Carvalho: Yes.

Ms. Kawahara: Is that necessarily a bad thing? Maybe we had one of the best programs and the other people would be struggling to get that ratio.

Ms. Iseri-Carvalho: It is a great thing. I would love to have ten (10) Victim Witness Counselors and so would other people. I would love to have four (4) more attorneys. I would love to have four (4) more Legal Clerks. It is that we had to shift because we were bottom heavy, meaning we had Victim Witness Counselors that come in on a case, and because we have so much cases that we had to charge that didn't have any victims attached to those cases. Remember when we talked about this extensively during budget that we were bottom heavy, and we needed to address that which is why I submitted to the Council money for request for Legal Clerks because our complaints were getting filed timely or even addressed, that is why we put in moneys... requested moneys for Attorneys and for Clerks because that was where the real need was. But if you feel that we should have money placed for Victim Witness Advocates, then put in \$193,000 because that is how much two (2) of them cost.

Ms. Kawahara: So you got rid of \$193,000.

Ms. Iseri-Carvalho: No, that would be inaccurate. What we did was we reallocated those funds to maximize the services to victims. Victims in general, not just victims that we would address at the Office of the Prosecuting Attorney. We needed to address people that needed crisis services, people that needed therapeutic services, people that needed prevention... all of those items that I listed, those are the kinds of things that we needed to address that our office do not provide at all.

Ms. Kawahara: Okay.

Ms. Iseri-Carvalho: And with the Victim Witness Counselors that we do have, they more than adequately cover all of the services because a lot of the services they were doing were cases that were not prosecutorial related. It was for adult probation, it was outreach for law enforcement, but not for prosecutors on a charge case.

Ms. Kawahara: Okay, so from five (5), you went to two (2) and one Director, is that correct?

Ms. Iseri-Carvalho: No, we had one Director and four (4) counselors. We had one Director and two (2) counselors.

Ms. Kawahara: So one and two (2) now. 2007-2008, I was wondering if it was in this same situation and you had two (2) counselors and one Director, would you have been able to handle 728 victims?

Ms. Iseri-Carvalho: In 2007-2008, I don't know what the situation was at the Prosecuting Attorney's Office.

Ms. Kawahara: No, I mean, in your opinion with two (2) counselors, yea, that you have now, would you be able to handle 727 victims?

Ms. Iseri-Carvalho: Oh, I think they may handle even more than that.

Ms. Kawahara: Okay. I wanted to be sure that wouldn't be overwhelming.

Ms. Iseri-Carvalho: Yea, we also have... the Director does not only do administrative duties. The Director also, I believe it is 30% of her job is to do direct victim services, so she is in the chain of providing services to victims too.

Ms. Kawahara: Okay, not really more supervisory stuff?

Ms. Iseri-Carvalho: A lot of the supervisory stuff have been reassigned and a lot of the input of stats which was a major part of her job was reassigned, so that the clerk could do it. It is better to pay a \$20,000 clerk to input the stats, than pay somebody \$73,000 to input stats.

Ms. Kawahara: That seems to make sense.

Ms. Iseri-Carvalho: So it is getting more for your money. I mean when you look at how frugal our office has been and reallocating the resources that we have and understanding the fiscal responsibility that we have, we are at this point handling twice as much cases with less amount of resources by providing at least 50% to 100% better victim services.

Ms. Kawahara: The budget that was submitted though, was the same as last year, so when you... I asked this the last time. The \$101 million whatever for the Prosecuting Attorney.

Ms. Iseri-Carvalho: Are we talking about VOCA funds or are we talking about a... I am sorry.

Ms. Kawahara: I just... when you say you have less resources.

Ms. Iseri-Carvalho: Oh, we definitely have less resources.

Ms. Kawahara: As in money?

Ms. Iseri-Carvalho: As in attorneys, as in bodies. I mean we started off with five (5) attorneys where they had 10.5 attorneys. We are still at eight (8) because two (2) positions we didn't get filled and we have no funding for. So, right now, we are operating as a deficit of two (2) attorneys.

Ms. Kawahara: Okay, and you don't count the other VOCA, the Victim Witness service providers as a loss?

Ms. Iseri-Carvalho: It is not a deficit. We have been able to provide those services with the attorneys stepping in, in doing a lot of the work, and the other Victim Witness Counselors not doing the work of Adult Probation, and not doing the work of outreach and going off of the arrest logs.

Ms. Kawahara: Alright, just one more question because my main... and I know your main concerns are being able to service victims and not have them be victimized again by the system. The trend as Councilmember Chang had mentioned is that crimes are going up and I believe... I am looking at an Attorney General report that says, our index prime rate increased 11.3% in 2007, and the violent crime rate rising .7%.

Ms. Iseri-Carvalho: On Kaua'i?

Ms. Kawahara: Uh huh.

Ms. Iseri-Carvalho: I can tell you as far as the statistics, I cannot vouch for the accuracy of those statistics because I was not present at the time that those statistics were presented. And I can tell you that we had no data base tracking system, so I don't know how those numbers were derived.

Ms. Kawahara: This is from the Attorney General's Office...

Ms. Iseri-Carvalho: They get the numbers... no, the numbers come from the Prosecuting Attorney's Office to the Attorney General.

Ms. Kawahara: Right.

Ms. Iseri-Carvalho: As I said, there was no tracking system, so I do not know how those statistics were developed, so I cannot vouch for the accuracy of those numbers.

Ms. Kawahara: They are just the statistics that I have and they seem pretty authoritative, so I just wanted to mention that I was noticing that they are going up, and I also notice that Kaua'i had the highest, I think, ever rape cases for that last year. So my concern is that we are able to address the crimes that happen and be able to service the victims if it increases because of your merging.

Ms. Iseri-Carvalho: Well, this is an integrated process. Just because the "Y" comes in initially doesn't mean when the Prosecuting Attorney's Office enters a case or charges a case that they YWCA walks out of the case. I mean they were concurrently with the victim because there are different kinds of services that are provided by the different types of agencies. Our office does not provide crisis counseling, it does not offer therapeutic counseling, there are a lot of services that are offered by the "Y" that we are not qualified to provide that is why it is not a matter of one or the other, it is both needs to work collaboratively together to assist the victim because the needs are varied of the victims.

Ms. Kawahara: Yes, I think it is really clear you have qualified people for one thing, YWCA, and other people qualified for other things in your office. What I was addressing was the general upturn in crimes and the possible increase in victims. So it sounds like you...

Ms. Iseri-Carvalho: There is definitely going to be an increase in crime. We have seen it many times before. Whenever the economy goes down, there is an inverse relationship with crime, and it will definitely go up. And should the need arises at some later point that the crime rate has escalated to a point that our office can no longer service the victims adequately, I will be back here to ask for a money bill. At this point, I do want to... with the limited funds available to make sure that the funds that are provided are going to the agencies that can provide the most services to the community and to the victims, and that is what our purpose is here for to look at the big picture, not to look at us as an individual office, but as the big picture, what kinds of agencies can provide services that we cannot provide. That, at this point, is the only agency here is the YWCA with respect to these types of services that I have listed.

Ms. Kawahara: Okay. I think that was... I had one more question, but I don't remember what it was.

Chair Asing: Are you through?

Ms. Kawahara: I can't remember what my other question was. Thank you.

Chair Asing: Thank you. Any other questions Councilmembers? If not, thank you very much. What I would like to do is open it up to the public now.

Ms. Iseri-Carvalho: Thank you.

Chair Asing: I am not going to call the meeting back to order, I am going to open it up to the public. Is there anyone in the public who wants to speak on this item? If not, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: With that, is there further discussion? I'd like to have a motion to approve.

Mr. Chang moved to approve C 2009-166, seconded by Mr. Kaneshiro.

Chair Asing: With that, any discussion? Councilmember Bynum?

Mr. Bynum: Thank you very much Chair. After meeting with the County Attorney, he encouraged me to make my discussion and points during the... when we call back to order for discussion, so I will do that now. What I want to talk about is... and during the last hour or so, we talked about impact of funding cuts statewide. We talked about the total restructuring of the Prosecutor's Office, we've talked about 24/7 hotlines and how victims get their cases reported, and I think it is appropriate for us to have a broad ranging discussion about victim services on Kaua'i, and how they are impacted by the decisions we make related to this grant and others. So, you know, the Prosecutor presented the County General Fund budget in her presentation... what the County General Fund had contributed over the last three (3) years. So the point that I wanted to make is that the victims of crime services are integrated in this State over... for many years in a collaborative effort with Prosecutors and non-profits, and the Attorney General's Office, and that they are funded by a variety of sources including County General Funds, Federal funds as the grant that we are talking about here that is a VOCA (Victims of Crime Act)... that is Federal money administered by the Attorney General's Office to the Prosecutor, and then often onto the non-profits. There are also State funds that are in... in our Prosecutor's Office and for victim services at the "Y" and other places. So we have County funds, State funds, Federal funds, and, you know, the "Y" does a lot of fundraising. The community gets money from the, you know, the charity walk and other sources, so this is an extraordinary difficult year that is why Shaylene is talking about the impact of funding cut statewide and the potential for that. And there has been... you know, we are waiting for this budget year to settle down, the State just passed their budget. We don't know exactly what those funding cuts are going to be. I asked the YWCA to make a presentation here and they are working on it to say what is the cuts that they are actually going to receive, not what they might get, or what they would receive, and they are preparing that. But what they basically said is that we don't know yet because we are waiting for the State funds to settle. So this is an extraordinary year where everybody knew that the State was going to be hard pressed, and there

may be a lack of funds, and all kinds of services including victim services, and for that reason... what we do know about this VOCA grant, and I would like to pass this out right now to our Councilmembers. Anybody else would like to see?

This is about the grant that we are talking about. Last year, the VOCA grant and the Prosecutor's Office funded two (2) full-time equivalent counselors... Victim Witness Counselors, \$64,500 went to the YWCA, and there was a small change for other things like travel and stuff for a total of 186. This year, the VOCA grant has actually gone up from 186 to 194 or 193 right in that range and the proposal is to fund .55 of one Victim Witness Counselor, a new position of Senior Clerk, to send \$100,000 to the YWCA, and about \$7,000 for furniture and other items. So at least in the Federal funds, the VOCA grant has gone up and that is good news. You know, but the way this impacts the budget of the Prosecutor's Office and the YWCA... (inaudible) that is one source of funding. There are also State funds that we are waiting to hear and this year, there is the recovery act. The American Recovery Reinvestment Act that is sending significant funds to the State of Hawai'i with the explicit reason that they know that this is a tough year, and that State's may have to make budget cuts. So President Obama, we've heard him say many times that these funds... these recovery funds are to save and create jobs. So in VOCA, we have \$557,650 coming to the State of Hawai'i to be distributed to make up any shortfalls that may happen from State funds and are from County cuts if County's are strapped and can't fund their positions.

Also, we have a Violence Against Women Act or VAWA grant of over \$1 million for the State that funds the YWCA and other victim services statewide. Now those funds are here in the State and they haven't been distributed yet because we are waiting to see how the State budget filters down over the next couple of weeks and to get that information from the YWCA and (inaudible)... are they actually going to get these cuts or are they going to be okay, but the purpose of these funds is number 1 priority, and it says that in the grants is to maintain the current level of services, so to make whole. So the State is going to make those decisions not on a formula for each island, but based on each island's needs. But as we sit here today, that hasn't been decided because we don't know what those needs are. I think and I agree with many things that I heard today. I worked as a victim advocate for 25 years and a therapist. I worked for the YWCA for five (5) years and I think the YWCA is an incredible frontline service agency, and I would be very disturbed if they had cuts that required a disruption of the, you know, any of these services. Luckily, we have other potential sources of funds to do that with the explicit purpose of maintaining a current level of services and we may as a State have additional funds to expand services to victims. I am sure that we will all celebrate that. So... but, unfortunately, we have already... we are not going to preserve the two (2) jobs that have been cut here on Kaua'i. That is not going to happen and even though we have funds explicitly set to do those. It is not clear that the "Y" will have cut or that they will even need the \$100,000 that is placed in here. Now they may and we will know that in a week or two (2). We will know what their funding is and whether they need the County to put in additional funds. The

Prosecutor talked about the County of Kaua'i General Fund that was 140 in '07-'08, and went to 120 in '08-'09. That \$20,000 reduction was because the YWCA told us that we don't need all of these County funds. Our other mix of funds is sufficient and we all admired that. They came to us and said, hey, we know the County funds have other purposes and other needs, we don't need that this year. (Inaudible) or the reduction in General Fund is the current proposal, but we haven't made that decision yet either. That happens next week, so what this network statewide is doing is waiting to see the impact of the State funds, how they will use this \$1.7 million of victim funding to make sure that all services remain whole... that is their first purpose and I believe that it would be wise of us to defer a decision on this grant for a two (2) week period or a four (4) week period... this current VOCA grant runs through June 30 or July 30, and it is not due until June 30. I am just saying that we should wait and see before we make a commitment what the statewide network does, what the YWCA's needs are which they are more than willing to share with us. And because it is possible that we could use some of this VOCA fund to fund the current Victim Witness positions that are in the budget and not have any impact on the YWCA in any negative way and I would be the last person in the world to want to impact the YWCA. I mean that was my employer for five (5) years. I was one of these department heads, but if we can do that and have funds for the Legal Analyst at the Police Department that impacts public safety, you know, that will be a choice that we will have much more clarity on in as little as a week or maybe ten (10) days, so I would strongly encourage that we support this grant wholeheartedly, but defer judgment on this specific use for a couple more weeks. Based on that, I'd like to make a motion to defer.

Mr. Bynum moved to defer C 2009-166, seconded by Ms. Kawahara.

Chair Asing: With that, we have a motion to defer. All those in favor say aye?

The motion to defer was then put, and failed by a vote of 3:4 (Councilmembers Furfaro, Chang, Kawakami, Asing voting "no.")

Chair Asing: It does not pass. We are on the motion to approve. Any further discussion?

Mr. Bynum: Again, I feel like it would be prudent of us to wait and not make this commitment because we may be able to preserve County resources for other priorities, but I accept the judgment of my colleagues... what I will say... what I would also like to say is that... as I pointed out earlier, today we had... we discussed many things that were not rigidly applied to this VOCA grant and, you know, I asked for statistics from the Prosecutor's Office about Victim Witness program over the last five (5) years. I asked that the Victim Witness Coordinator be present here today to give us the person who has been running this program for 15 years to give us their impression about the impact on victim services of the choices that we make here. I think that victim services are very important

and understanding what the choices on this VOCA grant, how it impacts the delivery of services to our citizens is a very appropriate discussion for this grant. And I really worried about this kind of rigid application of got to stick with the agenda. You know, we live in a world where things are integrated. This affects this, and that is... I am sure why the Prosecutor came and talked to us about the impact of... potential impact... the funding cut statewide. I was trying to say, hey, that is the statewide network that works collaboratively. No one in that network has made their final decisions about the disposition of their funds other than us today. I don't think that that is prudent, but I also don't like the application very rigidly of what is on the grant and what isn't. I mean I don't think is equally applied and I am going to continue to discuss that in the future. So thank you for your patience with that discussion as well.

Chair Asing: Thank you. Any further discussion? If not, all those in favor say aye? Can we take a roll call vote? Do you want to say something?

Mr. Kaneshiro: If I could Mr. Chair. Basically, you know, for me, I am looking at a grant that is coming from the Federal and I want to... Federal has an impression that we are trying to make the best use of grants that do come to us. I can see Mr. Bynum's points about when it comes to as how you budget it and so forth, but, for me, when you look at the grant that is before us, you look at the money that is before us, I think it is prudent for us to be able to approve the money that is before us and however the department comes out with their strategy, and their strategy implementing these grants would be left to the department itself. I believe that I heard of a vertical prosecution in a system that the Prosecutor felt that there will still be more communication from the time the crime starts all the way to the finish, so there will be an integrated time where the victim will also be able to communicate with the attorneys and the counselors. So I feel confident that... in some ways that this money will be spent in the right area, but we don't know what amount of moneys are coming down from this stimulus plan. I know that Mr. Bynum pointed out \$55,750 coming to the State and another million or so coming to the State against violence against women act. The bottom line is that we don't really know what really is going to come to the County and I think when we finally see those (inaudible) coming to the County, then we can get into more discussions and perhaps at that time, the Prosecutor also will have a different means or different inside as how to spend this money and possibly even include more personnel. So at this point, I am confident with the presentation that she made that the way this money is going to be spent for this particular grant could satisfy what the Prosecutor's Office goals are, so I will be supporting this grant.

Chair Asing: Thank you. Councilmember Bynum?

Mr. Bynum: Thank you Chair. I just want to... I am... I think I have already stated that I certainly want us to have a VOCA grant, I want us to fund victim services, but I am concerned about a grant that for many years has funded County positions, you know, being used for other purposes other than that,

and, you know, how it impacts our budget deliberations and decisions. You know, last year during budget talking about the Prosecutor's budget, Ms. Iseri-Carvalho said that if these positions had been funded... grant funded for many, many years, I know I will not be supporting having it done by taking over from the County because I think there are many other competing interest for County funds. And I agreed with that then and I agree with that now. So I probably am going to vote "no" on this and I know that it will pass, but I really beg that we look at the impact of the choice we are making on grant... on our County budget which will come up before us next week.

Chair Asing: Thank you. Any further discussion? I will be voting to support the VOCA funds on how it is going to be expended. I did have an opportunity to review the last eight (8) years of VOCA funds and in my review, there is a little difference in opinion and the method used and the expenditure. I think by the presentation made by the County Attorney (sic), she has structured the operation in a different manner and the manner that she feels comfortable in the administration of the office is, in my opinion, her call. I will not get involved in doing the administration's work by saying what you can hire for and spend money for. I believe... when I looked at both this funding here, the 2009-2010 VOCA funding and I looked at the 2008-2009, the differences are not that great in my opinion when I look at them and put them side by side. I was going to put a PowerPoint up and describe this, but I do not feel that it is necessary, so I will be voting in support of this. With that, roll call please?

The motion to approve C 2009-166 was then put, and carried by the following vote:

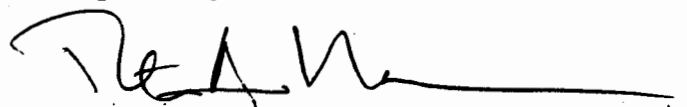
FOR APPROVAL:	Chang, Furfaro, Kaneshiro, Kawakami, Asing	TOTAL - 5,
AGAINST APPROVAL:	Bynum, Kawahara	TOTAL - 2,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: There being no other items on the agenda, the Council meeting is adjourned.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:03 p.m.

Respectfully submitted,



PETER A. NAKAMURA
County Clerk