

**WATER AND INFRASTRUCTURE COMMITTEE**  
Council of the County of Maui

**MINUTES**

**September 2, 2025**

**Online Only via Teams**

**CONVENE:** 9:01 a.m.

**PRESENT:** Councilmember Tom Cook, Chair  
Councilmember Yuki Lei K. Sugimura, Vice-Chair  
Councilmember Gabe Johnson, Member  
Councilmember Tasha Kama, Member  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member (arrived at 9:05 a.m.)  
Councilmember Keani N.W. Rawlins-Fernandez, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Nohelani U‘u-Hodgins, Member

**STAFF:** Keone Hurdle, Legislative Analyst  
Jarret Pascual, Legislative Analyst  
Carla Nakata, Legislative Attorney  
Lori Ann Tengan, Committee Secretary  
Lei Dinneen, Council Services Assistant Clerk  
Ryan Martins, Council Ambassador

Residency Area Office:

Roxanne Morita, Council Aide, Lāna‘i Residency Area Office  
Buddy Almeida, Council Aide, Makawao-Ha‘ikū-Pā‘ia Residency Area Office  
Keomailani Hirata, Council Aide, Moloka‘i Residency Area Office  
Chaelin Ryu, Council Executive Assistant, South Maui Residency Area Office

**ADMIN.:** Caleb Rowe, Deputy Corporation Counsel, Department of the Corporation  
Counsel  
Brian Bilberry, Deputy Corporation Counsel, Department of the Corporation  
Counsel  
Jordan Molina, Director, Department of Public Works  
Wade Maeda, Deputy Chief, Department of Police

**OTHERS:** *Testifiers:*  
Jeff Bagshaw  
Jay Penniman, Maui Nui Seabird Recovery Project  
David Henkin  
Johann Lall  
Mike Moran  
Jasee Law

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*Resources:*

Thomas Glesne, Physicist, North Shore Systems Engineering, LLC  
John Curran, Physicist, LED Transformers, LLC  
(32) additional attendees

**PRESS:**     *Akakū: Maui Community Television, Inc.*

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CHAIR COOK:     ...*(gavel)*... Will the Water and Infrastructure Committee of September 2nd, 2025, please come to order. The time is now 9:01 a.m. May I ask that all participants please silence any noisemaking equipment, phones...nobody has any pagers anymore. I'm your Chair, Tom Cook. Members, per the Sunshine Law, please identify by name who, if anyone, is in the room, vehicle, or workplace with you today, exclusive of minors. I would also ask the department representatives who have joined online to please also turn on your cameras when it's your turn to speak. Now, I'd like to introduce the Committee Members. And today, I'm going to start with Council Chair Alice Lee with the greeting of the day. Good morning.

COUNCILMEMBER LEE: Chair, sabaidee. And this is from Southeast Asia, Laos. Good morning.

CHAIR COOK: Sabaidee. And Committee Vice-Chair Yuki Lei Sugimura, sabaidee.

VICE-CHAIR SUGIMURA: Good morning. Sabaidee. And I'm looking forward to a productive meeting. Thanks for bringing this bill up.

CHAIR COOK: Good...good morning. Sabaidee, Gabe...Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Sabaidee, Chair, Councilmembers, community members. There's no testifiers at the Lānaʻi District Office, and I'm here and ready to work. Mahalo.

CHAIR COOK: And Councilmember Tamara Paltin is temporarily excused. I don't...I don't see her online currently. And Councilmember Rawlins-Fernandez, good morning. Sabaidee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, mai Molokaʻi nui a Hina. I'm at my private residence alone here, and there are currently no testifiers at the Molokaʻi District Office. Mahalo.

CHAIR COOK: And good morning, Councilmember Shane Sinenci. Sabaidee, aloha, and good morning.

COUNCILMEMBER SINENCI: Hey, aloha kakahiaka, and sabaidee, Chair. Here at my home office, and I'm here by myself. There are no testifiers at the Hāna District Office, Chair.

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CHAIR COOK: Okay. And I see Councilmember Tasha Kama. Good morning, sabaidee, aloha. You're muted.

COUNCILMEMBER KAMA: Aloha kakahiaka, and sabaidee to everyone. I am in my workspace, I am alone, and I'm looking forward to a wonderful meeting today. Thank you, Chair.

CHAIR COOK: And good morning, Councilmember Nohelani U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Sabaidee, Chair. Good morning, everyone. I caught your joke of the pagers, and luckily I forgot mines at home today. Just joking. Nobody has a pager.

CHAIR COOK: And from the Department of Public Works, we want to welcome Director Jordan Molina. And from the Maui Police Department, Deputy Chief of Police Wade Madera [*sic*].

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

CHAIR COOK: Wade's not on yet. From Corporation Counsel, Deputy Corporation Counsel Caleb Rowe.

MR. ROWE: Good morning, Chair.

CHAIR COOK: And Deputy Corporation Counsel Brian Bilberry.

MR. BILBERRY: Good morning.

CHAIR COOK: From OCS, our Committee Staff; Keone Hurdle, Jarret Pascual, Lori Ann Tengan, Carla Nakata, and Jean Pokipala. Please see the last page of the agenda for information on meeting connectivity.

**ITEM WAI-11: BILL 109 (2025), AMENDING CHAPTER 20.35, MAUI  
COUNTY CODE, RELATING TO OUTDOOR LIGHTING**

CHAIR COOK: Good morning, everyone. We have one item on today's agenda, WAI-11 on Bill 109 (2025), Amending Chapter 20.35, Maui County Code, Relating to Outdoor Lighting. Members, if there are no objections, I would like to take testimony after receiving opening comments on WAI-11.

COUNCILMEMBERS: No objections.

CHAIR COOK: And I would also like to welcome Councilmember Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka kākou. Streaming live and direct from Nāpili. I am alone at the kitchen table.

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CHAIR COOK: Thank you. Welcome. Chair would also like to say that there's currently no testifiers in the Kihei Office, but people are on standby. WAI-11 on Bill 109 (2025), Amending Chapter 20.35, Maui County Code, Relating to Outdoor Lighting. Okay, I already said that. So, Members, are there no objections? I would like to take testimony after receiving opening comments.

COUNCILMEMBERS: No objections.

CHAIR COOK: Okay. Thank you, Members. Let's begin. Members, Bill 109 amends Chapter 20.35, Maui County Code, relating to outdoor lighting. Bill 109's purpose is to amend Chapter 20.35, Maui County Code, by updating the outdoor lighting requirements that support public safety and community well-being, while reducing light pollution and protecting seabirds and other wildlife. Overall, this measure seeks to balance between community safety and environmental protection, while giving clear standards for lighting design and enforcement. Members, I've also transmitted an amendment summary form with a proposed CD1 version that amends the title and the purpose statement, and incorporates nonsubstitute [sic] revisions. At this time, Director Molina, would you like to provide any opening comments?

MR. MOLINA: Yeah. Thank you, Chair. Good morning. Jordan Molina, Director with Public Works. Good morning to the WAI Committee Chair and Members. Thank you for hearing this matter today. We're here before you for a bill to address a current public health and safety issue that exists with our current lighting ordinance as it relates to our streetlighting. This bill simply seeks to establish a minimum safety standard for our streetlighting, to ensure that we are not only balancing environmental protection, but public health and safety as well on our roadways, which we have seen continue to increase with incidents and fatalities year over year. So, this measure is, yeah, to address that issue, and also provide some administrative clarity on some of the standards to which are established in the Code. You know, we feel comfortable with this language, and striking that balance through the ongoing litigations that we've been involved with to kind of clarify what the concerns are specifically, and as substantiated with scientific evidence and data. And so, we appreciate your folks hearing this matter today. I would like also Corporation Counsel to present this morning, to provide you guys with a bit more technical detail on the matter before you today. Thank you.

CHAIR COOK: Thank you, Director Molina. At this time, Mr. Bilberry, please provide any opening comments, followed by your presentation.

MR. BILBERRY: Yeah. Well, I'll just go right into the presentation. Basically, what I'm going to do is walk you through some history, and then discuss with you what...what it appears our options are. So, this PowerPoint presentation, I haven't actually technically broken it out into three sections, but basically what you're going to hear is the background of where this concern with blue light content came from with respect to Maui County. And then you're going to hear information that addresses the problem that Maui County is presented with, with respect to a 2 percent blue light content restriction for streetlighting. And then you're going to hear about the two options that

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are presented presently to Maui County for the conversion of its streetlight infrastructure. And so, you can see my opening slide there. We can go on to the next slide. Okay. So, the...the...the concept of the blue light content as a problem with respect to why seabirds came up in a piece of litigation that we handled in 2019. And what had occurred at that time was, Maui County was commencing a street-wide conversion of all of its obsolete high-pressure sodium lights to a 2700 Kelvin 70 CRI LED light, which is state-of-the-art technology, energy efficient, and it was an environmentally adaptable light that would be adjustable in environmental conditions...certain environmental conditions. The reason the litigation got filed is because the former Department of Public Works at that time had omitted exempting this conversion project from an environmental assessment. And that's something that he was perfectly within his prerogative to do. Concurrently with the...Maui County's beginning to convert its streetlight projects...or its streetlight...its streetlights, the City and County of Honolulu replaced as many as 53,000 streetlights, and they did that under an exemption from environmental assessment. Because Maui County didn't actually issue an exemption of its conversion project from an environmental assessment, it was a technical violation of Chapter 343, which is Hawai'i's Environmental Policy Act. And Earthjustice, on behalf of the Conservation Council for Hawai'i and Hawai'i Wildlife Fund, filed a lawsuit based on that technical violation. And what they sought in the lawsuit was a declaration that Maui County violated the Hawai'i Environmental Policy Act by not...I'm sorry, next slide. So, what...what Earthjustice and its clients sought in that lawsuit was a declaration that Maui County violated the Hawai'i Environmental Policy Act by not issuing the exemption, and they wanted an environmental assessment conducted, which is under the statute, the remedy that they would be entitled to. While it wasn't specifically pled in the complaint at the time, they also wanted a permanent injunction to enjoin any future installation of the General Electric 2700 Kelvin 70 CRI light fixture that Maui County had begun converting at that time. You can go to the next slide. So, in order to address the lawsuit, and try to resolve it without extended litigation, the Department of Public Works voluntarily initiated an environmental assessment. And we also asked the State Circuit Court at that time to order mediation of the case. Earthjustice initially opposed mediation and pursued litigation, and again, asked the court to remove, I think, as many as 1,021 of the General Electric lights that had already been converted. And they also, at that time--and this is the first time we had heard this--argued that the LED fixtures emitted a spectral blue light content that was allegedly harmful to endemic Hawaiian seabirds and turtles. You can go to the next slide. So, ultimately, what Judge Joseph Cardoza ruled in that case was that there was, in fact, a technical violation of the Hawai'i Environmental Policy Act by not exempting the streetlights. He denied the request that Earthjustice and its clients made for an injunction to remove the LEDs that had been installed, based on the theory that blue light content caused harm to seabirds, and then he ordered the parties to mediation to resolve the balance of the case. I want to show you next a couple of emails that were somewhat contemporary prior to this litigation that were sent by Earthjustice's biologist, Jay Penniman, at that time. And this was in the context of the Department of Public Works initially contemplating its street...its Countywide streetlight conversion project at that time. And at that time, Earthjustice's biologist, Jay Penniman, wrote in emails to everybody you can see here on the left, which included County officials,

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State officials, and Federal officials...well, his first email was to Department of Public Works, and he wrote, "there is no research as yet documenting one wavelength as less distracting to seabirds than another, especially fledglings." No, I'm sorry. Then he wrote, "seabird"..."if seabirds"..."if seabirds, especially fledglings, are instinctively drawn to shortwave blue/green light, wavelength light of bioluminescent prey, it may be that eliminating shortwave light from our streetlighting and other lights will reduce or eliminate seabird fallout." So, at that time, the...this...this concept that blue light having a particular attraction for seabirds was...was questioned. And then he wrote in 2017 to, again, a number of County officials, State officials, and Federal officials with the U.S. Fish and Wildlife Service, there is a real need to answer the question of whether or not eliminating as much blue light content of nighttime lighting as possible will reduce or eliminate distraction of seabirds. And then he concluded, we need to answer the question for seabirds. Now, the litigation was subsequently filed in 2019, and lasted for a couple of years. We did not receive any evidence in the context of that litigation, despite asking for it in discovery, that there was any empirical data or science supporting the theory that blue light has a particular attraction to seabirds. And quite frankly, we haven't seen any to date. Next slide, please. Contemporaneous at this time, there was a major project going on on Kaua'i for the preservation of seabird habitats. There was a report put out, pretty extensive report. It was the Kaua'i Seabird Habitat Conservation Plan. And that report concluded, these recommendations for light minimization are based on current published scientific literature, and represents the best available science. However, the best available science regarding light attraction behavior and the variations between the covered species' sensitivity to light color and intensity remains extremely limited. So, again, there's question at this time as to whether light color is distinguished from the brightness of lights and the intensity of lights is the culprit in seabird light attraction. You can go to the next slide. And in fact, in the context of that previous litigation that I was discussing with you, Earthjustice and its expert, Mr. Penniman, referred to a research paper that tested the eye response of various species of animals, including salmon, turtles, seabirds...I think there may have been some commentary about soybean as well, but we looked at that research paper, and we had a physicist look at that research paper. The graph you see here was a chart of the eye response of the Newell's shearwater, which is an endemic Hawaiian seabird, which showed that in fact, this particular seabird's most sensitive eye response was not to blue light, but to the red and yellow light in the spectrum. We presented this conclusion to Earthjustice and his clients in the context of that lawsuit, and shortly thereafter, we were able to settle the lawsuit. You can go to the next slide. So, the settlement of that lawsuit was in part what Maui County agreed to do at the beginning of the lawsuit, which was to conduct an environmental assessment of the LED lights that were being converted, and we agreed to dim those lights to 80 percent of their output, pending the completion of the environmental assessment. The parties issued a joint press release, which I have quoted here for you and highlighted, and the community groups, which refers to the Conservation Council of Hawai'i and Hawai'i Wildlife Fund as represented by Earthjustice, claimed that the LED streetlight fixtures emit high levels of blue light that may attract sea turtles and certain species of imperiled seabirds, including the Hawaiian petrel, Newell's shearwater, and wedge-tailed shearwater. The environmental review initiated by the County is intended to evaluate any science underlying this claim. So, at that time, they agreed that we

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would complete this environmental assessment to specifically assess this claim that blue light content had a particular attraction to seabirds. And you can go to the next slide. That draft environmental assessment was completed and published. It made a number of conclusions regarding the 2700 Kelvin 70 CRI light fixtures that were in issue, and you can see those conclusions here. I know it's a little...the text is a little small, but I will...I will summarize them for you. Well, we can include this PowerPoint as a matter of record so you can see the summary conclusions here. But the conclusion ultimately was, given these important factors under the proposed action and alternative, the County-owned streetlights' contribution to seabird fallout, if any, would be expected to decline. The proposed action would not have a significant adverse effect on the subject seabirds. It would have a beneficial effect on them. And you can go to the next slide. And this is the finding of no significant impact that that environmental assessment that Earthjustice and its clients at that time agreed to made, and that was that no rare, threatened, or endangered species will be affected by the proposed conversion of streetlights on Maui, Moloka'i, and Lāna'i. In addition, the proposed action will not utilize or otherwise affect a resource or habitat needed for the protection of rare, threatened, or endangered species. In fact, as detailed in Section 3.2.3, the proposed action will benefit protected species by avoiding and minimizing potential light attraction threats to seabirds and seabirds [sic]. And we are going to--and sea turtles--and we'll be looking shortly as...as to the...the basis for that conclusion when we look at the specific lights. Next slide, please. So, what happened after that draft environmental assessment was put out was that Earthjustice and its clients lobbied this Council to pass this blue light...2 percent blue light restriction. And effectively, what that did was it made moot the environmental assessment that they had agreed to have prepared because the lights that were being assessed in that context wouldn't meet this 2 percent blue light restriction. Next slide, please. So, I would just...just summarize that point by making it clear that rather than wait for the environmental assessment to become final and published, this maneuver was made to undermine that environmental assessment, and undermine the settlement that was entered into in that previous litigation. A 2 percent or less blue light content streetlight is inadequate for roadway applications. It is inadequate from a public safety perspective for the risk that motorists, pedestrians, cyclists, and visitors will be encountering on Maui County's roads. The main problem is, is that the 2 percent restriction greatly reduces what is called the color rendering index. And the color rendering index of a light is the spectral content of the light source. The higher the color rendering index, the more color one can detect at night illuminated by the light. At night, a driver's ability to discern objects depends pretty heavily on color contrast, and the ability to detect differences in luminance in separate objects...separate objects from the background while driving at low and high speeds. Adequate color rendering is going to make objects...or inadequate color rendering...what you're going to get with a 2 percent blue light restriction is going to make objects blend more easily into their surroundings, reducing the contrast necessary for drivers to be able to detect potential targets while they're on the roadways, and be able to respond and react in time. And this is particularly critical, obviously, when it comes to higher speed roadways. I would refer you to the letter report of Jack Curran, Ph.D., lighting physicist, that is part of the legislative record, and you can read in more detail the points that are made in this particular slide. One of the things Mr. Curran did, in addition to the analysis that...that these points summarize, is he

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looked at various coastal states to determine whether he could figure out whether there was a minimum color rendering index that other jurisdictions had in place, either by code, or statute, or administrative rule, that would set a standard for color rendering index, and it was pretty consistent that 70 CRI for roadway applications is fairly standard. There is no universal standard, but he canvassed various jurisdictions, and found consistently that 70 CRI is pretty much the minimum. And if anybody wants to look further into this, you can just go online and Google CRI minimum, and what's going to come up is 70 to 90 percent. Next slide please. So, with the 2 percent blue light content restriction, this is the only option that Maui County and Hawaiian Electric has become aware of. It is a light manufactured by a company called Cree Lighting, and it was prepared specifically for Maui County as a parking lot light. And as I understand it, it was at the request of Home Depot. It is a light that only has 1900 Kelvin, and more problematically is only 50 CRI, which is well below what appears to be a minimum standard for roadway applications. Next slide please. (pause) Next slide. And in fact, the manufacturer of that Cree Light...Cree Lighting doesn't even recommend 1900 Kelvin and 50 CRI for any roadway application. When you look at Cree Lighting's own roadway selection guide, the cover page of which you're looking at here--no, previous slide. That's okay. In fact, Cree Lighting doesn't recommend anything below 2700 Kelvin and 70 CRI for any roadway application. And now you can go to the next slide. And here, you can see...and I...I'd had it highlighted, unfortunately, it looks like the highlights have...have vanished--but these are the various roadway applications. It's residential roadways, which are your neighborhood roadways; your collector roads, which are the roads that lead from your neighborhood roadways to your major highways; and then your major highways. Cree Lighting, the...the manufacturer that...that manufactures the 1900 Kelvin 50 CRI light, which is the only light that Hawaiian Electric in Maui County have been able to identify that will comply with this two light...2 percent blue light restriction, doesn't recommend anything less than 70 CRI for any roadway applications, including the cul-de-sacs in your neighborhood. And you can go to the next slide, which is the continuation of their roadway selection guide. And you can look...if you can tell, you can see CRT...or CRI, CCT--and...and none of these applications for any of these models of light are they recommending anything below 2700 Kelvin and, more importantly, 70 CRI. Next slide. So, this is an excerpt from the Federal Highways Administration Lighting Handbook, and it talks about color rendering, and the importance of color rendering. And you can just see, by way of illustration, the...the difference that--or the importance, by way of the difference in these kind of like two color photo contrasts that the Federal Highways Administration has made for, again, illustrative purposes, to show the importance of color rendering at night for drivers. And this particular handbook concludes that color rendering...appropriate color rendering can make objects more detectable in the roadway by as much as 20 percent, or increase detection distance by as much as 20 percent. So, the lower in the CRI that you go, the more difficulty you're presenting to drivers in detecting objects that are potential targets in the roadway. You can go to the next slide. So, this slide is also illustrative of the problems...potential problems, with a low CRI light. This is the Pu'unēnē parking lot. Our expert...one of our lighting experts was out there with myself and another attorney, and we measured these lights in this parking lot, and they are approximately what the Cree light is, which is the only light that we've been able to find that will comply with this 2 percent blue light restriction. This light is actually a little

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more CRI at 60, but you can see how it's not really rendering the colors of the various cars in the lot. And then if you look at the image on the left, you can see what an appropriate color rendering looks like...looks like under...under an adequate light. Okay. You can go to the next slide. Another thing to consider, as you weigh this...this bill, is that streetlights on Maui make up only 5.6 to 11.2 percent of the overall sky glow from human artificial light across the island topography. So, the overwhelming sources of artificial light that would be attractive to seabirds are coming from other sources, as much as 84.4 percent--I'm sorry, 88... . . .*(laughing)*. . . sorry, my math skills are feeling challenged now--88.8 percent to 94.4 percent. So, the overwhelming sources of light and light attraction to seabirds are coming from other sources than streetlights. And again, that's to the tune of 88.8 percent to 94.4 percent. And you can refer to the letter report of Tom Glesne, who's another physicist that we've retained, who has provided information in this regard. And that's, again, part of the record you can see. Next slide, please. And Mr. Glesne has been able to determine that converting all of Maui County streetlights to a 19K...1900 Kelvin LED, which is, again, the Cree light at 50 CRI, which is the only light that we've been able to find that will comply with this 2 percent blue light restriction, is only going to decrease overall sky glow by 2 point--oh, I'm sorry, no--decrease sky...sky glow only from streetlights to 2.5 to 5 percent, which is really minimal. So, in other words, it's not going to make any difference when you look at the percentages of overall sky glow, which currently is 88.8 percent to 94.4 percent from other sources of artificial light. Exempting streetlights from the 2 percent restriction, which is what the major main amendment to this current bill proposes, is not going to have an appreciable effect on overall sky glow. It only...well, overall sky glow will remain 86.7 to 93.3 percent of the contribution to light attraction to seabirds. And that's the 2700 Kelvin 70 CRI light that was under consideration for the previous conversion project. The amendment in the lighting ordinance that allows for...or sets a maximum for roadway lighting at 3000 Kelvin would only still...would still result in the overall sky glow from artificial light at 84.5 to 93.2 percent from all other sources. The streetlights in this equation really are not having an appreciable effect on overall sky glow, which is what is attracting seabirds. There's nothing to suggest that streetlights are somehow unique in causing seabird fallout, and we haven't seen that evidence...any evidence to the contrary. Next slide. This is the...the GE light that's...was currently...was...was previously considered for the conversion project. It was purchased, and we have them. They're in stock. This is a 2700 Kelvin 70 CRI light. I think it's energy efficient, and it's environmentally adaptable. You see the little black nodule on the top of the light--and we can go to the next slide--this is the specification for that nodule. What this nodule does is, it allows you to dim these lights, or any of the lights that are equipped with this nodule, from a remote location anywhere you want, any time of the year, for however long you want. You can dim any individual light, any group of lights, which makes this light adaptable...environmentally adaptable. The...the major concern with seabird light attraction and fallout is during fledging season, which is...we understand it is from September 15th to December 15th. We had proposed, in the previous litigation, that these nodules would be installed on these lights, and if we were given the information at that time, these lights can be dimmed at any sensitive location, any flight paths, for the duration of that fledging season in order to mitigate against light attraction and fallout to seabirds. So, this particular light is...is...is adaptable, provides a solution to the concern that streetlights might be causing seabird fallout. Because when that

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fallout is most...or when it occurs, as we understand it, which is during fledging season, when the chicks leave the nest and fly out to sea for the first time, we can dim the lights to mitigate against any attraction. We could...we could turn them off, sitting from a computer, a remote location. So, this light makes sense. The only other point I need to make--and you can go to the next slide--and there's a question here because the State of Hawai'i operates 1,055 streetlights on the Island of Maui. As we understand it, those lights are not old. They're relatively new lights. I think they've been changed within the last five years to a decade. They're not going to get changed anytime soon, and as we understand it, the State of Hawai'i is not going to change its streetlights because of this ordinance...and their lights are 3,000 to 4,000 Kelvin. So, I don't know what's going to happen if that...if the 2 percent blue light restriction stays in place. We don't know what the State's going to do. We don't know if it's going to convert all of its lights to a 2 percent blue light, but it's...it's kind of seeming unlikely that they will do that. I just had a couple other points to make. The existing HPS lights that are in place...and I raise this point because I saw some testimony from Earthjustice that pointed out that, well, you've got these...these existing HPS lights that are only 20...20 CRI, but these are 40-year-old lights. It's a 40-year-old technology, the current lights that are in place, and that's one of the reasons why Maui County has been endeavoring to replace them for the last few years. But it's a 40-year-old technology. They don't enable drivers to see color contrast adequately, which is one of the reasons they were going to be replaced. Because it's such a dated technology, it's...they're brighter than they need to be, you can't control the direction of these lights, and you can't turn them off. So, what I interpreted in that testimony is...is suggesting that Maui County should accept a substandard light because it's been unable to replace a substandard obsolete technology. And I find that that's somewhat a questionable argument to make. The only other point I would make--and again, in closing--is that if you add a little blue light to your streetlighting, that allows you to bring the intensity of the light down. The more adequate your color rendering, the less bright your lights have to be. And I would point out, or...or let you know that both of the experts that we have retained to look at this are available on call today if you have any questions for them. Their...their letter reports are in the record. One of the guys is in South Carolina, and he's on call. He's...if you want to talk to him, he can be available. The other physicist, Tom Glesne, is here on Maui, and he is also available to come online and answer any questions you may have. Thank you for your patience through that.

CHAIR COOK: Thank you, Mr. Bilberry. I'd like to let the public know that if they...Brian's presentation, the presentation is number 7 on Granicus, if they would like to refer to it. And now I'd like to receive comments from the Department of Police, Deputy Chief Maeda. Is he online, Staff?

MR. HURDLE: Yes, he's online, Chair. (pause)

MR. MAEDA: Hi, can you guys hear me?

CHAIR COOK: Yes.

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MR. MAEDA: Yeah. So, thank you, Chair, thank you, Councilmembers, for having the Police Department on. And we support...we fully support Bill 109. Anytime you have more lighting, there's a decrease in the area of crime. So, I'll give you a good example. Whenever we do assessment on businesses, one of the first things we check is the lighting situation around the business. And if the business is in darkness, they're a high priority target for these people. I'm going to talk about some statistics that...that I have. From January 1st to August 21st, we had 3,139 property crimes. Now, our property crimes leads Maui County in our...our...our criminal offenses. So, it's actually two to one, two...two...every...every two property crimes to every one crimes against person. And we further broke down the...the crimes by day and night. So, we took 6:00 at night to 6:00 in the morning, and 6:00 in the morning to 6:00 at night. And according to our statistics, approximately little under half, 46 percent of the crimes occurred...or reported, occurred...sorry, occurred at night. Now, even this is a little bit misleading because when your vehicle is stolen, or your vehicle is broken into at night, a lot of people don't report it until the next day. So, the time that occurred...the crimes that occurred, or property crimes that occurred is an overwhelming 75 to 80 percent at night. So, 6:00 at night to 6:00 in the morning, these...these criminals are taking advantage of the low-light situation, where they can do these crimes, and then it's not going to be reported to the next day. Now, speaking of the light, if you guys have drove past the Hilton that's situated between Maui Beach and Maui Seaside, they have that low-lighting situation. And for us, it's very diffi...if you even just look in the parking lot, it's very difficult to distinguish the color scheme of the vehicle...and that goes as well as people too. People walking through the parking lot, they might be wearing a green shirt, but we won't...it just looks dark to us. We can't tell the difference. So, for us to get a good description of these criminals when crime is afoot in these low-light situations is very difficult for law enforcement in general. Now, moving to the highways. Now, there have been studies, yes, that blue light keeps you up, and of course, yeah, your iPhone tells you to turn...turn off your blue light so you get a better night's sleep. But we want our people awake on the highway. It's...it's a public safety issue. We want them awake. 99 percent of our...our OUI arrests, our operating under the influence of arrests, occur at night, and that's why our traffic units...our traffic detail, OUI detail...goes out at night because, of course, the bars are open, and...and more people are working during the day. But we want our people awake. And by having adequate lighting on the highways will...you'll be preventing a lot of...a lot of accidents, a lot of people not be able to see things in the roadway, just promoting overall safety. And that's why the Maui Police Department, we're...we're all for supporting...supporting of this bill to increase the lighting. Thank you.

CHAIR COOK: Thank you. Thank you, Deputy Chief Maeda. Before we begin our discussion, let's see if anyone would like to provide testimony for WAI-11. Staff?

MR. PASCUAL: Thank you, Chair. We have four individuals signed up to testify. Would you be able to read the opening testimony remarks?

CHAIR COOK: Yes, I can. Anyone wishing to testify, please sign into the lobby, join online meeting, or call on the phone number noted on today's agenda. For online testifiers, please click the raise-your-hand button. For those calling in, please follow the prompts

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via phone...star-5 to raise and lower your hand, star-6 to mute and unmute. Please ensure that your name on Microsoft Teams appears as the name you prefer to be recognized as to...or as anonymous, if you wish to testify anonymously. If you are in-person, please notify the Staff that you would like to testify anonymously. Otherwise, please state your name for the record at the beginning of your testimony. Written testimony will continue to be accepted, and can be submitted via eComment at [mauicounty.us/agendas](http://mauicounty.us/agendas). Staff will enable your microphone and video when it is your turn to testify. Oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. You can view the meeting on *Akakū* Channel 53, Facebook Live, or [mauicounty.us/agendas](http://mauicounty.us/agendas). Decorum will be maintained throughout this meeting. Breaching decorum includes anything that disrupts the orderly management of the meeting. Violation of decorum may result in being removed from the meeting. So, now, I would like to open for public testimony, Staff.

MR. PASCUAL: Thank you, Chair. The first testifier is Jeff Bagshaw, to be...to be followed by Jay Penniman.

**. . . OPEN PUBLIC TESTIMONY FOR WAI-11 . . .**

MR. BAGSHAW: Good morning, Council [sic] Chair. And my name is Jeff Bagshaw, I'm here to represent myself, although many of you know me from my agency. Our agency did not have time to review the proposed amendment to this bill, so they haven't gotten back to me about official word yet. But I do want to take an opportunity to thank you Councilmembers who were present at the firefighter's luncheon. Myself and others, I think, appreciated seeing our local folks here. I'm in strong opposition to this bill. I stand by my original testimony. I have many, many questions about what...why this is necessary at all. It's...it's puzzling. I've studied it. I will...in comment to the testimony we've just heard, the presentation we've just heard, I would like to note that a good scientist will always open the opportunity to say, we don't have enough data. We don't have enough data. That's a mark of good science. That's why we got a COVID vaccine. So, to be able to...to...to review past publications and say there's not enough data, I would posit that we don't have enough data about safety between Maui and Hawai'i Island that has had the same ordinance onboard for 15 years. I...when I worked for the National Park Service, I was there often for training. Aside from not knowing if your blue rental car was really red in the parking lot, I'd like to see actual proof about the difference between accidents and crime statistics increasing or being worse on Maui because of...or worse on Hawai'i Island, I'm sorry, than on Maui for the...the lighting reasons. I'd like to see real data on that. If you're going to scrutinize the data on seabird attraction to that level, we need to scrutinize the safety concerns to that level, and have direct correlation. From an anecdotal personal standpoint, when I'm driving at night, I often have to, I will see two to three cars in a journey that have no headlights on at all after dark. There's our problem. If the Police Department wants to increase safety, enforce people having their headlights on, not just their day running lights. Rental car...I see people in rental cars hunched over trying to see because the day running lights make them think their lights are on. They're not on. You can't see the car from

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the back because their lights aren't on. Make a change in that. Require that rental cars have automatic full headlights on. Some kind of technology. That's what...that's the safety issue we need. I'd like to see statistics on the real difference between that. I don't see that this actually clarifies anything . . .(timer sounds). . . by removing items and definitions. Thank you for your time.

CHAIR COOK: Members, any clarifying questions? Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. I'd like to ask if Jeff could stick around to be a resource for this. If you wouldn't...do you...do you have time?

MR. BAGSHAW: I do. Thank you.

COUNCILMEMBER JOHNSON: So...

CHAIR COOK: Members...

COUNCILMEMBER U'U-HODGINS: I have a question.

CHAIR COOK: Member U'u-Hodgins has a question.

COUNCILMEMBER U'U-HODGINS: Thank you. You said most people know you from what you do, but then you didn't finish your thought. Because I don't know who you are, or where...who you represent.

MR. BAGSHAW: I'm...yeah, I'm not speaking for Department of Fish [sic] and Wildlife.

COUNCILMEMBER U'U-HODGINS: Okay. Fish [sic] and Wildlife. Thank you.

MR. BAGSHAW: Or the Department of Forestry and Wildlife. I'm sorry.

COUNCILMEMBER U'U-HODGINS: And if you were to become a resource, you're going to be speaking on behalf of yourself, not from your --

MR. BAGSHAW: Today, yes. Yes.

COUNCILMEMBER U'U-HODGINS: -- department. Okay.

MR. BAGSHAW: It's where I get my knowledge from, but I'm not speaking for the agency today.

COUNCILMEMBER U'U-HODGINS: Okay. I just want to make sure that's clear so that we're...you know, if we do have questions for our resource, he is speaking on behalf of himself --

CHAIR COOK: Thank you.

COUNCILMEMBER U'U-HODGINS: -- and not in this State capacity. Thank you.

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CHAIR COOK: Members, any other comments or questions...online, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Bagshaw, for your testimony. I noticed that you're familiar with the previous iteration of the bill, and...as your testimony stated. Have you ever reported noncompliance with fully-shielded lights along the seashore...sea...along the shoreline?

MR. BAGSHAW: Have I reported noncompliance?

COUNCILMEMBER PALTIN: Yeah.

MR. BAGSHAW: My...I don't have the authority to do that. That's not part of my work for my agency. As a person, have I reported noncompliance? I don't have the technical skill to...to be able to tell what's blue light or not myself.

COUNCILMEMBER PALTIN: Oh, well, Section 20.35.090 talks about fully shielded. I mean, I always see lights along the shoreline that are just string bulb.

MR. BAGSHAW: I do, too. I haven't reported them.

COUNCILMEMBER PALTIN: Okay. And...but I did read your testimony about the seabird emissions and their importance, so I was wondering why you didn't report them.

MR. BAGSHAW: I...I...I kept hoping that we would see replacements and enforcement happening, and we haven't seen enforcement happening. And that's my major concern with this change is that this transfers it...the responsibility to the Department of Public Works away from the...the Department of the Environmental Controls [sic] here on Maui. So, I'm curious why they haven't been out enforcing these things.

COUNCILMEMBER PALTIN: The string bulbs?

MR. BAGSHAW: Yeah, all of...all of the issues. I...I do see it. I keep trusting that the County is going to get to it, and maybe I shouldn't.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR COOK: Chair Lee, clarifying questions for the testifier?

COUNCILMEMBER LEE: Yeah. Hi. I was just wondering...

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

COUNCILMEMBER LEE: I was just wondering, did...did you say you work for the State?

MR. BAGSHAW: I do.

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COUNCILMEMBER LEE: You do. And appreciate your comments on what the County's not doing, but what about what the State's not doing?

MR. BAGSHAW: That's a good question. I wasn't aware about the difference between the State lighting and the County lighting.

COUNCILMEMBER LEE: You weren't?

MR. BAGSHAW: I wasn't, and that's not...again, . . . *(laughing)*. . . I wish...I...when you work for the State, and you work in one branch, you don't have...you don't have latitude across branches, so --

COUNCILMEMBER LEE: No, I'm just...I'm...

MR. BAGSHAW: -- that's completely out of my work.

COUNCILMEMBER LEE: No, thank you. I was just surprised that you were keeping track of the County's light bill, and wasn't aware of the State's light bills. Okay. Thank you.

CHAIR COOK: Members, any further clarifying questions for the testifier? Seeing none. Thank you, sir.

MR. BAGSHAW: Thank you.

COUNCILMEMBER JOHNSON: So, Chair, was that...were...are we able to make them a reference...or a resource? I didn't hear if that's okay with the body.

CHAIR COOK: It's fine with the Chair, if the Members agree.

COUNCILMEMBER JOHNSON: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: No objection.

CHAIR COOK: Staff, next...next testifier.

MR. PASCUAL: Thank you, Chair. The next testifier is Jay Penniman, to be followed by David Henkin.

MR. PENNIMAN: Salame *(phonetic)*. Aloha kakahiaka, Chair Lee, Chair Cook, Members of the Committee. I'm Jay Penniman. I live in Ulumalu in Hamakualoa. I am the Special Projects and Development Specialist for Maui Nui Seabird Recovery Project. I'm a member of the Hawai'i State Dark Night Skies Protection Advisory Committee. I am here to respectfully request this Committee direct the Department of Public Works to fully implement Ordinance 5434, which goes a long way toward protecting wildlife from outdoor lighting, and sets the stage for preserving dark night skies while maintaining public safety, and allowing exemptions for nighttime sports and recreation. Maui County joined Hawai'i County in 2022 by limiting the short wavelength spectral

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content of most outdoor lighting to less than 2 percent, between 400 and 500 nanometers. Hawai'i County has had streetlights in their harbors and airports lit with ordinance-compliant lights for a decade and a half. Hawai'i County has not experienced a degradation of their safety, nor an increase in accidents on their roads since they implemented these standards. The body of scientific literature documenting the deleterious effects of short wavelength light at night continues to grow. All life on earth evolved with darkness at night, and what light was available was long wavelength light...that is, flames from fire, the yellow to red end of the visible spectrum. All life needs to have full spectrum light in the daytime, and darkness at night. In our modern societies, we need to operate at night, and we are best adapted to operate in the presence of long wavelength light. Bill 109 would effectively gut Ordinance 5434. There is a requirement that the color rendering of lights be at least 70 percent. There is no standard from which this is taken, and the streetlighting that is in place for decades, high-pressure sodium, has color rendering between 21 and 30 percent, to which there have been no complaints. DPW has been offered compliant LED options that offer better color rendering at 50 percent, yet they have not chosen to avail themselves of these options. There is nothing unsafe about the lighting required in Ordinance 5434. Section 20.35.060, General Requirements, paragraph A, would exempt existing lights from the requirement of being fully shielded. Full shielding has been in the Maui County Lighting...Outdoor Lighting Ordinance for decades. This would be a huge step backward. Paragraph B states that lighting should...shall not exceed 3,000 Kelvin when wildlife-compatible lighting is recommended to be no more than 22, and preferably 1,800 Kelvin. But Kelvin values do not represent the amount of short wavelength content. That is why the Hawai'i and Maui County Ordinances require less than 2 percent spectral content . . .(timer sounds). . . between 400 and 500 nanometers. I could go on, but my three minutes would be exceeded. Please discard Bill 109, and require DPW to fully implement and enforce Ordinance 5434. Mahalo.

CHAIR COOK: Members, clarifying questions for our testifier? Member Paltin?

COUNCILMEMBER PALTIN: Can you repeat the part you said about 20.35.060 would remove shielding requirements? Because what I'm reading in A, it says, all outdoor lighting fixtures must be fully shielded, except that all outdoor lighting fixtures installed after January 1st, 2026, must comply with this chapter. So, it still says it must be fully shielded.

MR. PENNIMAN: The copy of Bill 109, CD1, that I had had "new" inserted in there, which excludes the existing lights.

COUNCILMEMBER PALTIN: I see new bracketed, and that means it's taken out, right?

MR. PENNIMAN: Could be. Possibly, I misread this. My apologies.

COUNCILMEMBER PALTIN: Have you ever filed a complaint about unshielded lights along the shoreline?

MR. PENNIMAN: Yes, I have. Not a complaint --

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COUNCILMEMBER PALTIN: Who...who...

MR. PENNIMAN: -- I filed a request for service to Public Works.

COUNCILMEMBER PALTIN: Who...and did...did that work out? Did they get shielded?

MR. PENNIMAN: Actually, they turned the lights off. There were up-directed lights up coconut trees, and they were disconnected from the system.

COUNCILMEMBER PALTIN: Is that in South or West Maui?

MR. PENNIMAN: In South Maui...Kīhei.

COUNCILMEMBER PALTIN: And it's still disconnected?

MR. PENNIMAN: The...I only go by there occasionally, but I've not seen those lights on again.

COUNCILMEMBER PALTIN: So, it...it's working then?

MR. PENNIMAN: There was a good response to the request for service, yes.

COUNCILMEMBER PALTIN: Did you file that through the County of Maui Connect?

MR. PENNIMAN: I think it was actually before the Connect system was set up.

COUNCILMEMBER PALTIN: How did you file it?

MR. PENNIMAN: Sorry?

COUNCILMEMBER PALTIN: How did you file it?

MR. PENNIMAN: How would...how...

COUNCILMEMBER PALTIN: The request for service?

MR. PENNIMAN: How did I find it? There...it used to be you just go to the County website, and you could find the file of a request for service.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR COOK: Member Johnson, clarifying questions for the testifier?

COUNCILMEMBER JOHNSON: Thank you, Chair. Just along the same lines of questioning, can we make...make him a resource, Jay Penniman, for his knowledge in Maui Nui Seabird Recovery Project?

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CHAIR COOK: Members?

COUNCILMEMBER RAWLINS-FERNANDEZ: No objection.

COUNCILMEMBER JOHNSON: Are you free, Jay?

CHAIR COOK: No objections?

MR. PENNIMAN: I can do that.

CHAIR COOK: Are you free for the next couple hours?

MR. PENNIMAN: Yes.

CHAIR COOK: Okay. Okay. Members, with no objections, please have both Mr. Pendon [sic] and Mr. Bagshaw as additional personnels. Okay. Staff, next testifier?

MR. PASCUAL: Thank you, Chair. The next testifier is David Henkin, to be followed by Johann Lall.

MR. HENKIN: Aloha, Council. Appreciate the opportunity to testify today. My name is David Henkin, I'm an attorney with Earthjustice. And...and first of all, I want to really thank the Council for having implemented or adopted the ordinance change in 2022 to try and address the concerns about bright lights throughout Maui County, including the streetlights, to help our native wildlife, including seabirds. You know, in my...my testimony basically had two points. I submitted written testimony. Number one is that there are compliant streetlight fixtures available, and the other one is that...you know, it kind of goes to this public safety issue. Each and every one of you has driven the roads of Maui probably most, if not all, of your life. And up until 20...end of 2018, the lights on all of the roadways were high-pressure sodium. And as...as Mr. Penniman mentioned, they have a color rendering index of somewhere between 20 and 30 percent. It was only at the end of 2018 that a...about a quarter of the lights were replaced with the bright white LEDs that are very harmful to seabirds. So, you know, you can just base it on your own personal experiences. Driving with the high-pressure sodium, which are the amber-colored lights, have you felt unsafe? Have you felt that, you know, you need a bright white light? My personal experience on roadways is, bright white lights in my eyes hurt them. But...but, you know, we don't need to get all theoretical here or call in experts. On Maui County, your lights have a color rendering index of less than 30 percent. There are compliant lights that would comply with the low blue light requirement and...and help save our endangered and threatened seabirds that have a color rendering index of 50, so double what you have on your roadways right now. And while Mr. Bagshaw can't testify for DOFAW today, on February 24th of 2022, DOFAW sent a letter to County Department of Public Works commenting on the streetlight conversion to these bright white lights. And they said, we have documented incidences of protected seabirds being downed at LED streetlights. We recommend that any replacement LED lights be filtered. Now, filtering is one technology. The Cree lightings are designed to be this color temperature of 2200 Kelvin or less, versus the 3000 in this

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proposed bill, and a blue light content of less than 2 percent. That's from DOFAW. That's on their letterhead. I'm happy to submit it to the Council. And they said, we're doing this to have fewer impacts on protected wildlife, including seabirds. So, we respectfully submit, there is no safety issue with using lights that have better color rendering than you currently have on your...almost all of your roadways. Those lights are available. You can get them filtered, your existing lights . . .(timer sounds). . . like Hawai'i Island does, or you can buy the Cree lights. They're all available. They're all safe. Thank you.

CHAIR COOK: Okay. Members, clarifying questions for the testifier? Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. Thank you, Mr. Henkin. I hope I said your name correctly. Okay. Thank you.

MR. HENKIN: You did. Thank you.

COUNCILMEMBER U'U-HODGINS: Thank you. So, I find it interesting that Maui County has a requirement, and Hawai'i Island has a requirement. How come you folks didn't work with the State, and then have them make the requirement that would be the same for all counties, including themselves, if we were...if we were trying to make a difference in seabird potential taking? Can you talk to me about that logic to work with the counties individually, and then have it kind of piecemealed?

MR. HENKIN: Well, most of the streetlights in Maui County...we didn't work with Hawai'i Island. They were ahead of the game. They did that in 2011. As far as Maui County, Kaua'i County, most of the streetlights on those islands are...in those counties are...are County streetlights. But rest assured, we've reached out to Department of Transportation to ask them to change their streetlights as well. We think it's important that all sources of bright artificial light be brought down to this low blue light content to save our native birds. So, we are working not only...we haven't singled out Maui County, we're working with the State as well.

COUNCILMEMBER U'U-HODGINS: Okay. And City and County too? Because...I mean, Honolulu city lights is somewhat infamous and famous. It depends on the mood.

MR. HENKIN: Yeah. Unfortunately...and I live on O'ahu. Unfortunately, we have so destroyed our native wildlife. We don't have any threatened or endangered seabird species left on O'ahu, or at least...there may be a report here and there, but basically we've wiped them out. And so, the County Council, in 2022, wisely decided that it wanted to address this before it's too late. And so, it's not too late for Maui County. And...and so, we...we encourage you to keep with the existing ordinance, which was thoughtfully put together to adopt the same standards as Hawai'i Island, so people could have available to them the same lights that they use on Hawai'i Island. And we have a proven track record on Hawai'i Island, since 2011, that it's safe, it's effective, so it's not a problem.

COUNCILMEMBER U'U-HODGINS: Okay. Thank you. I appreciate your answers. Chair, can I just say...for the record, I'm...I'm assuming Member Johnson is going to ask our

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next...our same testifier to be a resource, as you've done for the last two. I'm hoping we don't confuse ourselves for the courts and get into a, he said/she said thing. It's going to make it really difficult for us to make a decision if we just constantly hear two opposing ideas. And I just want to make that clear for the record right now. Thanks, Chair.

CHAIR COOK: Thank you for your comment. Okay. Any clarifying questions? Member Johnson?

COUNCILMEMBER JOHNSON: Well, since --

COUNCILMEMBER U'U-HODGINS: I don't care. That's just how I feel.

COUNCILMEMBER JOHNSON: -- you set him up, Mr. Henkin, are you free to be a resource when we get into the discussion for this?

MR. HENKIN: I'd be happy to, if that's helpful to the Council.

COUNCILMEMBER JOHNSON: Okay.

CHAIR COOK: Member Johnson, I think attorneys and all of that is inappropriate.

COUNCILMEMBER JOHNSON: Okay.

CHAIR COOK: We have two people that we've allowed and welcomed to...to participate, but I would ask that we don't add to that.

COUNCILMEMBER JOHNSON: All right.

CHAIR COOK: And Mr. Bilberry?

MR. BILBERRY: Just to make clear, I do have two physicists on call, and I didn't hear anybody actually formally request that they be designated as resources, but that was my intention when I let the Council know that they are available and can appear...can answer questions.

CHAIR COOK: Okay. Chair...Chair would ask if the body would be available...and amenable to having the resources mentioned by Mr. Bilberry?

COUNCILMEMBERS: No objections.

CHAIR COOK: Okay. Thank you. Member Paltin, I see you waving at me. You telling me hi? You'll only give clarifying.

COUNCILMEMBER PALTIN: Clarifying question on the filters that Mr. Henkin had mentioned in his testimony that are utilized on Hawai'i Island. I thought that we had...that Mr. Molina had said that installing the aftermarket filters voids the warranty?

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MR. HENKIN: Yeah, that was a concern that was raised back in 2019. My guess is the warranty on those fixtures that the County has sitting in a warehouse has run out. Hawai'i Island puts an aftermarket filter on. The County made it clear that they'd prefer not to pursue that option, which is why Hawaiian Electric sent the letter that I attached to my testimony...testimony saying, what about the Cree light? And that's where DPW, on January 21st of this year, affirmed that all the lighting fixtures that they identified--which are roadway fixtures, are not parking lot fixtures--that those all conform to the low blue light requirement. And those are the ones that have the 50 color rendering index, which again, is two to two and a half times higher than what the high pressure sodium ones on roadways currently have.

COUNCILMEMBER PALTIN: And then...

MR. HENKIN: So, there's two options, filter...filtering, or these which are specifically manufactured low blue light. They don't require a filter.

COUNCILMEMBER PALTIN: And those 50 CRIs, is that what Hawai'i Island uses aftermarket filters, you said? What does Kaua'i use?

MR. HENKIN: Kaua'i, as far as I know, does not use a low blue light. They don't have that requirement. They should, they don't.

COUNCILMEMBER PALTIN: They don't play football at night?

MR. HENKIN: They play football at night, but they don't do it with low blue light fixtures. And...and I believe, even under the Maui County ordinance, athletic events are exempted under the Maui County ordinance unless there are compliant fixtures that become available on the market. So, this...this ordinance...nothing about this bill or the last ordinance affects football games on Maui.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR COOK: Member Kama, clarifying questions for our testifier?

COUNCILMEMBER KAMA: I just wanted to ask, how many seabirds have we lost in the interim?

MR. HENKIN: How many seabirds have been lost on Maui?

COUNCILMEMBER KAMA: Yes, yes.

MR. HENKIN: Mr. Penniman...I mean, there are many that come down every year. I would defer to Jay Penniman because Maui Nui --

COUNCILMEMBER KAMA: Okay.

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MR. HENKIN: -- Seabird Recovery Project, they...they keep track of exactly how many.

COUNCILMEMBER KAMA: Okay. Okay. We'll ask him when he comes back.

MR. HENKIN: Thank you.

COUNCILMEMBER KAMA: Thank you, Chair.

MR. HENKIN: I guess the only thing I would add--and Jay, I think, would say the same thing--because there are no dedicated searches for downed seabirds on Maui, the reports that Maui Nui Seabird Recovery Project gets about downed seabirds due to artificial light are just the ones that people happen to see, not all the ones that come down. And there have been studies done on Kaua'i that indicate that we don't have kind of dedicated searches --

CHAIR COOK: Okay.

MR. HENKIN: -- during the fledging season.

CHAIR COOK: Thank you, Mr. Henkin.

MR. HENKIN: You probably only run across maybe --

CHAIR COOK: Thank you.

MR. HENKIN: -- a fraction of 1 percent.

CHAIR COOK: Okay. We'll have Mr. Pennigrin [*sic*] weigh in on that.

MR. HENKIN: Sure.

CHAIR COOK: Members, any clarifying questions for the testifier? Seeing none. Thank you very much. Staff --

MR. HENKIN: Thank you.

CHAIR COOK: -- additional testimony?

MR. PASCUAL: Chair, the next testifier is Johann Lall, to be followed by Mike Moran. Johann is signed in under three different users, so if he's able to just unmute one of his devices, that would be great.

MR. LALL: Johann Lall, I'm testifying on behalf of myself. I have learned a lot. I didn't know there was a lawsuit in all of this, and when the lighting bill was first passed, I wondered why there was a...a 2 percent blue light requirement, and now I know...or I assume it has to do with that lawsuit. I haven't really followed this issue, but I asked ChatGPT to find me some studies and things like that, and it seems like there are some recent

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studies on that 400 to 500 nanometer blue light. So, one question I would suggest asking your resources is, if they're aware of those studies. And also, Mr. Bilberry had brought up that the Newell shearwaters are more sensitive to yellow. So, maybe they're different from other seabirds, so that would be a thing to get clarification on because that would be kind of a major thing. Another question I would ask your resources is, where they observe fallout? Because I remember a couple years ago, one of the conservation organizations put out photos, around that time of year when those fallouts happen. And the image was of a bird in like the middle of a roadway, and behind it was a streetlight, but it looked like a pretty orange streetlight. So, I was like I wonder if it really is blue, or if it is all light. So, that would be a question, if they've...if they've looked at those geographic patterns, and have done any analysis. On the public safety thing, there are studies--one of your testifiers had...had questioned the rigorousness, I guess--there have been studies on...on light, and spread of light, and whether...or I seem to recall that light that goes too much downward and doesn't spread out does create crime...because you get like dark spots, so that is an issue. And I think what Captain Maeda said is probably correct, but I would also ask if...if he's aware, or if anyone is aware of the studies that have been done, you know, on like a national or like a worldwide level. Because within...within Maui County in general, there's not going to be enough crashes or crime necessarily where you see those patterns, or...that's more so for crashes because there's not that many really bad crashes. However, if you were to look at data from California or like Texas, you would probably see patterns. You know, so I think this is an important issue, and this is two things that I happen to care about, so hopefully this gets a good discussion, and it's really good that you guys have some good resources. So, mahalo.

CHAIR COOK: Thank you, Mr. Lall. Members, any clarifying questions for our testifier? Thank you, sir. Staff? Mr. Moran, next?

MR. PASCUAL: Yes, Chair. He's currently the last testifier signed up.

MR. MORAN: Good morning, Chair, and Committee Members. I wanted to make a few observations. I think we're all aware of what's happening in...with our Federal Government, how, you know, the Environmental Protection Agency is...has been gutted. Endangered species have...have seemed to become a targeted species that instead of trying to preserve them, we're...we're just abandoning them. We see that our Northwest Marine Preserve that has been established over many administrations is under attack to...to eliminate it or greatly reduce it. So, we see the tenor of what's happening there, and we certainly don't hope...we certainly hope that is not going to be reflected here on Maui County, where we're much more aware of what's here, what's happening here, and what's needed here than folks 3,000 miles away. Another observation. Many years ago, under a different director, I had spoken with the Public Works director about a...an issue where it was...what they were advocating...his Department was advocating with the mud floods, as we call them, was the detrimental effect of racing all the...the flow into the ocean, and...and destroying the coral reef. And his response to me was, the, you know, the marine environment is not part of our...our...our charge. That's not what we do. That's up to somebody else to do. So, I don't know whether our current Director has that same perception, that his job is to

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take care of the built environment and not consider the natural environment, but that's just a...a question for the current Director. He may...may not agree with that. It's interesting, in...in watching all the...the opening presentations, we don't hear any...anybody from the environmental side. It's just not...not addressed. So, the only chance to hear from that is from this public testimony, and of course, we all have heard that many times, of the imbalance. I don't know how long Mr. Bilberry went on. It seemed like it was close to a half an hour, where the public testimonies by these people who are really educated in this get three minutes, but that's the system that we have. So, I just hope that...that we get some consideration for the environmental side of this, and not just the...the legal government side of it. Thank you for the opportunity to testify. Aloha.

CHAIR COOK: Members, any clarifying questions for the testifier? Thank you, Mr. Moran. That's...we're having this meeting just for that very purpose, to have a discussion, public forum. Thank you very much.

MR. MORAN: Mahalo.

CHAIR COOK: Any other testifiers?

MR. PASCUAL: Chair, that is all the individuals signed up to testify, but I do see an individual approaching the podium.

MR. LAW: Individual, I like that. Just sign me up as individual if I'm allowed. Luna Ho'omalua Cook, I hope you had a nice, long, good holiday. And Hau'oli lā hānau Queen Lili'uokalani. Okay. I got to make her relevant now, right? They...I'm not sure how many birds had died by the time she was queen, but everybody knows the ali'i used to wear those feather cloaks. So, this...that's just tying it in somewhere. That's just one aspect of it. I didn't ever see her wearing, in any of her pictures, a feather cloak. I'm pleased to see that my Upcountry representative, Yuki Lei Kashiwa Sugimura, is the author of this Bill 109. I was going to speak in favor of it until Mr. Pennington [sic] spoke, and then he said, a'ole for this one. So, yeah, you guys. Thank you for being here, Mr. Cook, and working on this. I got trust in you, bro. Sometimes the little birdies need a...a bigger voice to take care of them. Everyone knows what happened to the...most of the native birds in Hawai'i. We extincted them. There's a story I learned back in the '70s. I never really got to the...like study of it, but they thought they were doing a good thing by bringing in the mongoose to try to get the rats. The rats were getting the birds, but the mongoose stayed up in the daytime and the rats was at night. We're still talking about the endangered birds, Mr. Cook.

CHAIR COOK: No, we're talking about lighting.

MR. LAW: What is it?

CHAIR COOK: The bill is regarding the lighting.

MR. LAW: Oh, yeah, yeah, yeah.

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CHAIR COOK: And the impact of the bills.

MR. LAW: Thank you for keeping me on track there. The Hawaiian bird...Hawaiian word for bird is manu, M-A-N-U. And thank you, Mr. Bilberry and Mr. Molina, for working on this, too. I...I...I hope there's no sides. It's all like we all work together, teamwork. I don't like the...the blue light myself. I...I've heard that some people's eyes are different. I like the orange sodium vapor streetlights, but maybe that's a product of my younger days when I was an adolescent out on the streets after dark. And I really appreciate what Mr. Pennington [*sic*] said about the fire, and the red and orange light. And I'd like to remind everybody that Maui was...there's a story about him learning the secret of fire from the birds. The last thing I'd like to say...or not like to say, is, I live on the mountain, and I don't like pollut...light...light pollution, and I suspect the store and the restaurant of violating the law, the kānāwai. And not only because of the lights on their buildings, but some of the cars that are there after dark, they...they...when they're parking, they . . . (*timer sounds*). . . they leave their lights on when they're getting in their cars, and I'd like to tell everybody that's why I call them parking lights, please.

CHAIR COOK: Thank you. Any clarifying questions for the testifier?

MR. LAW: Aloha, Mr. Cook.

CHAIR COOK: Seeing none. Thank you. Staff, any further testimony?

MR. PASCUAL: Chair, that is all the individuals signed up to testify. If anyone in the audience or on Teams would like to testify, please come up to the mic and begin your testimony, or use the raise-your-hand button on Teams, and Staff will unmute you. Here's countdown...three, two, one. Seeing none. Chair, no one has indicated that they wish to testify.

CHAIR COOK: Members, seeing that there are no more individuals wishing to testify, without objections, I will now close oral testimony.

COUNCILMEMBERS: No objections.

CHAIR COOK: As a reminder, written testimony will continue to be accepted into the record.

**. . . CLOSE PUBLIC TESTIMONY FOR WAI-11 . . .**

CHAIR COOK: Members, I'm proposing two rounds of three-minutes per...three-minute questions per Member. Are there any objections?

COUNCILMEMBERS: No objections.

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CHAIR COOK: Thank you, Members. Let's begin with the discussion. I would like to ask Councilmember Sugimura, as the introducer of the Bill 109, to also provide any remarks...or start with our questions.

VICE-CHAIR SUGIMURA: Yeah. Thank you very much for bringing this forward. I appreciate it, and I appreciate all the work that the Department and Corporation Counsel has done, the research. So, Mr. Bilberry, your researchers...your resources, do they want to say a few words during my three-minute?

MR. BILBERRY: Well, I...they're on call. So, I'd have to get them on.

VICE-CHAIR SUGIMURA: Oh, okay.

MR. BILBERRY: Oh, I'm sorry.

CHAIR COOK: Would...would you please?

MR. BILBERRY: They're on call. I will have to either text them or call them, and tell them to get online --

VICE-CHAIR SUGIMURA: Okay.

MR. BILBERRY: -- which will take a minute or so.

VICE-CHAIR SUGIMURA: Okay.

MR. BILBERRY: If that's okay?

VICE-CHAIR SUGIMURA: So, maybe during my second round then.

CHAIR COOK: Yeah

MR. BILBERRY: Okay. I'll have them available.

VICE-CHAIR SUGIMURA: Yeah. So...so, Department, Director Molina, based upon all that we've heard from the resources today, as well as our Corporation Counsel, if this bill passes, what will you be installing and...for compliance? And I like the thought of the remote, if you could explain that remote capability. It sounds like then you have more control over the lighting situation.

CHAIR COOK: Director Molina?

MR. MOLINA: Thank you, Madam [sic] Chair. As Mr. Bilberry pointed out, you know, through that environmental assessment process, you know, we determined that the lights we had purchased originally were going to be adequate. And we still stand by that the ability to balance color rendering allows us to reduce emissions overall. The current bill is blind to emissions. They're only focusing on this color rendering aspect, which we

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don't believe is the premier issue we're facing. It's the overall light emissions. So, by being strategic and getting a light that allows us to emit less, we think, is the true benefit to the environment. And so, we'd be seeking to put those lights in that we bought. In addition, it also manages our resources more effectively. So, funding we're not going to be spending on new purchases can go to things like additional mitigation, habitat improvements...which we have been funding, and regularly fund from the County. And so, that's the intent with the lighting. In addition, that savings can also have us explore the capabilities for targeted mitigation with the dimming, with the seasonal aspects, and be able to coordinate with HECO to implement such programs, which we...we don't have capacity right now, in large part because of all the lawsuits we're embroiled in. We don't know which direction to move at this point in time. And so, this bill will provide us that clarity. Thank you.

VICE-CHAIR SUGIMURA: Very good. Thank you very much.

CHAIR COOK: Thank you, Member Sugimura. Councilmember Johnson, questions for the Department?

COUNCILMEMBER JOHNSON: Thank you, Chair. I'll just add a quick fact about this discussion is about the lighting and everything, but behind that is part of the light pollution. And light pollution should be considered a type of pollution. It lowers melatonin, and with low melatonin, cancer rates increase, interrupts sleeps [*sic*]. It's something that growing cities and communities have to deal with. And this is what we came up with a few years ago to protect the birds, and also reduce light pollution. I want to bring up Mr. Penniman in regards to the fledgling...fledglings. If you could come up here, Mr. Penniman, to speak on that. So, we know that September to December is fledgling season. We also know--and correct me if I'm wrong on this--that fledglings are the ones that are most susceptible to fall out because they're new, they're young, they're...and they get confused. So, in the past, I seem to recall--and that's what I want to ask is--where's the hot spots? Is it South Maui because of the large resorts, or...or is it because they have a pattern, a flight path that they use? So, can you kind of put all that into answering my question on that? . . .(*laughing*). . .

MR. PENNIMAN: Certainly. Thank you for the questions. Yes, it is primarily fledglings who are the impacted individuals of each of the species that get distracted. However, adults are also distracted.

COUNCILMEMBER JOHNSON: Okay.

MR. PENNIMAN: Over this past weekend, we've had four different occasions where adult birds--the chicks are still in the burrows, and the adult birds are...and largely, we attribute that to the fact that we're in a dark moon phase. It's just waning now, so we don't have a lot of moonlight at early part of the night. Second part of your question was?

COUNCILMEMBER JOHNSON: So, is there hot spots where --

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MR. PENNIMAN: Hot spots.

COUNCILMEMBER JOHNSON: -- you find fledgling....or just birds generally downed?

MR. PENNIMAN: Birds are downed pretty much all over South Maui, West Maui, and Central Maui, and we get them Upcountry.

COUNCILMEMBER JOHNSON: Is the correlation just the city centers, or where people are with lights? That's the correlation? I mean, they're not down in Hāna, are they?

MR. PENNIMAN: We get them occasionally on Hāna Highway, and sometimes we think that that may be due to vehicle traf...traffic that's there...and there's individual lights along Hāna Highway where they may be distracted too, and those are primarily streetlights.

COUNCILMEMBER JOHNSON: When...when the birds are in their burrows, and they go out to sea, and when they come back, do they take a particular path? Do they like to go down the slopes of Haleakala on one side, or is...is there a path that they tend to take?

MR. PENNIMAN: When we did tracking studies in 2006, '07, and '08 with the 'ua'ū on Haleakala and on Lāna'i, we found that the birds come and go on different paths . . . *(timer sounds)* . . . quite regularly.

COUNCILMEMBER JOHNSON: Do you...do you have a number of...I know that Councilmember Kama asked. Do you have a number of...per year, birds that have been downed?

MR. PENNIMAN: The numbers vary each year, and largely dependent on the phase of the moon has been one of the big impacts on it --

COUNCILMEMBER JOHNSON: Okay.

MR. PENNIMAN: -- but it ranges between 50 and 150.

COUNCILMEMBER JOHNSON: Thank you. My time's up. I probably have a second round, but this...before I was a Councilmember, this was the job that I did. I worked with Jay a lot on protecting the 'ua'ūs and 'ua'ū kanis, and it was...I think we did a lot of work for those birds, and I feel like here I am again, trying to help those birds. Thank you so much. Thank you, Chair.

CHAIR COOK: Thank you. Councilmember Kama, you have questions for the departments?

COUNCILMEMBER KAMA: I wanted to ask a question of Mr. Penniman. That's why I should have probably asked my first question to. So, my question, I did hear your response to Mr. Johnson, and so I wanted to ask you. You did say there's maybe 50-plus birds that have been impacted, but do you know what the...what the species of the birds were?

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MR. PENNIMAN: The primary fallout species that we have on Maui are the 'ua'u and the 'ua'u kani. They all...

COUNCILMEMBER KAMA: But the species that I was asking about that have actually fallen out, how many of those have you tracked?

MR. PENNIMAN: That...that...those are the...what I'm talking about. Those are the primary two species. There are a few other species that get distracted, but they are the ones that I referred to in that very approximate number. I don't have exact numbers on the top of my head for each year, but that's an annual number.

COUNCILMEMBER KAMA: And how do you...how do you...how do you record the data?

MR. PENNIMAN: We have a person who goes to the site where a bird has fallen out. They have an app on their tablet or telephone. They observe the site. They observe the bird. They record the data. The data then goes into our database on our computers.

COUNCILMEMBER KAMA: And when you talk about recording data, does that include pictures?

MR. PENNIMAN: Does that include pictures?

COUNCILMEMBER KAMA: Yes.

MR. PENNIMAN: Occasionally. We don't always take pictures there because you're following up after an incident has happened, and the bird has been often collected. So, there's sometimes we'll get some pictures in an area, but not always.

COUNCILMEMBER KAMA: And so, what...how do you know if a bird or a species of birds have fallen?

MR. PENNIMAN: How do we know if a bird or species --

COUNCILMEMBER KAMA: Yes.

MR. PENNIMAN: -- of bird has --

COUNCILMEMBER KAMA: Fallen.

MR. PENNIMAN: -- fallen?

COUNCILMEMBER KAMA: Yes.

MR. PENNIMAN: By...by collecting the bird.

COUNCILMEMBER KAMA: Yeah, I know. But...but how do you know where to go and collect it?

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MR. PENNIMAN: How do we know...

VICE-CHAIR SUGIMURA: Who tells you.

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

COUNCILMEMBER KAMA: Like what tells you to go to a certain space...at a certain place or location because you have a fallen bird? What...what...what is the impetus for you to go and seek and search?

MR. PENNIMAN: Oh, individuals. We...part of our work that we do is outreach to the community. And without the community input, we would not have any idea where these birds are coming down. We...we have very limited resources to do the work we do, so we reach out to the community. We make contact with businesses, with hotels. We try to raise awareness of the fallout issue. So, when people do see seabirds down, they know that it's a seabird, and they know to call our downed bird hotline for us to come and respond.

COUNCILMEMBER KAMA: Do you keep an active list . . .*(timer sounds)*. . . of all of your community outreach workers who do this?

MR. PENNIMAN: The...we keep an active list of all of the businesses, organizations, hotels, and community events that we participate in to raise awareness.

COUNCILMEMBER KAMA: I was asking if you keep a list of all of the people who actually contact you about seeing fallen birds. I mean, is there an active list?

MR. PENNIMAN: Oh, I'm sorry. Yes. Yes, we do. That's part of the data that's collected. We collect the name of the --

COUNCILMEMBER KAMA: Yeah.

MR. PENNIMAN: -- individual and their telephone number.

COUNCILMEMBER KAMA: Yeah. Yeah, yeah.

CHAIR COOK: Member Kama, the bell rang.

COUNCILMEMBER KAMA: Okay. Well, thank you.

CHAIR COOK: Thank you.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you.

CHAIR COOK: Council Chair Lee, questions?

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COUNCILMEMBER LEE: Thank you. Thank you. I have a question for Director Molina. I recall that when we first talked about this issue years ago, probably around 2019 or so, we exempted the parks lights, right? Didn't we?

MR. MOLINA: That's correct. There's several exemptions for sporting facilities.

COUNCILMEMBER LEE: Yeah. Do you know if the Parks employees have found dead seabirds in the parks?

MR. MOLINA: I don't have firsthand knowledge of that.

COUNCILMEMBER LEE: Okay. Because I know that the Chambers were filled with the coaches and players, and that's one of the reasons why we exempted them. Because they were totally against a lighting bill, and I would assume they would still be. Mr. Bilberry, you talked about the actual low percentage of streetlights that appear to have a negative effect on...on the birds. Could you expand on that?

MR. BILBERRY: Yes, Councilwoman. If I understand your question correctly, one of our physicists was able to measure...we went in the field, and he measured streetlights. And then he was able to do some conversions, and then took satellite data, and was ultimately able to determine that streetlights currently compose, in terms of overall human artificial light that causes sky glow, 5.4 to, I think it was 11.2 percent. Is that going to your question?

COUNCILMEMBER LEE: Yeah. Because I was thinking the other lights would be, oh, home lights, traffic lights.

MR. BILBERRY: Commercial, industrial, resorts, hotels, airport.

COUNCILMEMBER LEE: Would it also be car...car lights, automobile lights . . . *(inaudible)* . . .

MR. BILBERRY: Yeah, that's a really good question. He...he is able to get the satellite data, and he may be able to answer that question for you. He is online now. He...the satellite data takes a snapshot, and you can get a snapshot, I think, from any month for any year, going back like a decade at least, if not any day. So, it is an actual satellite --

COUNCILMEMBER LEE: Okay.

MR. BILBERRY: -- with a camera taking a snapshot. That might include...

COUNCILMEMBER LEE: Thank you.

MR. BILBERRY: Yeah.

COUNCILMEMBER LEE: Mr. Molina, did you gain any more knowledge or useful information from the assessment that we were required to do?

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MR. MOLINA: Yeah. The...I mean, the biggest finding was just the issue of overall emissions is much greater than the issue of particular wavelength, and that's what . . . *(timer sounds)* . . . we're striving to tackle first, is the mitigation to the light emission.

COUNCILMEMBER LEE: Okay. Maybe in my second round, you can expand on that. Thank you.

CHAIR COOK: Thank you, Chair Lee and Director Molina. Councilmember Paltin, questions for your first round?

COUNCILMEMBER PALTIN: Thank you, Chair. For my first round, I don't know if it's a lawyer or somebody, but I have question about the verbiage 2...20.35.060A, page 4. All outdoor lighting fixtures must be fully shielded. I understand that. I don't understand the part that says, except that all outdoor lighting fixtures installed after January 1st, 2026, must comply with this chapter. Is there a lawyer that can explain that --

CHAIR COOK: Director?

COUNCILMEMBER PALTIN: -- or a person?

MR. MOLINA: Member Paltin, I can take that. That just has to deal with the...the timing of which these changes are taking effect. So, the current ordinance has these year...so many years from this date, so many years from that date, and so this is just clarifying that assuming this bill were to pass, that establishes that new date for compliance with the changes that this ordinance would impose. Thank you.

COUNCILMEMBER PALTIN: Thanks. And then I guess you'd be the same one for my next question. I see string lights all over the place. Is that currently legal or not legal?

MR. MOLINA: Member Paltin, I can get back to you because there's a lot of contingencies on the extent to which they are legal. So, I can document those more in detail for you.

COUNCILMEMBER PALTIN: Okay. One time I was surfing Kā'anapali Point, and one of the hotels had their string lights right on the beach on all night, like I went surf 5:00 in the morning, the string lights was still on. I imagine that's not a good thing. Lucky thing it was summertime, but still yet, it's right there on the shoreline. I mean, what is your enforcement? Like we're talking about streetlights, but I think the ordinance is about outdoor lighting. All you got to do is like, you know...I don't know, ask someone on a jet ski to go up and down...or a boat, I guess, because winter is no jet ski season. And you can document all the string lights on the shoreline, which is a problem, September through what they said. And why are we not doing enforcement? Like I mean, I can understand you saying we want safety for the highways, but it's like a give and take because we also want safety for the birds. And if the impact on the highways lighting being the one you want is only 2.5 percent, then can we offset that by enforcing the shielding of lights and string lights? I mean, you look at the food truck parking lots, and all over the place, I see string lights. How come nobody's enforcing it?

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CHAIR COOK: Director?

MR. MOLINA: Thank you, Chairman. Thank you, Member Paltin. I'm sure you're aware, the County's policy is a complaint-driven enforcement. And so, when those do...complaints do get filed, we do act on them. But we do not have a practice right now of going out and initiating enforcement on our own behalf. And this is applicable to all the laws, land use laws . . .*(timer sounds)*. . . and building permit laws that the County administers. Thank you.

COUNCILMEMBER PALTIN: So, just to --

CHAIR COOK: Member --

COUNCILMEMBER PALTIN: -- follow up that last one --

CHAIR COOK: -- and so the bell range.

COUNCILMEMBER PALTIN: -- is for...

CHAIR COOK: Can you wait for your next round?

COUNCILMEMBER PALTIN: Oh. Just a follow up on this, for folks that do want --

CHAIR COOK: Okay.

COUNCILMEMBER PALTIN: -- enforcement, would it be County of Maui Connect? Just go County of Maui Connect string light shoreline and give the address? Is that what they do?

MR. MOLINA: Yeah. They can use the COM Connect, or they can call DSA, or Public Works, or email. Any...any mean of communication, we'll accept to start an investigation. Thank you.

COUNCILMEMBER PALTIN: Can you give me those means of communication for the listening public?

MR. MOLINA: Email, phone, COM Connect...call your Councilmember.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

COUNCILMEMBER PALTIN: Oh, I meant like the email and the phone. You don't have it?

MR. MOLINA: [Public.works@mauicounty.gov](mailto:Public.works@mauicounty.gov). I don't memorize our various phones, but either...yeah, Director's Office, DSA would be the two main places that we receive complaints.

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COUNCILMEMBER PALTIN: Okay. Next time I go surf, I'll try to take some addresses. Thank you.

CHAIR COOK: Thank you. Member Rawlins-Fernandez, your first round. Questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Aloha to all of our resources. Mahalo for being with us and answering questions, and Mr. Bilberry, for your presentation. So, my first question is for Deputy Corp. Counsel Bilberry. In your presentation, you said that Judge Cardoza ruled that the blue light doesn't harm seabirds. Didn't Judge Cardoza actually say that the issue should go to trial instead, but the parties settled?

MR. BILBERRY: I did not say that Judge Cardoza ruled that blue lights do not harm seabirds. If that's how it came out, I apologize. What Judge Cardoza ruled was that he was not prepared to issue an order precluding the installation of lights based on that theory.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then I guess I'll stick with you, and then I do have a question for Mr. Penniman after, so if he could be prepared. So, your presentation contained excerpts from the...a draft EA. Is there a reason that the EA was not finalized? It was from 2022, correct? And it's 2025?

MR. BILBERRY: Right. Yeah. The reason the EA was not finalized is because when the draft conclusions of no significant impact came out, that's when, as far as we can tell, Earthjustice and his clients decided to pursue the 2 percent blue light restriction in order to undermine the findings of that environmental assessment, and undermine the settlement that we had agreed to in the previous litigation. So...so --

COUNCILMEMBER RAWLINS-FERNANDEZ: So, are you...

MR. BILBERRY: -- in short...in short, the...the light that was being assessed, because it wouldn't comply with the ordinance, made pursuing finalizing that environmental assessment moot.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, so, that...that's the answer to that question, that you're not planning to finalize that EA. Okay. So, for Mr. Penniman, we...we received some of your, well, now published papers at the time it was...before it was published when we first...when the Council first received it, correct? It has since been published?

MR. PENNIMAN: What papers are you referring to?

COUNCILMEMBER RAWLINS-FERNANDEZ: The...what was in the presentation from Mr. Bilberry.

MR. PENNIMAN: I'm not clear on what...what we're talking about. What presentation?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, the presentation that Mr. Bilberry just...

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COUNCILMEMBER PALTIN: Those were emails --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, it's...oh.

COUNCILMEMBER PALTIN: -- from 2016 and 2019.

MR. PENNIMAN: I'm sorry, I'm...I'm coming into this having gotten notification of this meeting on Thursday late in the day, and I do not have prepared the extensive work as Mr. Bilberry has done. I might take this opportunity also to . . .*(timer sounds)*. . . characterize what...or to...to address how Mr. Bilberry characterized the evolution of the existing outdoor lighting ordinance. This came out of Councilmember...then-Councilmember King's office, and her Staff for the work for this. Mr. Henkin had nothing to do with the origins of the current legislation, though he may have weighed in on it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification. I heard the timer. Mahalo, Mr. Penniman.

CHAIR COOK: Thank you, Mr. Rawlins...Ms. Rawlins-Fernandez. Councilmember Sinenci, your first round, questions?

COUNCILMEMBER SINENCI: Mahalo, Chair. And my apologies, I...I didn't hear the second question from Member Rawlins-Fernandez to Mr. Bilberry. Was that about the EIS?

VICE-CHAIR SUGIMURA: EA.

COUNCILMEMBER RAWLINS-FERNANDEZ: It was an EA. It was a draft EA.

COUNCILMEMBER SINENCI: A draft EA. So, what was the question to Mr. Bilberry, that...would the County still have to complete one?

COUNCILMEMBER RAWLINS-FERNANDEZ: If they were planning to, and he said no...because it was moot.

COUNCILMEMBER SINENCI: Mr. Bilberry, can you explain? Because of...sorry, I'm just trying to get clarification.

MR. BILBERRY: Yeah, yeah. No, that's fair. It's...it's a little...little --

CHAIR COOK: Mr. Bilberry?

MR. BILBERRY: -- complex. I'm sorry, go ahead. I didn't mean to interrupt your question, but I can offer an explanation. So, after that first lawsuit and the party settlement, and the term of that settlement being that Maui County would complete an environmental assessment of the 2700 Kelvin 70 CR light that it had started using for its conversion project, the lighting...there was a draft of that final...or no, not final...a draft of that

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environmental assessment was published, and it was published for comment. And then prior to the comments being absorbed and responded to, and a final environmental assessment issuing, the ordinance was amended to put in place the 2 percent blue light content restriction. Once that restriction was put in place, the light that was being assessed via the environmental assessment would not comply with the statute, so the environmental assessment became moot, pending --

COUNCILMEMBER SINENCI: Got it.

MR. BILBERRY: -- publication of the draft, and determination of a final draft. Now, we still have the draft, and we...we still have the consultant who prepared that draft. They did pretty extensive work, and if necessary, they...they are prepared to update it, and pursue it, and...and issue a final environmental assessment.

COUNCILMEMBER SINENCI: Okay. Thank you for that clarification.

MR. BILBERRY: Sure.

COUNCILMEMBER SINENCI: And then my other...my other question was following up on Member Kama's question about taking--maybe for Mr. Penniman--is there like a number or a statute somewhere that says that...I mean, there needs to be only so many takings?

CHAIR COOK: He's coming to the podium.

COUNCILMEMBER SINENCI: Okay. Thank you.

MR. PENNIMAN: Thank you for that question, Member Sinise [sic]. The Endangered Species Act covers any taking at all, so there...one bird would be a taking.

COUNCILMEMBER SINENCI: And...and how...how do they enforce that? Do you know?

MR. PENNIMAN: By identifying infrastructure, or situations, or responsible parties that are the reason for that fallout to have happened.

COUNCILMEMBER SINENCI: Okay. All right. I'm just wondering . . .(timer sounds) . . . how...how would the EPA get that information.

MR. PENNIMAN: The...

COUNCILMEMBER SINENCI: Thank you, Chair. Oh.

MR. PENNIMAN: Referring to the work that we do, we are a project of the University of Hawai'i, and the data that we collect is freely shared. We have shared it with Councilmember, we...Members, we have shared it with the State, we have shared it with Corporation Counsel here. We...the data is publicly available.

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COUNCILMEMBER SINENCI: Okay.

CHAIR COOK: Okay.

COUNCILMEMBER SINENCI: Thank you for that. Thank you, Chair.

CHAIR COOK: Thank you very much. Councilmember U'u-Hodgins, first round?

COUNCILMEMBER U'U-HODGINS: Yeah, sure. Thank you. I feel like I got to figure out how to get my grandma on this Endangered Species Act as a pure Hawaiian. My other comment is, is Member Johnson, next week we have to go to HSAC, and can I request like a 30-minute pau hana with you so I can get your resume? Because every two weeks, you're like, I did that before I was a Councilmember. So, I would love to just pick your brain one of these days, but that's next week. For this week and today, I want to ask about Member...I actually...not Member, but we had this conversation...I had this conversation with our former Chief of Staff when we were talking about Johnson Lighting, and we were talking about the current law, if we don't change it, with the streetlights. So, in order to make health and safety, how would we...and if this doesn't pass, or something similar, how would we ensure health and safety with our existing streetlights? Do we have to readjust? Because as Mr. Law said, I think he mentioned dark spots. Would they...the lighting not touch each other, and we would...we would...would we have to just reposition all of our streetlights, or how would we make this make the most sense to accommodate a potential loss of life for birds, and health and safety, and for all of us visually-impaired, like I am when I drive?

CHAIR COOK: Director?

MR. MOLINA: Thank you, Chair, and Member U'u-Hodgins. So, you know, one thing we don't get credit for is the way we organize our streetlights already seeks to minimize deployment. And so, the way the County deploys streetlights is just in those critical traffic safety areas--cul-de-sacs, intersections, major collector roads. So, we wouldn't necessarily be changing that practice. What happens is, when we have incidents occur, or upon request of community members, we do evaluate additional streetlight installations, and even some deactivations, too, have come across our office. And so, that's the way we respond in terms of, you know, if there are gaps, how would we address them? It would be driven by the conditions, and the people that may be seeking that benefit of having additional streetlighting.

COUNCILMEMBER U'U-HODGINS: So, in order to address the deficit, if there is some for lighting, what would...what would we do currently, if this doesn't pass?

MR. MOLINA: It would typically happen with any sort of improvement project that we have at intersections. The...the light we've ordered is intended to replicate what was the emissions from the current lights, the HPS', as far as coverage on the ground, but with the benefit of the shielding, the directionality of that. And so, we...we anticipate the coverage is going to be more or less the same currently.

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COUNCILMEMBER U‘U-HODGINS: Okay.

MR. MOLINA: But there are some areas that will see a little less light...but like I said, we’re not intending to light up all our roadways to that extent.

COUNCILMEMBER U‘U-HODGINS: Sure.

MR. MOLINA: It is very targeted.

COUNCILMEMBER U‘U-HODGINS: Thank you for that.

MR. MOLINA: Yeah. So, unless there was something prompting additional, we would not be changing that practice.

COUNCILMEMBER U‘U-HODGINS: Okay. Good to know. My next question is for MPD, for Chief Maeda. I feel like there has been somewhat...wait, is he here?

VICE-CHAIR SUGIMURA: Yeah.

COUNCILMEMBER U‘U-HODGINS: Okay. Good. I feel like there’s --

MR. MAEDA: Yeah, I’m here.

COUNCILMEMBER U‘U-HODGINS: -- either been an uptick in crime, or we either have been talking about it more. In the last few weeks, my brother-in-law’s store, Hawai‘i Hunters, was broken into on the day of the tsunami. My friend’s store at Ace Hardware was broken into. I think we were discussing...I think it was...well, all over the news about the ice cream shop in Mā‘alaea had been broken into twice. How do you think these streetlights and lights would help improve either deterring that crime, or solving that crime?

MR. MAEDA: I think it helps both. So, actually, our...our crime is down 11 percent versus last year on property crimes. It...it doesn’t...it might not seem like that, but our statistics show we are down 11 percent. But regarding the lighting, you know, one of...one of our biggest complaints that we get in...in...at MPD from our kūpuna is insufficient lighting in the neighborhoods, insufficient lighting around businesses, and they just don’t feel safe. And...and I understand, a lot can happen in less than optimal lighting conditions, and it is a target for businesses. I’m not sure how much lighting was at that business of your relative that got broken into, but, you know, we can do an assessment over there. But, you know, the...in general, you know, I’ll give you a good example. The Wailuku...Central Wailuku, we’ve had rash of crime lately, and we’ve had to let them know to increase their lighting, which has decreased people hanging out, people committing crimes, homeless in the area. What it does, it also...it helps. Because not everybody has infrared cameras as well, right? So, a lot of people just have...have normal cameras, surveillance systems, and it works off the ambient lighting as well. You know, and to ask businesses to purchase these high-tech cameras, it’s a huge ask.

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So, we...we ask them to get what we can, but the lighting, to us, it prevents a lot of crime. . . .(timer sounds). . . If that...that...that's your...that's my answer.

COUNCILMEMBER U'U-HODGINS: Thank you, Chief. Thank you, Chair.

CHAIR COOK: Thank you. I'd like to acknowledge Mr. Jack Curran. Am I pronouncing your last name correctly?

MR. CURRAN: Yes, that's fine.

CHAIR COOK: If you could introduce yourself, please.

MR. CURRAN: Sure. My name is...my formal name is John W. Curran, but I go by Jack, so it's Jack Curran. I have a PhD in physics. I've been involved in a number of different industries. Starting in around 2002, I got involved in LED technology, developed the first LED fire signal. I was involved with a company, the chief technology officer for a company that did traffic signals, and was using LEDs for the traffic signals. And then in 2008, I started my own company. And for about nine years, the Department of Energy paid me to go around the country, teaching pretty much anybody about LED technologies. Talked to architects, building owners, facility managers, municipalities, electricians...kind of you name it. I did about 200 talks, I guess, all strictly on the subject of LED technology, what its strengths were, what its weaknesses were. Because when the LEDs first came out, there was a lot of misconceptions about what they were good at, and what they weren't good at. And I thought it was important, if the technology was going to be able to come into play and start saving energy for people, that everybody needs to know exactly what was correct, and what was maybe just marketing kind of smoke and mirrors sometimes.

CHAIR COOK: Thank you for your introduction. If you're available, I think Member Sugimura, for her second round, had requested.

VICE-CHAIR SUGIMURA: Thank you.

CHAIR COOK: Member Sugimura --

VICE-CHAIR SUGIMURA: Yeah.

CHAIR COOK: -- questions, second round?

MR. CURRAN: Sure.

VICE-CHAIR SUGIMURA: Thank you for the introduction, and thank you for being here. Your name came up in the *Washington Post* article that was submitted to us. It was written by Richard Moran, and this was November 3rd, 2022. And you're quoted in here, talking about the bill that was passed by this Council. And basically...if I could just read it a little bit, and then if you could reflect on that a little, and...and then about the current proposed bill. So, Jack Curran, a New Jersey lighting consultant who evaluated the

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science behind this bill, said the Council clearly didn't do their homework. The bill also requires that lighted surfaces be nonreflective with a matte surface, if painted. As the island is coated in...in compliant black paint--oh, Curran joked--Maui will end up looking like Halloween. So, can...can you reflect upon a little bit about that, but more about the impact of the current bill before us with your expertise?

MR. CURRAN: Sure. My concern--and to be honest...I don't remember talking to whatever the Council was there. If you could give me just...I apologize, one minute. I was in another meeting, and it's just getting out, and they're closing the door. So, I have to grab my material. It'll take me one minute to get it, okay?

VICE-CHAIR SUGIMURA: Okay.

MR. CURRAN: And I'll be back.

VICE-CHAIR SUGIMURA: Is that okay? Oh.

CHAIR COOK: Okay. We'll take a five-minute recess --

VICE-CHAIR SUGIMURA: Okay. Then he can come...

CHAIR COOK: -- returning at 11:08.

COUNCILMEMBER JOHNSON: Ten.

COUNCILMEMBER U'U-HODGINS: Member Paltin . . . *(inaudible)*. . . ten minutes...

COUNCILMEMBER JOHNSON: Can we do ten?

COUNCILMEMBER KAMA: Ten. Ten.

CHAIR COOK: Okay. We'll take a --

COUNCILMEMBER KAMA: Ten.

CHAIR COOK: -- ten-minute recess. We'll return at 11:13 a.m.

**RECESS:            11:03 a.m.**

**RECONVENE:      11:14 a.m.**

CHAIR COOK: . . . *(gavel)*. . . Aloha. The...the WAI Committee of September 2nd, 2025, will now reconvene at 11:14 a.m. We were in discussion with the departments and I believe, Member Sugimura, you completed your questions, or...

VICE-CHAIR SUGIMURA: Yeah. So, I...then Mr. Curran --

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CHAIR COOK: Oh, okay.

VICE-CHAIR SUGIMURA: -- went off for a brief break. But I just wanted to...the article that I was reading from *Washington Post* quotes you as saying the Council clearly didn't do our homework regarding the lighting bill. And what I wanted to hear from you is, then what is your opinion about what is being proposed today, which...which...yeah. So, that was going to be my second part of the question.

CHAIR COOK: Mr. Curran?

MR. CURRAN: Sure. Well, what I think it's...what is being proposed today, to me, is a more reasonable approach. It's...it's very critical in terms of what--if I could just give a quick example. If I had a red ball, and I took it into a black room, and lit the ball up with white light, I would see that red ball. If I turn that light to red and I lit it, I would see the red ball. But if I took a blue light or a green light, and shone that again in that room at that red ball, I would see nothing...because color is...it has two functions, or two aspects. It has to do with what that object reflects in terms of wavelengths, and then what light is being shone on it. If I have a red ball, and that red ball is not getting any red light, it will look black. So, the color and...and the whole idea of color of lighting, people don't tend to realize that as much. They think color is an inherent characteristic of the object, but it's the object as well as the light that's shining on it. And so, if you have a proposal that is pulling out a large portion of the blue section of the light, then the light that's left over is not going to give you a representation of the image that's there.

VICE-CHAIR SUGIMURA: Okay.

MR. CURRAN: And one way that people measure...that your eye can sense contrast is by...if...if I'm standing on a dark road, and it's black behind me, if I'm sitting there in like a green jacket and there isn't green light coming down from that streetlight, I'm...I...as a driver, I'm not going to be able to see that person. So, the...the whole idea of color rendering index is very, very critical because if you don't have the colors in the light, then the colors aren't there to be able to reflect. And the contrast that you get...and contrast is critical for --

VICE-CHAIR SUGIMURA: Okay.

MR. CURRAN: -- for people driving.

VICE-CHAIR SUGIMURA: Thank you.

MR. CURRAN: If you...yeah, I'm sorry, I'm just going to . . .*(inaudible)*. . .

VICE-CHAIR SUGIMURA: Yeah, no, I appreciate, but...just because my time is limited, and I wanted to ask --

MR. CURRAN: Sure.

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VICE-CHAIR SUGIMURA: -- Director Molina about dim lighting, and based upon what Mr. Curran just said.

CHAIR COOK: Director?

MR. MOLINA: Thank you, Member Sugimura. Yeah. So, you know, with this proposal, and that improvement with color rendering...rendering, it allows us to use less light. In the absence of that color rendering, we need to put out more light . . .*(timer sounds)*. . . to achieve the same lighting desired for the roadway safety. So, this...this change, in our opinion, is environmentally-sensitive and beneficial because of that ability to use less light, which is compensated by that color rendering ability. Thank you.

VICE-CHAIR SUGIMURA: Okay. Thank you. Appreciate it.

CHAIR COOK: Thank you. Member Johnson? And then since...Members, since it's 11:18, I would like us to all keep our questions concise, the answers concise. Thank you very much. Member Johnson, it's your turn for second round.

COUNCILMEMBER JOHNSON: Okay. Chair, thank you. I'll try to follow those heeds. So, we're policymakers here. This is a policy decision on this bill. Right now, there's a lot of lawsuits swirling around this bill, which concerns me. And I think good policy comes out of being proactive instead of being reactive to lawsuits, and the threat of lawsuits. That's just not good way to do business, in my opinion. If we...I wanted to direct this to Mr. Bilberry. Like...so, you know, let's say we do...we...this bill passes, and we get another lawsuit on our hands. What...you know, that habitat conservation plan that Kaua'i is doing, that...that could be one of the things that we would be required to do, is a habitat conservation plan. And then it might end up just saying, you got to replace those lights. And we're back at square one, where, in fact, we cost...we spent a lot of money defending it, and then having to do the things anyways. That's my concern. The idea that a taking, if it's deemed a taking, it turns into mitigation. And mitigation is very expensive. So, that's what I'm trying to avoid here. I'd like to hear Mr. Bilberry's take on all this, if you will.

MR. BILBERRY: Yeah. This is not reactive to a lawsuit at all. It's reactive to a...a mistake that was made by trying to restrict streetlights to 2 percent blue light, and...and basically rendering the color ability of the streetlights ineffective and unsafe. So, it's not a reaction to a lawsuit, it's a reaction to a project that was initiated a few years ago to replace obsolete HPS streetlights that are over four decades old, that were not rendering color adequately for purposes of roadway applications. As far as lawsuits swirling, we don't have swirling lawsuits. We have one that's concluded. We have one pending now, which really doesn't have anything to do with blue light. And we've been told by the litigants in that lawsuit that whether we comply with the ordinance as it currently exists or not, they're still going to pursue that lawsuit. So...

COUNCILMEMBER JOHNSON: I guess that's my reference, is...

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MR. BILBERRY: Yeah. So, it doesn't matter. What I'm telling you is it doesn't matter because if you...if you don't fix the problem with streetlighting today, we're still being sued. So, there really isn't any reason not to go ahead and do what needs to be done, which is put an exemption in place so that Maui County has adequate lighting for its roadways, and mitigates...I mean, we got a light that not only mitigates against roadway accidents, but it is also environmentally-responsive. We can dim these lights at any location, any time of the year --

COUNCILMEMBER JOHNSON: Okay.

MR. BILBERRY: -- to whatever percentage dim they need to be in order to accommodate seabirds.

COUNCILMEMBER JOHNSON: Let me follow up on that dimming of lights. Director Molina, can you share with us how that would work? You have to reach out to MECO? Is there some kind of coordination going on? Do you have the capacity to dim lights in saying [sic] fledgling season? . . .(timer sounds). . .

MR. MOLINA: If I can get clarity on how to proceed, that'll give me some capacity, greatly. But yes, it would take coordination with HECO. Additional equipment would need to be purchased. But all of that is prompted by the ability to safely dim those lights, and still maintain the lighting on the roadways that we feel is safe.

COUNCILMEMBER JOHNSON: You need clarity because of the lawsuits?

MR. MOLINA: Correct.

COUNCILMEMBER JOHNSON: Thank you. Thank you, Chair.

CHAIR COOK: Okay. Member Kama, second round.

COUNCILMEMBER KAMA: Thank you, Chair. I have a question for Mr. Penniman, very simple. Is he still here?

CHAIR COOK: He's coming to the podium.

COUNCILMEMBER KAMA: Okay. Thank you. (pause) You know, earlier...earlier, we were talking about your data, and how you keep your data. Is it possible to get that data, Mr. Penniman?

MR. PENNIMAN: Which data would you like to have?

COUNCILMEMBER KAMA: The data that says how you track the fallen birds that we're talking about in this bill, and how they are tracked, and the outreach that's done, and who does the outreach, and all of that.

MR. PENNIMAN: We could put together a response to that, yes.

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COUNCILMEMBER KAMA: Okay. Well, thank you. Appreciate that so much. Thank you, Chair.

CHAIR COOK: Thank you.

COUNCILMEMBER KAMA: And then I had a question for our second resource.

CHAIR COOK: Mr. Curran --

COUNCILMEMBER KAMA: Let me just find the...

CHAIR COOK: -- or...

COUNCILMEMBER KAMA: No. Glesne, Glesna [sic]. I think that was his name.

MS. GLESNE: Yes, ma'am.

COUNCILMEMBER KAMA: He was...I was reading in the...in...in the...I got to go find it, I lost it. He had written under item 7 on his...that he had sent to us. I got it out of Granicus, number 7, I think. Thomas Glesne, is that how you say your name?

MS. GLESNE: Yes. Good morning, Councilwoman.

COUNCILMEMBER KAMA: Good morning. So, I think it was item 7. And I...and I was...I was trying to understand what you're trying to say about the color.

MS. GLESNE: Good morning, everyone. Thank you for having me. The...in terms of color rendering index, I think it's been covered fairly well, but what I was trying to say is that there's two types of vision. There's scotopic, which is what we see during the daytime...or I'm sorry, that's...and dim light vision, which is how we see with the rods in our eyes, versus photopic, which is what we see in daytime or bright light conditions, which is with the cones in our eyes. And so, there's different sensitivities to those two parts --

COUNCILMEMBER KAMA: Right.

MS. GLESNE: -- of the eye. And therefore...you know, I'll throw in another term, mesopic, is really what we see in a streetlight configuration because we have a dim light background, and a brighter light in the foreground. So, how do the eyes interact with that is a very interesting physics-based effect. And it's true that the really bright white lights, the 5000 Kelvin lights, those can cause all kinds of glare, which is really irritating and dangerous when you're driving. But likewise, at less than 2000 Kelvin, you're not seeing colors, you're not seeing depth of field, and your perception and your speed in which you can actually recognize things is diminished. So, while there are no universal standards for, you know, lighting levels, and they all have to be taken into consideration with where they are and how busy the traffic is, it is a consideration. And, you know,

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we feel that this light at 2700 Kelvin is kind of the optimal situation, where you can adapt, as...as everyone has said, to environmental conditions and dim, or have it turn off when there's no traffic, turn on when there is. You can meet both of these effects with...by considering how the vision of our eyes work. And we also need to consider how the vision of shorebirds work.

COUNCILMEMBER KAMA: Correct. That's what . . .*(timer sounds)*. . . I was getting at, is that we all have different vision, right? Some of us need contacts, some of us need glasses, some of us need to have laser surgery, whatever. But all of our eyes, I think, perform differently under different circumstances. So, thank you. I heard the bell, Chair. Thank you.

CHAIR COOK: Thank you, Member Kama. Chair Lee, do you need a second round of questions?

COUNCILMEMBER LEE: No. I'm ready to vote and to support. Thanks.

CHAIR COOK: Councilmember Paltin, do you have a second round of questions?

COUNCILMEMBER PALTIN: Yeah. I might need a physicist, I'm not sure. I...I read further down, how can you tell if string lights are less than 2.8, or less than 50 lumens? Because it doesn't really say that on the box. So, like are people buying illegal string lights? How can you tell?

CHAIR COOK: Mr. Curran?

MR. CURRAN: Yeah. The string lights you're talking about are like the things that people hang out for parties and stuff like that?

COUNCILMEMBER PALTIN: Or at the hotels, they just use them 24/7, they run them hard.

MR. CURRAN: Okay.

COUNCILMEMBER PALTIN: Like from Costco kine.

MR. CURRAN: You can...I mean, you can get a relatively inexpensive light meter that will tell you what the light output is. Like you just...it's a little sensor you put on the ground, and it's got a...like of any kind of meter, it's got a display...

COUNCILMEMBER PALTIN: Oh, you got to use a meter, you can't just...it's not anywhere on the packaging or anything, you got to use a equipment?

MR. CURRAN: Well, I...I don't know. I mean, if you buy a light bulb, let's say at a Home Depot, or a Lowe's, or something like that, that will have the lumen output right on it, as well as --

COUNCILMEMBER PALTIN: Okay.

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MR. CURRAN: -- usually the color temperature. But --

COUNCILMEMBER PALTIN: Okay. Thanks.

MR. CURRAN: -- the cheaper the light sometimes, the less...

COUNCILMEMBER PALTIN: Okay. Thanks. I got a question for Director Molina next.

CHAIR COOK: Director.

COUNCILMEMBER PALTIN: On the 2.8 and 50 lumen, is that per light bulb, or is it the cumulative? 2.8 watts or 50 lumens.

MR. MOLINA: Thank you, Member Paltin. As we interpret the ordinance, we understand that to be each light bulb.

COUNCILMEMBER PALTIN: Oh, okay. And then when you were saying you have to buy more equipment for the dimming, is the warranty still good on those lights if you were to put filters, or what?

MR. MOLINA: We'd have to explore it.

COUNCILMEMBER PALTIN: Or if you put the filter, it discontinues the warranty.

MR. MOLINA: Well, the issue is if the filtering causes the CRI to decline, we wouldn't be able to dim because now we're losing the effects of that light on the roadway illumination. And so, that's a direct conflict with what we're trying to achieve by using light that has adequate color rendering so that we can use less intense lighting.

COUNCILMEMBER PALTIN: Oh, okay. And then you said you have to buy more equipment, so we wouldn't just be putting up what we have. We got to get more equipment in order to dim, and install that as well?

MR. MOLINA: Correct. It's a nodule that goes on the light fixture itself that controls the dimming.

COUNCILMEMBER PALTIN: Are we planning on doing that, or no? How...how expensive is it?

MR. MOLINA: It'll be...I mean, it'll add to the cost. It's not...you know, it's not significantly more than the light fixture itself. I think the more problematic issue is the coordination with HECO, and establishing clear MOUs on who's directing the dimming of lights and when . . .(timer sounds). . . for concerns about liability and future lawsuits.

COUNCILMEMBER PALTIN: Okay. I heard the bell. Hopefully, 2023 Lahaina Town, there were no seabird fallouts because we didn't have a Lahaina Town.

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CHAIR COOK: Thank you, Member Paltin. Member Rawlins-Fernandez, do you need a second round of questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I had to organize, you know, my thoughts because it's kind of like all over the place. So, here's the competing concerns as I...as I organize it. So, there's the welfare of the birds, safety of humans, crime committed by humans, not by birds. There's bird advocates, whose priority is the birds; Police, whose priority is human safety; and then Public Works, whose priority is infrastructure. Humans can be so destructive and intrusive to other creatures we share this earth with, especially the higher the concentration of humans. And it's the systems that exacerbate disparity, and housing, and economic insecurity that increase crime, not bad lighting. So, where is the sweet spot for limiting impact to already struggling native bird populations, human welfare, and County operations? Personally, I don't want to play a role in not doing enough to prevent our native birds from being pushed to extinction. But of course, I want, you know, our people to be safe too. So, here are the questions as I kind of understand the issues. Whether it's the brightness, color, or both that cause the harm to seabirds? Do the lights that Public Works recommend harm seabirds? How do we measure that harm to seabirds? Do the lights recommended by the bird advocates create an unsafe environment for humans? How do we measure that? And then ultimately, as policymakers, whose information will we accept as the most credible to answer these questions? Like Member U'u-Hodgins stated, I don't want a he said/she said, I'd love for collaboration. And just as Member Johnson said, lawsuits are resource-consuming, and I don't particularly want to continue down that path either. So, those are my questions. I don't really...I would like to have answers to those questions before I vote. And so, I don't...whoever wants to take a stab at that.

MR. GLESNE: I would love to if I may.

MR. BILBERRY: Well, I...I would start off by saying...excuse me.

CHAIR COOK: Go ahead.

MR. BILBERRY: If you want to ask us about potential liability for amending the lighting ordinance, we would have to go into executive session to discuss that. I don't see that as something that I would be concerned about as a...as a County lawyer, getting sued for amending the Lighting Code. That's a legislative act, which is perfectly within your prerogative to do. So, that would hopefully answer one question. Again...and I would just...I'll just stop with this. The lawsuits here aren't the issue. The issue here is on the one hand, making sure that we're not creating a bad environment for wildlife, which I think we have a streetlight that mitigates against that, and making sure that we also have adequate illumination for public ...*(timer sounds)*... safety. Lawsuits have nothing to do with this. We're going to be dealing with lawsuits, regardless of what you do here today. And right now, there's one pending, which doesn't bear on the...what you're being asked to do today, and will not bear on what you're being asked to do today.

CHAIR COOK: Thank you. Did...does that answer your question? Did you hear the bell?

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COUNCILMEMBER RAWLINS-FERNANDEZ: I had several questions, and that's one person's opinion. I did hear someone else trying to speak, but I don't...I couldn't tell who that was.

MR. GLESNE: This is Tom Glesne.

CHAIR COOK: Go ahead, go ahead.

MR. GLESNE: Can you hear me okay?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. GLESNE: The...I think one thing that was lost from the presentation is that the number...the percentage of light that the birds see, and this...what we term sky glow, is really limited to some...something on the order of 10...10 to 12 percent of all of the light emanated upwards in Maui. And the streetlights being...being full cutoff fixtures don't emanate any light straight up. All of that light is coming reflected off of the ground, whether it be grass, or asphalt, or concrete. And blue light, while we know blue light scatters readily--it's the reason our sky is blue, or appears blue--is that, yeah, the blue light can scatter very quickly, but it's also not very reflective...asphalt is not very reflective. So, the streetlights themselves don't contribute that much light. It's the lights you see on the side of the building that are broadcasting out. The cheaper lights are 5000 Kelvin, so they are very rich in the blue, 25 percent typically. And so, this...the lighting ordinance, as was set previously, restricting blue light for all of the outdoor lights, is an incredible effort to reduce the amount of light that the birds will encounter. So, streetlights being only 10 percent of that makeup is really somewhat de minimis in terms of...of what the issue, the really crux of this issue is. It really isn't down to the streetlights alone. It's really to the rest of the lighting in Maui County.

CHAIR COOK: Thank you. Did that answer your question, Member Rawlins?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Glesne. I mean, like I said, I listed about like seven questions. So, those...those are some responses to a couple of the questions, but that's fine. I...I did hear the timer.

CHAIR COOK: Thank you. Member Sinenci? You have second questions? Considering our time.

COUNCILMEMBER SINENCI: Mahalo, Chair. Yeah. Member Johnson had asked Director Molina about his...I guess, because of the lawsuits, if he can expound on that.

CHAIR COOK: Director?

COUNCILMEMBER SINENCI: I mean, he needs direction for the lawsuits. (pause)

CHAIR COOK: Director?

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MR. MOLINA: Yeah, I'm trying to...I've been entrenched in multiple lawsuits, but as Mr. Bilberry has clarified, there is only one currently, and it is not necessarily addressing this matter of the blue lights specifically, but it is affecting how we proceed. And I think if we get support for this motion today, not only does it help our position in these lawsuits, because we believe we are taking the responsible approach on all fronts--public safety, environmental, and even administratively. You know, what is more wasteful than being poor stewards of our resources, and that's what this endeavor, in my experience, has been, by not allowing us to implement, see the effects, make changes, you know, improve upon, and continue. We've been in a stalemate because of it, and to me, that is the most wasteful part of all this, which is a far greater harm than whether a percentage of the 10 percent of light out there needs to be a certain color or not. I mean, I think everyone will agree that the emissions generally is the problem, and to make an analogy, it's like litter. We have ordinances that ban particular types of litter, but we don't have ordinances that don't litter...I mean, that it's okay to litter. And that's what I see as the emissions, that we need to reduce emissions, and then we can start talking about the particular types of admission...emissions, and refining that. But we need to do the first step of putting things in place that allow us to reduce our emissions overall, which we think our proposal gets us there, and balances it all. So, thank you.

COUNCILMEMBER SINENCI: When you use emissions, you mean like light pollution?

MR. MOLINA: Correct.

COUNCILMEMBER SINENCI: Just the . . . *(inaudible)*. . .

MR. MOLINA: The overall output.

COUNCILMEMBER SINENCI: Okay. And then Member Paltin asked about those dimmers. So, having these dimmers would also help you to address some of these lawsuits? Would they be dimmed during...when...when there's...the fledglings are flying? Would you only use certain in...like not in South Maui, in...in high traffic areas like Kuihelani, where you see an increase of car? I mean, I live in Hāna. We...you know, most of the road coming out to Hāna, there is no...no streetlights, so we just blast our highlights. So, it's not about not seeing anything . . . *(timer sounds)*. . . you just can't see anything at all, you just use your highlights, and a lot...a lot of the new cars have LED lighting, so...

CHAIR COOK: Director?

COUNCILMEMBER SINENCI: Would you...I mean, is that...are those some of the things that you need with this new ordinance?

MR. MOLINA: Thank you, Member Sinenci. I mean, the dimming is one strategy for mitigation that we would be able to consider if we have lighting that allows us to use dimmer lights, and still maintain public safety. And so, that's one...the crux of the issue here today is, the absence of that color rendering inhibits our ability to reduce our emissions. And we

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would be looking at targeted solutions for those areas that are more problematic than others as part of the mitigation strategy. Thank you.

COUNCILMEMBER SINENCI: And...and areas that might have higher seabird and sea turtle populations, you wouldn't necessarily. Okay. Sorry, I heard the bell, Chair. Thank you.

CHAIR COOK: Thank you. Member U'u-Hodgins, second and final?

COUNCILMEMBER U'U-HODGINS: Thank you. I appreciate the conversation between finding this balance between the amount of light and the color of light, and I appreciate the conversation regarding dimming, especially dimming during the fledgling season. Director Molina, you said we would need to buy those nodules. I would assume it's those black caps that were shown in the picture as described, as well as figure out...I think you said a clear MOU with probably HECO to figure out whose responsibility it is to do that. What's our timeline that we're looking at?

MR. MOLINA: We don't have anything set currently, but based on the conversion schedule that we previously had from HECO, it'll probably be with...less than a year to purchase and install from when HECO can schedule the work.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: So, that...that part is relatively easy. And then within that time frame, we could work on what that operating agreement with HECO is.

COUNCILMEMBER U'U-HODGINS: Okay. Because we would only be purchasing, as you described, that little nodule, because we already have the lights. We bought \$3 million worth of lights, and we've been storing them for how many years?

MR. MOLINA: Since 2018, I believe, or 2019.

COUNCILMEMBER U'U-HODGINS: We've been storing \$3 million of lights since 2018.

MR. MOLINA: And not getting energy savings along with it.

COUNCILMEMBER U'U-HODGINS: And not getting...how many...okay. We won't get into how much we probably lost out in that. When do we...with the existing bill, if this does not pass, when was...when must we be in compliance?

MR. MOLINA: So, October of next year, 2026, was...oh, excuse me, July --

COUNCILMEMBER U'U-HODGINS: July.

MR. MOLINA: -- is when the current ordinance sets the deadline.

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COUNCILMEMBER U'U-HODGINS: July 1, '26, must be in compliance. Okay. (pause) Okay then. Thank you, Chair.

CHAIR COOK: Thank you all. So, Chair's questions. As far as like the shielding, Director, what I understand is that you don't need shielding because it's all aiming down. Is that correct for these? The particular lights that you have in inventory that you would like to install, are they...do they need shielding, and are they more energy efficient, and if so, by how much?

MR. MOLINA: Yeah. Thank you, Chair. So, shielding refers to a light's ability to shine above the horizontal plane. And so, the lights we did purchase achieve that effect by being full cutoff, so they don't allow light to emit up, except when it's reflecting off other objects. And then, yes, we currently operate HPS lights, which are not efficient. LEDs are much more efficiency [sic] is which we...what we intend to replace the streetlights with, LEDs, so that'll achieve energy savings and cost savings. Thank you.

CHAIR COOK: So, could you give a...an estimate of the cost of what it currently costs for the County streetlights as with the current lights, and what the cost...electrical cost would be after we replace them with the existing lights?

MR. MOLINA: From what I recall in the initial proposals, it was approximately a half a million dollars of savings, energy savings, by converting, was the...

CHAIR COOK: That per year?

MR. MOLINA: Correct.

CHAIR COOK: Okay. Thank you. So, could you describe the time sensitivity of this? Chair would like to...and for the Members, the Chair would like to pass this out of Committee today. We have first reading, second reading. I'd like the Director to clarify why I'm requesting that...because of the time sensitivity. I would also ask our resource people, for the questions that were asked that you didn't have time or appropriate preparation for, if you could please submit any and all information that you would like to submit to the Committee. That Staff, you'd be able to receive; is that correct? How could I...and what's the proper instructions for somebody to submit written testimony?

MR. HURDLE: Yeah. They can send that to the Committee email, which is WAI...wai.committee@mauicounty.us.

CHAIR COOK: Thank you. The Chair's intention is, I would like us to receive any and all of the information to make as best decision as possible. We'll be able to review that information, be able to ask the Department, and then in first reading, this will be able to be heard again. I'd like to get it out of Committee because I think we've had a thorough discussion, and I think that the needs of the Department, what they're requesting, is time sensitive. I also would like to point out that the existing lights aren't meeting anybody's requirements, that are costing us approximately a half million dollars a year in electricity, which is also just not environmentally that akamai. So, do...does

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any of the resource people have any closing comments? Seeing none. Sir, coming down to the podium.

MR. PENNIMAN: Thank you, Chair. First, to the issue of shielding. The shielding that is necessary for these birds is not just the full cutoff. The birds fly by on the ocean level, so the shielding needs to provide not only upward, but toward the ocean shielding. One small point. I think that the Committee, if you're voting now to move this on to the full Council, needs to understand that this morning, you've had expert testimony from those that are in favor of moving this legislation along, and getting on with what they perceive as needs to be done. You have not heard from experts...and I am a seabird biologist. I am not a physicist. I do not make any claim to that. I depend on research that's done by others who do that, and we have others who would perhaps present the Committee with a different point of view than the expert witnesses that have been lined up and arranged. With the short timing that we have had, we've had no capacity to do that. So, thank you for that. Mahalo.

CHAIR COOK: Thank you, sir. The Chair recognizes that, and that's why I'm requesting and asking for that testimony, that information, to be submitted that will be able to be digested and taken into consideration. Chair wants all sides to basically be heard. This issue...basically, Public Works would like to move forward with the light fixtures they have. If the information is given in first...first reading, a determination could be made. So...okay. Thank you.

MR. PENNIMAN: Thank you.

CHAIR COOK: So...so, seeing no further discussion...any further discussion? Chair would like to move on to decision-making. The Chair would like to entertain a motion to recommend passage of Bill 109 on first reading.

VICE-CHAIR SUGIMURA: So move.

COUNCILMEMBER LEE: Second.

COUNCILMEMBER KAMA: Second.

CHAIR COOK: Okay. So, moved by Member Sugimura, seconded by Chair Lee, to recommend passage of Bill 109 on first reading. Members, any discussion before I move on to my amended summary form?

VICE-CHAIR SUGIMURA: Oh, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR COOK: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Earlier, you stated that you were going to invite Director Molina to explain the time sensitivity. I don't think he did.

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CHAIR COOK: Okay. If you could clarify the time sensitivity again, Director?

MR. MOLINA: Thank you, Chair. Member U'u-Hodgins touched on it, as far as that July 2026 deadline. Given the coordination needed with HECO to implement that, that is why we need...or we are requesting this amendment so that we can ensure that we are not in conflict with that deadline with compliance under the current ordinance. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR COOK: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll have further discussion after your amendment summary form and everything.

CHAIR COOK: Okay. Members, your Chair would like to entertain a...okay. Wait a minute. I move to amend the summary form.

COUNCILMEMBER PALTIN: I move to substitute the bill with the ASF.

COUNCILMEMBER LEE: Second.

COUNCILMEMBER KAMA: Second.

CHAIR COOK: Moved by Member Paltin, seconded by --

VICE-CHAIR SUGIMURA: Chair Lee.

CHAIR COOK: -- Chair Lee. (pause)

COUNCILMEMBER PALTIN: Discussion?

CHAIR COOK: Discussion. Got lost.

COUNCILMEMBER PALTIN: For my discussion, I just wanted to clarify my understanding of the string lights. Sorry, I see them everywhere, I live --

CHAIR COOK: Okay.

COUNCILMEMBER PALTIN: -- on the West Side--is that if they're for holiday lights, or Obon festivals, and they're 2.8 or 50 lumens or less, you can have string lights. Otherwise, they got to be shielded. And by shielded, like covered with like paper lantern, or facing down and away from the ocean; is that correct, Mr. Molina?

MR. MOLINA: That's correct, Member Paltin.

COUNCILMEMBER PALTIN: Okay. Thank you. That concludes my discussion.

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CHAIR COOK: Thank you. And Chair, obviously, got a little lost for a minute. So, motion made by Councilmember --

VICE-CHAIR SUGIMURA: Paltin.

CHAIR COOK: -- Tamara Paltin, and seconded by Chair Lee, to substitute Bill 109 with the proposed CD1 version. Members, this ASF amends the bill's title and purpose statement for clarity and consistency. It incorporates nonsubstantive and technical revisions for clarity, consistency, and style. Is there any further discussion? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'll vote for this motion to amend, but I'm planning to vote for...vote against the main motion as amended. I think if we're concerned about July 2026, I understand the...the time that it takes to coordinate efforts with HECO. But also, I don't know, this is how we end up...you know, continue to be entangled in lawsuits when there isn't enough collaboration in coming up with a solution that is satisfactory with everybody.

CHAIR COOK: Okay. Okay. Thank you. Noted. Seeing no further discussion, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR COOK: This for the substitution.

MR. HURDLE: Chair, you have nine "ayes," zero "noes." The motion carries. You're back to the main motion as amended.

**VOTE:           AYES:   Chair Cook, Vice-Chair Sugimura, and Councilmembers Johnson, Kama, Lee, Paltin, Rawlins-Fernandez, Sinenci, and U'u-Hodgins.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   None.**

**MOTION CARRIED.**

**ACTION:   Substitute Bill 109 (2025)**

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CHAIR COOK: Thank you, Members. Now we're back to the main motion as amended. Any further discussion? Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I, too, was hoping that we could get more collaboration. Some of my concerns are the takings, and I would hope that the Department, should it pass or not, make sure that we don't have any takings, should this ordinance pass through or not. We've already heard from Mr. Henkin that O'ahu has pretty much, you know, decimated their bird populations because of all of their...their light pollution. Another thing was, although safety, traffic safety was one of the issues on why, you know, I would think...I would hope that the Department would concentrate on those stretches of highway where the speed limit is increased, you know, where...where this...the...the downward streetlights could happen first. But as far as, you know, rural roads, you know, we...we can still use...there's other safety mitigations that we can do as well, including signage, including...whether it be speed bumps, or...or light reflectors on the road. So, I'm hope...I'm hoping that the Department would consider some of these other safety measures in...in specific areas. Thank you, Chair.

CHAIR COOK: Thank you, Member. Member Paltin, did you have your hand up?

COUNCILMEMBER PALTIN: Thank you, Chair. I'll be supporting at this time due to what Mr. Molina said about if you have the color thing, then it doesn't need to be quite as bright, as was Mr. Bilberry saying that it's a 2.5 percent difference. From where I sit, the real problem is the shoreline lights from the resort areas. I'm going to be calling in the ones...or emailing in the ones I see because I see that far more as a problem. If we're talking about percentages...and I do get complaints from people about the lighting in...in my area quite often...that one lady that got relocated out here saying it was so dark, but I mean, it seems normal to me. And I hope we don't go putting streetlights on all our rural areas, but our high-traffic areas, yeah. So, I'll be supporting it. I think if we really want to collaborate, it would be great if Earthjustice or Department of Public Works send some information to the resort areas regarding those string lights, and those lights shining out onto the ocean, that would be great because I think that's a higher percentage to me. There wasn't any new study in the last five years that I've heard of that cites the blue light, as Mr. Lall was saying, something about yellow or orange lights. So, I think that if we get the color content, then we don't have to have as bright lights because I just was looking at this SOS, and it says when there's no moon, it's dark, and then so the artificial lights really affect it. So, I think having less light is important. Not...I haven't seen any studies in the last five years specifically talking about blue light, or yellow light, or red light. So, less light is...is what I'm hearing. Thank you.

CHAIR COOK: Thank you, Member. So, ready to vote? No. You had comment?

VICE-CHAIR SUGIMURA: Oh, so I have a question. So, I just want to make sure our...that our Department will be able to comply based upon what he said, coordination with HECO, and...because this ordinance shall take effect upon approval. So, if we approve next...if it does pass, do we need to adjust that compliance date?

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CHAIR COOK: Director?

MR. MOLINA: No. With the amendment, we'll be able to comply.

VICE-CHAIR SUGIMURA: You will? Okay.

MR. MOLINA: Thank you.

VICE-CHAIR SUGIMURA: Thank you.

CHAIR COOK: So, Members, do we require...okay. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. This is...honestly, if I can speak from my heart, this was tough for me to...to consider if I would vote to support it. I think collaboration is missing in this bill. And boy, I don't want to rehash the old...the old bill. It was pretty contentious. But, you know, I like...I like when we collaborate with the departments. I could see that there was work done on this bill. I...I think we...if we are doing this bill for the different points of view, such as safety, such as environmental, such as, you know, infrastructure, there should be common ground we all have. And I didn't...I'm not sure. I can...I can see there was an opportunity to be more collaborative, and I think we missed that opportunity. But at the end of the day, if there are knobs to turn the...turn it down, turn the lights down during fledgling season, and I know, speaking with Director Molina, that's...that's the intention, I think I still have reservations, but I might lean to support it. And I know voting yes with reservations is kind of...it's a yes, okay? I'm saying it the way I feel. Because I have been on the fence. I was going to vote no when I first read this bill, and then in coming in, hearing that there was work done to collaborate, I just don't think it was enough. But I...I...in my explanation, I'm still hemming and hawing. And that's part of the job, right? Like part of it is, there's no simple bill, there's...nothing is black and white. The amount of work that I personally have done for the 'ua'us and the 'ua'u kanis, you know, that was a lot of work. Hiking seven miles a day up a mountain, planting...you know, doing the...the work to protect these birds. And now, when I take the ferry over between Maui and Lāna'i, I see those...see those 'ua'us, I see the 'ua'u kanis on...on the water. And that...that's a noticeable difference for me, so I am biased, okay? I'm just saying it, all right? But man, you guys, we got to help those birds, you know? . . .*(laughing)*. . . I don't want all that work that all the outreach folks, all the people with the boots on the ground, you know, the guys who came and spoke, they...they're out there in the streets, and help...trying to help those birds up on the mountains. I...I know I'm not giving a very clear answer here because this is a tough one for me. So, right now, I might vote yes with reservations.

CHAIR COOK: Okay. Thank you. So, Member Rawlins-Fernandez, should I make a roll call vote?

VICE-CHAIR SUGIMURA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, please.

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CHAIR COOK: Okay. Member Kama.

COUNCILMEMBER KAMA: Yes.

CHAIR COOK: Member Sugimura.

VICE-CHAIR SUGIMURA: Yes.

CHAIR COOK: Member Paltin.

COUNCILMEMBER PALTIN: Aye.

CHAIR COOK: Member Johnson.

COUNCILMEMBER JOHNSON: Yes.

CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR COOK: Chair Lee.

COUNCILMEMBER LEE: Aye.

CHAIR COOK: Member U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Aye.

CHAIR COOK: And Chair is aye.

COUNCILMEMBER U'U-HODGINS: And Member Sinenci.

CHAIR COOK: I apologize, since you're not in my line of sight, Shane, I apologize. Member Sinenci, your vote?

COUNCILMEMBER SINENCI: Thank you, Chair. I'll support with reservations, and then...just so that I have reserved a second reading for my final. Thank you.

CHAIR COOK: Understood.

MR. HURDLE: Thank you, Chair. That's eight "ayes" and one "no." The motion passes.

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**VOTE:**       **AYES:**   **Chair Cook, Vice-Chair Sugimura, and Councilmembers Johnson, Kama, Lee, Paltin, Sinenci, and U‘u-Hodgins.**

**NOES:**   **Councilmember Rawlins-Fernandez.**

**ABSTAIN:**   **None.**

**ABSENT:**    **None.**

**EXC.:**    **None.**

**MOTION CARRIED.**

**ACTION:**    **Recommending FIRST READING of Bill 109, CD1 (2025), and FILING by committee report.**

CHAIR COOK:   Okay. Thank you, Members. This concludes today’s Water and Infrastructure Committee meeting. Thank you, everyone, for being here for a great meeting. The time is now 12:02. I want to thank all of our resource people who are in the Chambers, and who also are online, for coming and helping give information, and some depth and perspective to this. I encourage people are welcome to please submit additional testimony and additional information. We do want to hear from it. This meeting, at 12:03, is now adjourned. . . .*(gavel)*. . .

**ADJOURN: 12:03 p.m.**

wai:min:250902:ds

Transcribed by: Daniel Schoenbeck

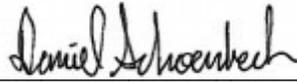
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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 58 of 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 26th day of September 2025, in Wailuku, Hawai'i



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Daniel Schoenbeck