

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

July 23, 2021

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD ONLINE ONLY VIA BLUEJEANS, ON FRIDAY, JULY 23, 2021, BEGINNING AT 9:02 A.M., WITH CHAIR ALICE L. LEE PRESIDING.

COUNCIL CHAIR ALICE L. LEE: Will the Maui County Council regular County meeting, Council meeting of July 23, please come to order. The time is approximately 9:02 a.m.

Deputy Clerk, roll call.

DEPUTY COUNTY CLERK: Chair, proceeding with roll call.

CHAIR LEE: Oh, excuse me, one second. One second. One second. Everybody, did you check the chat box for the morning greeting?

Okay. James, please proceed.

DEPUTY COUNTY CLERK JAMES G.M. KRUEGER: Yes, Chair.

ROLL CALL

PRESENT: COUNCILMEMBERS KELLY T. KING, MICHAEL J. MOLINA, TAMARA A.M. PALTIN, SHANE M. SINENCI, YUKI LEI K. SUGIMURA, VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ, AND CHAIR ALICE L. LEE.

EXCUSED: COUNCILMEMBERS GABRIEL JOHNSON AND NATALIE A. KAMA.

DEPUTY COUNTY CLERK: Chair, there are seven Members present, two Members excused. A quorum is present to conduct the business of the Council.

For the record, I am Deputy County Clerk James Krueger. Also present from the Office of the County Clerk are County Clerk Kathy Kaohu; and Legislative Division staff Joyce Murashige, Lauren Saldana, and Dell Yoshida.

Joining the meeting from the Department of the Corporation Counsel is Corporation Counsel Moana Lutey.

CHAIR LEE: Alright. For the public's information, you're probably wondering why we're struggling with the French language. And the reason for that is we're trying to help our colleague, who's going to France in a couple of months, get use, accustomed to the language so she'll be, like, conversant when she goes there, in French. Okay. Very good.

So, at this time, Member Johnson will be joining us in, later on. But in the meantime, I will be providing opening remarks in his place. So, could we bow our heads?

OPENING REMARKS

The opening remarks were offered by Council Chair Alice Lee.

CHAIR LEE: Now, Members, will you please join me in reciting the Pledge of Allegiance to the flag?

PLEDGE OF ALLEGIANCE

The Members of the Council rose and recited the Pledge of Allegiance.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with the presentation of testimony on ceremonial resolutions. The first person we have signed up to testify is Scott Crawford, of HFUU-Hana Chapter.

CHAIR LEE: Alright. Good morning, Scott.

PRESENTATION OF WRITTEN TESTIMONY

MR. SCOTT CRAWFORD, HAWAII FARMERS UNION UNITED-HANA CHAPTER:

Good morning, Madam Chair and Councilmembers. I just wanted to testify in support of the resolution to declare the first week of August as National Farmers Market Week, or as Farmers Market Week. And, like, who doesn't love farmer's markets, right? So, I don't have a lot to say. I just want to thank you for taking up the resolution to raise awareness of the value of farmer's market for supporting food security in our local economy and particularly for Councilmember Sinenci's and his staff for putting this resolution together. So, mahalo.

CHAIR LEE: Thank you. Are there any questions for the testifier? If not, thank you, Scott.

MR. CRAWFORD: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, there is no one else signed up for ceremonial resolutions.

CHAIR LEE: Okay. Members, if you don't mind, if there are no objections, I'd like to take the second one first, recognizing Seaman Theodore Kirkbride. Mainly because there's somebody standing by and he has to leave shortly. Okay. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, just to confirm, is there any objections to closing testimony on the ceremonial resolutions?

CHAIR LEE: Any objections to closing testimony?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with ceremonial resolutions.

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 21-109

RECOGNIZING SEAMAN THEODORE
KIRKBRIDE OF STATION MAUI FOR BEING
HONORED AS THE UNITED STATES COAST
GUARD'S ENLISTED PERSON OF THE YEAR
2021

COUNCILMEMBER SUGIMURA: Thank you. Oh.

COUNCILMEMBER KING: Chair, you're muted.

CHAIR LEE: Oh, I'm sorry. No, I'm not.

COUNCILMEMBER SUGIMURA: Oh, okay. Thank you, Madam Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ENTITLED "RECOGNIZING SEAMAN THEODORE
KIRKBRIDGE [SIC] OF STATION MAUI FOR BEING HONORED
AS THE UNITED STATES COAST GUARD ENLISTED
PERSON OF THE YEAR 2021".

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA: I need a second.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Seconded by Vice-Chair Rawlins-Fernandez.

Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. May I please request the Clerk read the resolution in its entirety?

CHAIR LEE: Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR LEE: Member Sugimura. Any discussion?

COUNCILMEMBER SUGIMURA: Thank you, Chair. And thank you, Deputy Clerk, for always reading our resolutions and doing such a great job.

Do we have Seaman Kirkbride on, on the call? I know that, I know that--

CHAIR LEE: Why don't we take the, why don't we take the vote and then call up any guests.

COUNCILMEMBER SUGIMURA: Oh, okay. Okay. Thank you. I know that Lois is with him, in behalf of Tasha Kama. So, I'm pleased to present this ceremonial resolution honoring Seaman Theodore Kirkbride's accomplishments in behalf of Councilmember Tasha Kama.

Seaman Theodore Kirkbride's outstanding accomplishments for the United States Coast Guard are commended and greatly appreciated by both the Council and the community. Seaman Kirkbride reminds us of the importance of kindness, selflessness, hard work, and going beyond the call.

I ask for the Members full support for this resolution. And I just wanted to also add that, how important this ceremonial resolution is, is that if it was not for COVID, Mr. Kirkbride would probably travel all the way to Washington D.C. to receive this in behalf of the whole nation. And how lucky we are to have somebody of that caliber who cares a lot for his job, who cares a lot for the community, and for many others from Littles from Big Brothers, Big Sisters, and he also reaches out to the kupunas. What a blessing we are, we have to have him in our community. May I ask, Members, for your full support.

Oh, there he is.

CHAIR LEE: Thank you. And then, are there any more comments or questions? If not, all those in favor of the--

COUNCILMEMBER KING: Is there a motion on the floor?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR LEE: Yes, made by Member Sugimura, seconded by mem--

COUNCILMEMBER SUGIMURA: Keani.

CHAIR LEE: Council Vice-Chair Rawlins-Fernandez.

Yes, Ms. King?

COUNCILMEMBER KING: Yes, I just, I don't, I don't know you, Seaman Theodore Kirkbride. Thank you for being here. But I just want to also give you my deepest gratitude, I've done some work with the Coast Guard in the past, and for representing your Country, your State, and our dis, our County and our district of South Maui so well. I really appreciate everything that you've done. And I wish you could be here in person. I wish you could be in D.C. in person and receive the honors. But just want to express my, my deep appreciation to you. Thank you.

CHAIR LEE: Thank you, Member King. Anyone else? Hello?

Okay. No other questions or comments. All those in favor of the motion, which is to adopt the resolution, raise your hand and say "aye", please.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: All "ayes", no "noes", two "excused"; motion carries.

What does that cup say, Member Paltin?

COUNCILMEMBER PALTIN: Oh, "United States Coast Guard. Honor, Respect, Devotion to Duty".

CHAIR LEE: Wow. Very good. Very good.

Now, at this time, I'd like to ask our honoree to say a few words, please. Mr. Kirkbride. Can, can you hear us?

SEAMAN THEODORE KIRKBRIDE: Oh, thank you. Okay.

COUNCILMEMBER SUGIMURA: Thanks, Lois.

SEAMAN KIRKBRIDE: Thank you. Thank you. I really appreciate it. . . .

CHAIR LEE: You know, Mr.--

SEAMAN KIRKBRIDE: . . . what Maui County is all about.

CHAIR LEE: Mr. Kirkbride. Mr. Kirkbride. Your voice is breaking up, so could you mute your video? Okay. Try again and talk without the video. Sometimes it works okay after you mute.

SEAMAN KIRKBRIDE: Oh, yeah.

CHAIR LEE: Could you speak?

SEAMAN KIRKBRIDE: Sorry. We got some bad connection here. But I do want to say thank you and I appreciate it. Appreciate the opportunity, certainly.

CHAIR LEE: Thank you. Thank you very much for all you do. Thank you.

Ms. Sugimura, is there anyone else here to speak on this resolution?

COUNCILMEMBER SUGIMURA: No. Tasha Kama, Mr. Kirk, Seaman Kirkbride, thank you very much on behalf of Tasha Kama. This ceremonial resolution is presented to you from her. And we want to just thank you for all your service and what you do, even for big, boys and, Big Brothers, Big Sisters. You have a Little, we read in the resolution. So, thank you for everything you do. Thank you.

CHAIR LEE: Good luck to you. Thank you very much. Aloha. Thank you.

Mr. Clerk, may we have the next resolution, please?

DEPUTY COUNTY CLERK: Yes, Chair. For the record, that is RESOLUTION 21-109.

RESOLUTION
NO. 21-110

RECOGNIZING AUGUST 1-7, 2021, AS
FARMERS MARKET WEEK IN MAUI COUNTY

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Madam Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ENTITLED "RECOGNIZING AUGUST 1 TO AUGUST 7, 2021
AS FARMERS MARKET WEEK IN MAUI COUNTY".

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Okay. Moved by Member Sinenci, seconded by Member Sugimura, to adopt the resolution regarding recognizing Farmers Market Week in Maui County.

Discussion, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. May I please request the Clerk to read the resolution in its entirety?

CHAIR LEE: Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR LEE: Mr. Clerk, I seem to have had a bad connection. Can you repeat the resolution again? Nah, just kidding. Great job. Great job.

Okay. Mr. Sinenci, discussion?

COUNCILMEMBER SINENCI: Mahalo, Chair. And thank you, Mr. Deputy Clerk. It is with great gratitude to all of our farmers markets and our farmers that we take this opportunity to acknowledge their efforts and their hard work. We are grateful that our farmers have stepped up, especially during this last two years, during this pandemic crisis. Farmers markets have been the venue to feeding our communities, diversifying our economy, and providing local, nutritious food through our farmers market.

As the Chair of the Agriculture and Public Trust Committee and alongside this Council, we support our farmers and all farmers markets as they continue this great effort. Mahalo, mahalo nui loa. And I ask the Members full support of this resolution. Thank you.

CHAIR LEE: Thank you. Any more comments?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you very much, Mr. Sinenci, for pulling this together, this resolution. When I read it, I thought, wow, I didn't realize there were that many farmers market, markets. I do want to say that, by being a constant or shopper, and also, I set up a talk-story booth at the Upcountry Farmers Market, they have played a viable roll in terms of food for our community, but also for some, I guess, you know, cashflow for our farmers big and small. And I really appreciate all that they have done, and have stuck to, and converting to the CDC requirements for COVID. I, I'm very impressed with what I've seen Neil, at the Upcountry Farmers Market, do. And I'm sure that all the other farmers market have had to pivot and change to, for a safe community.

So, thank you very much, Mr. Sinenci for doing this. I'm going to ask that I, if I could deliver the certified copy of the resolution to my Upcountry farmers, so, farmer market. Thank you. Thank you.

CHAIR LEE: Okay. Anyone else?

Member King.

COUNCILMEMBER KING: So, I think Member Sugimura said it all. But I just wanted to add my appreciation for this resolution, as a, as a participant in farmers market, and as a customer of farmer markets, and as someone who recognizes the importance of local food. And if it's okay, I would also like to deliver the Kihei farmers market, the resolution to them, if that's alright with you.

COUNCILMEMBER SINENCI: Yes.

COUNCILMEMBER KING: Thank you.

COUNCILMEMBER SINENCI: And for, we can have the other Members, as well, deliver farmers markets in their districts. Great idea.

COUNCILMEMBER KING: Great.

CHAIR LEE: Good idea, yes.

Any other comments? If not, all those in favor of the motion to adopt the resolution, please say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. All "ayes", zero "noes", two "excused"; motion carries.

Alright. You're welcome.

Okay, at this time, we're following the calendar, the agenda. It's time to set the Consent Calendar. Are there any requests to change the Consent Calendar? Members can add or remove items to the Consent Calendar. Once done, I'll be asking you if there are any objections.

Yes, Member Sugimura, then Member Paltin.

COUNCILMEMBER SUGIMURA: Thank you. If Chair Sinenci, for the APT Committee, doesn't mind, could I ask for 21-312, which is Director of Water Supply report, groundwater report for the month of June, ending June 2021, because of the concerns of our drought condition? So, I hope you don't mind, Mr. Sinenci.

CHAIR LEE: We have a, someone raising her hand.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, if any of the Members need to remove anything from the Consent Calendar, you would just request that it be removed and no further discussion. So, you can explain the, you know, you can discuss after testimony. But the way that we set the Consent Calendar is you would just request that it be removed and then we would remove it. Mahalo, Chair.

CHAIR LEE: Ms. Sugimura, what number was that again? CC?

COUNCILMEMBER SUGIMURA: 21-312.

CHAIR LEE: 21-312. Okay, remove.

COUNCILMEMBER SUGIMURA: Oh and 21, I'm sorry, 21-312 and 21-313.

CHAIR LEE: 313.

COUNCILMEMBER SUGIMURA: Both of them.

CHAIR LEE: Okay. Remove. Okay. Member--

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Is that all? That's it?

Okay, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I would like to request to remove the following county communications from the Consent Calendar: 21-314, 21-328, 21-329, and 21-330, please. Thank you.

CHAIR LEE: Alright. Any other requests? That's to remove. You want to add any? Anybody want to add anything?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I would like to add to the Consent Calendar CC 21-355, to pass.

CHAIR LEE: To add? Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. With the action, yes. 21-355, to add to the Consent Calendar for passage.

CHAIR LEE: For passage. Okay.

Mr. Clerk, you, you're noting all of these, right?

DEPUTY COUNTY CLERK: Yes, Chair. I just wanted to reconfirm the ones that Councilmember Paltin removed. I have down 314, 328, 329, and 330.

CHAIR LEE: Yes, that's what I have. Yup.

DEPUTY COUNTY CLERK: Thank you.

CHAIR LEE: Okay. Any other removals or additions, Members? Alright, if there are no objections, any objections, we will proceed with testimony. Any objections to setting the calendar as is and to proceeding with testimony?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections, alright. So, ordered.

Mr. Clerk, please proceed with testimony.

DEPUTY COUNTY CLERK: Chair, proceeding with presentation of testimony on agenda items. Members of the public may testify by connecting to the Council's online meeting by phone or video conference through the information posted on today's agenda.

Individuals connected by phone are currently on mute and will be unmuted when it is their time to testify. Individuals connected by videoconference should keep both their video and microphones off and should turn them on only when it is their time to testify.

Testimony is limited to the items listed on the agenda. Individuals may testify for three minutes per item. When testifying, please state your name and the name of any organization you represent, as well as the items on which you will be testifying. Please also identify to the Council if you are a paid lobbyist.

After your testimony has concluded, please disconnect from BlueJeans. Once the testimony period is closed, only the Councilmembers, staff, and designated resource persons will be connected to the meeting. All other individuals will be disconnected. The remainder of the meeting can be viewed on Akaku Channel 53 or on mauicounty.legistar.com. Individuals may also be disconnected from the meeting at any time for breaking decorum.

Chair, the first person we have signed up to testify is Donelle Williams, M.D. To be followed by Anne Rillero.

CHAIR LEE: Alright. Good morning.

PRESENTATION OF WRITTEN TESTIMONY

DR. DONELLE WILLIAMS (testifying on County Communication No. 21-362):

Hi. Good morning. Can you, can you hear me okay?

CHAIR LEE: Yes, Anne [*sic*] we can see you.

DR. WILLIAMS: Thank you. Great. I'm testifying on behalf, I'm testifying regarding item 21-362. It is Mr. Mike Molina's plans for Baby Beach. I understand there's a, County wishes to acquire 30 acres surrounding Baby Beach, including the current parking lot. I'm, I am in favor of this. I feel that the County Council will provide wonderful stewardship of this incredible area that has been enjoyed by residents for many years.

I, during COVID, when that parking lot was closed, I noticed, and I'm using it regularly before and during, I noticed many differences that I think are very important when you're considering what to do with the parking lot. There was less smell of feces and urine, as you walk from the road to the beach. People were not bathing, coming out of the wooded area and bathing in the mornings. And there was no camping and there was distinctly less litter and signs that the people, you know, people who were maybe staying there overnight, toilet paper, tissue that kind of thing.

So, my, my request would be to keep the parking lot closed at night, install a gate, and maybe consider getting some port-a-potties. Because there are none in that area. The closest bathrooms are at Baldwin Beach. Also, consider hiring environmental consultants regarding the erosion and the effect of the cars, again in the parking lot, because there's going to be a lot of cars coming in and out and a lot of foot traffic. It might be better just to keep the parking lot closed and have a footpath, or just keep it open during the daytime.

This does segway, and I'll be brief about the increased number of cars in Spreckelsville. I mean, there's been a huge number of on-street parking, which I believe is going to be there regardless of whether that parking lot is opened and closed. There's only a limited number. There's ton of people who are coming to this area. There's going to be and always an area of congestion and parking, and no doubt bad behavior on the public's side with parking in that residential area. But there is a sort of informal parking lot that people have been using that's pretty close to Baby Beach and maybe the Council could look into developing that a bit more, or possibly even using space around the Kaunoa Center to relieve the residential parking. That was basically all I needed to say. And thank you very much for listening.

CHAIR LEE: Thank you. Members, do you have any questions?

Member Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Good morning, Anne *[sic]* and thank you very much for your support. For today's purposes, this matter is just going to be referred to Committee. And at a future date we'll actually hold a hearing in my Committee. And we'd be happy to send you an agenda to you, and again, receive your input as it relates to Baby Beach. But thank you again for your support.

DR. WILLIAMS: Thank you very much.

COUNCILMEMBER MOLINA: Thank you. Thank you, Madam Chair.

CHAIR LEE: Thank you. Yes, Member Paltin.

COUNCILMEMBER PALTIN: Oh, I just wanted to clarify the name on her thing was Donelle Williams. I thought Anne was next. She never stated her name.

CHAIR LEE: Oh, I thought Mr. Molina knew her personally and maybe nickname is Anne. Is that . . .

DR. WILLIAMS: No, no, no. My name was, you did mention my name. You did mention my name.

CHAIR LEE: Okay.

DR. WILLIAMS: And Anne Rillero is the next person to testify.

CHAIR LEE: Oh, thank you.

DR. WILLIAMS: Yea. Okay.

COUNCILMEMBER MOLINA: No, sorry.

DR. WILLIAMS: No, we're not friends, Mike. Not yet.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is Anne Rillero. To be followed by Daniel Boren.

MS. ANNE RILLERO (testifying on County Communication No. 21-362):

Hi. Good morning, everyone. Good morning, Council Chair, and Vice-Chair, and Councilmembers. Yes, I am the real Anne Rillero. And I'm testifying actually on behalf of myself and my husband, Arnie Koss, in support of item 21-362 which Donelle just spoke about. And, you know, we fully support this idea of the County acquiring the land surrounding Baby Beach, so that it can be better protected and maintained. It's been in private hands and it really needs more attention.

You know, we're Kula residents. We, Baby Beach is our closest beach and it's also the best family beach on the North Shore. And so, when our kids were little, when our grandson was little, that was the place we went to. And, you know, over the years, I've watched it, you know, I've watched the parking lot and I wonder about the erosion rates that are happening there. And I think it just needs some more attention.

During the pandemic, when the County pools were closed, my husband and I would go to Baby Beach and swim laps. And we'd get there at 7 a.m. And oftentimes, we, and this is before the parking lot was barricaded, oftentimes we'd get there and there would be all these camper vans parked there. And then, we'd see people drinking their coffee and then running into the bushes. And it didn't inspire confidence. You know, there's no bathroom there. And the parking lot, as Donelle mentioned, you could just smell urine and other stuff as you walk through it. So, you know, being that that's right on the ocean, it's really a bad thing. The nearest bathroom is down at Baldwin Beach, that's a, like a good half-mile walk. So, the, the dunes and the, the bushes became like the de facto bathroom for people.

So, we, we were happy when we saw the parking lot barricaded and shut down. And the campers stopped showing up. And I support what Donelle said about having a gate there. I was kind of thinking that who could open and close that gate. And I know there's someone from the County who does that at Baldwin Beach, so they could probably do the same thing at Baby Beach; is open it in the morning and close it at night.

We also mentioned the need for . . . bathrooms. I think the environmental consultant is a really good idea, someone to monitor the soil erosion. Because if we lose that parking area, I think we'll lose that whole protected reef area of Baby Beach. So, especially in the time of climate change, we want to really do everything we can to protect that parking lot.

And then, the homeowners nearby, I wanted to say mahalo to the homeowners who left space off the road where people could park street side. And I believe that's a legal thing that you're supposed to do that. But there are homeowners who put up big boulders and landscaping where you can't park there. And so, if everyone in that neighborhood did that, the community would not be able to use that Beach. So, I think it's really important to consider that. And to also look at maybe additional parking. I had the . . . oh, sorry. Okay. Anyway, thank you very much. Thank you very much, Councilmember Molina, for introducing this.

CHAIR LEE: Ms. Rillero, do you have, you want to finish your sentence?

MS. RILLERO: Oh, sure. I just, I was thinking that maybe providing parking on the weekends when it's really busy there at Kaunoa Senior Center and having some kind of shuttle back and forth. And there is a bathroom at Kaunoa Senior Center, so that might be a way to mitigate some of the parking congestion issues, keep this open to the public, and also provide restroom facilities.

CHAIR LEE: Thank you. Members, questions?

MS. RILLERO: Thank you.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. And good morning to the real Anne Rillero. And same invitation I made to Donelle, once we get the Committee meeting rolling, we'd love to send one to you and then have you join us again for the Committee meeting. We certainly welcome your input on this matter. Thank you.

MS. RILLERO: Great. I'd be glad to do that. Thank you.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

CHAIR LEE: Members, any more questions, comments? If not, thank you, Ms. Rillero.

MS. RILLERO: Mahalo. Have a good day, everyone.

CHAIR LEE: Thank you.

DEPUTY COUNTY CLERK: The next person we have signed up to testify is Daniel Boren. To be followed by Shelby Serra.

MR. DANIEL BOREN [testifying on Bill No. 62 (2021), Draft 1]:

Hi, Councilmembers. I'm testifying on Bill No. 62. I've seen all of you guys at the last number of meetings about this. But just wanted to briefly state that, that I'm in support of the zipline bill as written. I think you guys have taken quite a bit of time on writing this and crafting it in a way that accomplishes what the goals are for protecting the community, will also facilitating good business to continue to operate. So, I know there's an amendment out there. I haven't reviewed the amendment real closely, but from my basic understanding of the amendment it looks good as well. But just wanted to say as a zipline operator, I think that you guys have done a really good job writing the bill. So, so thank you for that. That's all I got.

CHAIR LEE: Thank you, Mr. Boren. Questions, Members?

Member Sugimura.

COUNCILMEMBER SUGIMURA: I want to take this opportunity to thank him for helping us through this legislation. Thank you, Mr. Boren.

MR. BOREN: You're welcome. Thank you.

CHAIR LEE: Any more comments or questions? If not, thanks again for your testimony.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is Shelby Serra. To be followed by Blossom Feiteira.

MS. SHELBY SERRA, PACIFIC WHALE FOUNDATION (testifying on Committee Report Nos. 21-48 and 21-49):

Good morning. Can you guys hear me?

CHAIR LEE: Yes, we can.

MS SERRA: Okay. Good, my headphones are working today. Good morning, Council. Thank you for allowing us the opportunity to testify. My name is Shelby Serra, I'm testifying on behalf of Pacific Whale Foundation. We'd like to reiterate our support for 21-48, the adoption by Council of the resolution requesting the State of Hawaii's Congressional Delegation's support of the vitally important Break Free from Plastic

Pollution Act. We thank the CARE Committee for bringing this to the full Council. We look forward to our members of Congress putting the State of Hawaii at the forefront of environmental legislation. We also continue to support any restrictions on the use of products containing polystyrene.

Today, my testimony will be regarding restrictions on disposable bodyboards, CR 21-49. PWF supports these proposed restrictions in the bill. Our own research is currently underway, examining the composition of polystyrene found on our beaches, and shows potential evidence that some of these pieces found are from foam boards. We believe greater restrictions are appropriate. The results of our study will be published in 2022.

Our request today is to seek tightening of the proposed bill by recommending minor revisions. Section 20.18.010, Purpose, item B. states, "the sale and use of plastic bags, and the sale and renting of disposable bodyboards must be regulated". To tighten this provision, we might suggest language "the sale and the use of plastic bags and disposable bodyboards must be regulated". In addition, 20.18.040, Subsection C states, "Businesses are prohibited from selling or renting disposable bodyboards." We might suggest stating "Businesses are prohibited from the distribution of disposal bodyboards."

Removing references to sale and renting, may assist with potential loopholes in the future. Such as, some tour operators may provide complimentary disposal bodyboards as floatation device while snorkeling. Additionally, some hotels and resorts may currently rent disposal bodyboards, and the proposed bill may allow the complimentary distribution of disposal bodyboards as an amenity. Therefore, to prevent the unintended consequences we request the removal of the use of sale and renting throughout. Further detail, these suggestions can be found in our written comment submission. We offer these recommendations to strengthen this truly important piece of legislation.

We thank Councilmember Paltin for introducing the legislation, and to the Council for considering this proposal. Mahalo for the opportunity to provide our comments today.

COUNCILMEMBER KING: Chair, you're muted.

CHAIR LEE: Member King has a question for you.

COUNCILMEMBER KING: Thank you. I thought that's what you said. So, yea, my, my question for you Shelby is when we were going through the bill it was brought up that there might be people that already have these styrofoam boards that might want to use them. But what you're saying is they're, regardless of whether they, they have them or

not, that they're just harmful to have on the beach. And I, wondering if you know any, any recycling efforts in the islands that are, that would address, you know, if anybody's got these boards hanging around, the styrofoam ones?

MS. SERRA: Well, I know that as far as the County rules go, these are not accepted by our infrastructure, currently. Any recycling efforts for these type of materials would just be upcycling efforts, which just means turning it into something new as an artwork, or some other sort of such material. But yea, no, no way to recycle that through our municipality.

COUNCILMEMBER KING: Okay. Chair, if it, if it's, there are no objections, could we ask Ms., Ms. Serra if she could be a resource person when we get to this item?

CHAIR LEE: Members, any objections to asking Ms. Serra to be a resource person--

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: --when this item comes up? Okay. So, ordered. If, if you're able to, Ms. Serra?

MS. SERRA: Yes. Mahalo. Absolutely.

COUNCILMEMBER KING: Alright. Thanks for being here and we'll see you a little bit later.

MS. SERRA: Thanks.

CHAIR LEE: Thank you.

Mr. Clerk, next testifier. And how many more do we have, by the way?

DEPUTY COUNTY CLERK: Chair, there's seven more testifiers currently signed up. The next person signed up to testify is Blossom Feiteira. To be followed by the individual calling in from the phone number ending with these last four digits, 8956.

Blossom Feiteira--

CHAIR LEE: Blossom, are you there?

DEPUTY COUNTY CLERK: --it is your time to testify. I see Blossom connected to the call, but she's muted on her end. I cannot unmute her.

CHAIR LEE: Blossom?

MS. BLOSSOM FEITEIRA (testifying on County Communication No. 21-348):

Hi. Aloha. Can you hear me?

CHAIR LEE: Oh, yes, we can. Thank you.

MS. FEITEIRA: Okay. Madam Chair, mahalo for the opportunity to submit testimony regarding C [sic] 21-348. And this resolution is allowing for the inclusion of the Department of Hawaiian Home Lands development projects under the exemption policy for water reservations and water credits. In general, I support the, the opportunity for the Department and the County of Maui to work closely together in addressing our homestead development issues.

I do, however, want to state my concern regarding item No. H, the development by the Department of Hawaiian Home Lands Commission Act under Section 221 on the HHCA. And the concern I have, Madam Chair, is that Section 221 of the Hawaiian Homes Commission Act provides for water reservations or water availability in sufficient amounts for residential, agriculture, pastoral, and aquaculture purposes. And while all of those types of developments can have residential use, it is not necessarily a requirement for ag, pastoral, or aquaculture purposes.

And my concern is, is that because those three activities are primarily cultivation in manner and requires significant amounts of water, because the County of Maui does not have a non-potable water system in place for delivery, I have a concern that utilizing or identifying Section 221 purposes by the County may require the County to either install or provide potable water for those activities. And so, rather than have an all-encompassing inclusion in the exemption process, if we could somehow amend the language to restrict it to just maybe residential and commercial purposes?

Or I'm not sure if I'm getting my message across, but the, right now for future developments, Maui County in total has about 11,000 people on the wait-list across all spectrums of homestead lot requests. Of that amount, about 5900 are residential only. And so, when we're talking about an exemption for DHHL on our homestead projects, I think a more amicable identification in this exemption is for the use of residential. I, I don't see, I would hesitate to support the County in carrying this kuleana for Section 221, because it is a State requirement.

And I'll just wrap up. And so, I think that the County's, thank you very much for taking on this kuleana. But I would, from a beneficiary perspective, request that you limit the credits, or exemption to residential use only. Mahalo.

CHAIR LEE: Alright. Thank you, Blossom. Members, do you have any questions? If not, thank you very much, Blossom.

MS. FEITEIRA: Thank you, Madam Chair.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person we have signed up to testify is the individual calling in from the phone number ending with these last four digits, 8956. To be followed by Mike Moran.

8956, you are unmuted. It is your time to testify.

MR. WESLEY HADA [testifying on Bill No. 62 (2021), Draft 1]:

Aloha. My name is Wesley Hada, and I am the property owner with riparian rights. And I'm speaking about Bill No. 62, ziplines are my issue. I would like to speak particularly about the Jungle Zipline. And I have some key information, insights, observations that I believe the Maui County Council would be very interested in knowing that these exist. I know this is not the time for it.

But to go back to my, I would just want to let you know that I own the property directly below Jungle Zipline. I have riparian rights. And I am, in this moment, a traditional farming practice where I am restoring the lo'i's for the growing of kalo. And my occupation is I'm an elementary school teacher in the area. And I am full support of this ordinance. And on the front page of it, it's, it calls into question the appropriateness of zipline in this area, in the neighborhood. And, well, I don't think anyone could argue that having a zipline, in my case, maybe 25-30 feet away from my structure, would not be an appropriate placement. There might be better places, but this is not a very good place for it. So, I do not want this business that is already established or is already running to be given a permit to continue.

And here's another reason, is because there is a lack of transparency concerning this commercial operation. Last time I testified I spoke of the injudicial *[sic]*, injudicial application of Roundup. And then, I just want to add that he brings a lot of children down there. And they're zipping right over where they spray the cane grass, and the Roundup is being sprayed onto the stream itself. And that makes it really difficult for traditional farmers.

In addition, the Board of Water Supply, or let me get the exact, the Island of Maui Instream Flow Standard Assessment Report, June 2020 has given me a lot of information about my area. And I think that it's worth looking into many of their facts such as they do say that there are iwi kupuna in this area. That's never been addressed.

And another issue is that on the Jungle Zipline property, they have graded, formed roads, and formed parking lots in order to run this establishment. And the result of the, of the non-permitted grading has caused I'm happy to finish. The results of the non-permitted grading has caused flooding downstream, caused some folks to move. Others have successfully sued the business or the individual. And my property is particularly susceptible and that's a, that's a concern for human life and for property. Thank you, again. I fully appreciate your efforts, Ms. Paltin, for carrying this forward. And I can answer questions. And I hope that--

CHAIR LEE: Questions, Members?

Ms. Sugimura, then Ms. Paltin.

COUNCILMEMBER SUGIMURA: Thank you very much for testifying. And if you would like to, you could submit an email with what you just said, unless if you have written testimony, regarding your many complaints that you have about the Jungle Zipline. It's an option, if you would like to.

MR. HADA: Okay. I've gotten, I have started, and I appreciate all the Members who have responded so far. I have, I have the emails.

COUNCILMEMBER SUGIMURA: Thank you. So, if you want, you want to submit what you just said today to my office, you may. Thank you. This is Yuki Lei Sugimura.

MR. HADA: Thank you, Ms. Sugimura.

CHAIR LEE: Alright. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Hada. I just wanted to clarify, if you have ever submitted a formal request for service through the online portal? And if it has ever been addressed, I guess by the various departments, like Public Works for the grading and, and what not? Has, has that occurred yet, or, or no?

MR. HADA: No, I can't really say that what you are asking on has occurred on, on my part, or my efforts have not gone that far. He has been open, I think eight years now, and we're just working, you know, with Ms., with you. And but I am open to any other

avenues. I have been in contact with the Instream Flow Standard Assessment Report officials. And they're, they're very helpful. And they have said that they have not been able to get a response from the Jungle Zipline regarding to the, to the stream flowing directly below the ziplines and through their encampment. I call it a compound because--

COUNCILMEMBER PALTIN: Okay.

MR. HADA: Yea, okay, thank you.

COUNCILMEMBER PALTIN: Thank you for that clarification.

MR. HADA: Alright. But I am in the process of doing all of these sorts of reports, complaints. And I'm just beginning. Thank you. Yes, I'm just beginning.

CHAIR LEE: Anyone else? If not, thank you, Mr. Harder *[sic]*.

MR. HADA: Hada. H-A-D-A.

CHAIR LEE: Hada. Okay. Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next individual we have signed up to testify is Mike Moran. To be followed by the individual connected to the meeting under the name Kai.

MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION (testifying on County Communication Nos. 21-354 and 21-358):

Aloha. Happy Aloha Friday, Chair Lee and Councilmembers. Mike Moran for the Kihei Community Association. This morning, we're just offering testimony on two items. We have some other items that we've already submitted testimony on. And it's been suggested by some members of the community that when I testify, the MM goes off and people think it means motor mouth, because I go on and on too much. So, we're limiting to two items today, and try to be brief on both, because they are just, you know, they are just going to proceed into Committees.

So, the first one is 354 on the TAT. We're totally in support of getting the three percent. We all know how desperately the County needs money, and this is a good source. We feel that's fair for the visitors to pay for upkeep. So, we'll, we'll be monitoring that when it goes to Committee. But thank you, Vice-Chair, for proposing that.

And the other one is a similar item, 358. And that's on wetlands restoration. And we realize, again, that's just going to be moved. But we have had another occurrence. We, I believe it happened a week ago today. I'm not quite sure . . . the community. But where land makai of Ulinui [*sic*] Road. And if those of you are not familiar with that little road, that's where the VFW is. So, it's literally on the shoreline and having a bulldozer in there makai of that road, seemingly clearing it out for some kind of a commercial entity. And we're getting, I imagine some of you are too, all sorts of noise complaints from the neighbors living down there. So, whatever we can do to protect the wetlands while we still have something left. So, we appreciate and hope this can quickly move to Committee and, and we can protect what's left here. Thank you for the opportunity to testify. Aloha.

CHAIR LEE: Aloha. We have a question for you.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mike. I'm, I'm really happy every time you come to testify, so don't listen to those who are, who are renaming your initials. But, no I just, the, the, the wetland incident that you're talking about at the VFW, have you, I just wanted to find out if you had tried talking to anybody who's running that organization?

MR. MORAN: I, I personally have not. But we do have two board members who are in the vicinity, one in very close vicinity. And, and she has, has reached out to the VFW, whatever that gentleman's title is. But I believe she just did that as a, as a neighbor/private citizen, not for KCA. Honestly, I didn't learn about this till the day before yesterday. I don't know why it came about so late. But now it's, it's exploding on, you know, Facebook and so forth. So, I have not contacted anyone when I saw all these other people were. I just answered community questions. Who should we contact? And I said, well, if it's, it looks like it's on the shoreline, go to DLNR, go to your State Representative.

And there was some reports and I just, you know, emphasize that I don't know if this was correct, that the Mayor had been asked and had approved it. And I said, well, why don't you ask the Mayor? I think he has a press conference this afternoon. Why don't you address it that way?

COUNCILMEMBER KING: Okay.

MR. MORAN: But KCA has not, I'm sorry, long answer, KCA has not approached anyone.

COUNCILMEMBER KING: Yea, I just, okay. So, I have been looking into it, just to let you know. And I'll give you my report on what the, what permits allow them to do those activities.

MR. MORAN: Terrific. Thank you for your help, Councilmember.

COUNCILMEMBER KING: Thank you.

CHAIR LEE: Any other questions? If not, thank you, Mike. And Happy Aloha Friday to you.

MR. MOLINA: Thank you, Chair.

CHAIR LEE: Mr. Krueger.

DEPUTY COUNTY CLERK: The next individual signed up to testify is Kai. To be followed by Lucienne de Naie.

Kai, you're muted on your end. We cannot unmute you.

MS. KAINOA MACDONALD (testifying on County Communication Nos. 21-348, 21-361, and 21-363):

Go ahead. Sorry. Okay, can you hear me now?

CHAIR LEE: Yes.

DEPUTY COUNTY CLERK: Yes.

MS. MACDONALD: Okay. Aloha mai kakou, everybody. My name is Kainoa MacDonald. I am here today on behalf of the AHHL Board, which is the Association for Hawaiian, Hawaiians for Homestead Lands, a statewide Pae 'Aina Organization that our mission is really dedicated to ending the waitlist for beneficiaries.

So, I'm here to talk about three different proposals. One, being CC 21-348, exempting DHHL from water availability policy with condi, sorry, availability policy. From the AHHL Board, we support that with conditions. And what we would like to do is actually see if it's possible to get addressed in terms of sitting down with a designated homestead beneficiary association, as defined by the Federal regulation 43 CFR and 47.1.

Number two is CC 21-361, which is board of supply, Board of Water Supply DHHL seats. We would like to enter in support and with also a condition. The AHHL

recommends that a seat be designated also to a homestead beneficiary association, as defined by the Federal regulations 43 CFR, 47.1. Currently, right now, it's, it's designated as specifically to DHHL. So, we would like to enter in on that condition.

Lastly, I'm sorry, but I don't have the bill number, but it was in support for Councilmember Paltin. The Undivided Interest Award policy of the Department of Hawaiian Home Lands homesteading. We would also like to enter in as a support. And we, we 100 percent concur. You know, the, the Undivided Interest policy is supported by us, you know, broadly. And it's really to help those on the waitlist over 60 years. I consider myself new to a lot of the language. But, you know, I, myself, my parents are also on the undivided interest lease. And so, you know, we, we all deserve to receive a lease and be able to pass it on to our heirs.

So, there are two conditions that we would enter in as, I guess, discussion points; number 3 and 4. I'm not sure if you want me to read it. But it's, it's basically, you know, number 3 and 4 that we would possibly like to also have a discussion with the Hawaiian Homesteads Association. So, with that being said, I thank you so much, County Councilmembers, for having, having us, and having everybody come on BlueJeans. So, mahalo.

CHAIR LEE: Okay. Kai, did you email that testimony to the Members?

MS. MACDONALD: It actually, no, I didn't. Not yet.

CHAIR LEE: Well, maybe you could do that and then we can--

MS. MACDONALD: Yea, definitely. It's going to go off in the next five minutes.

CHAIR LEE: Oh, great. Then we can refer to it when we take the item up. Other comments or questions, Members?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. MacDonald. Mahalo for your testimony this morning. For CC 21-363, which is Member Paltin's resolution.

MS. MACDONALD: Yes. Oh, that's 363

VICE-CHAIR RAWLINS-FERNANDEZ: You requested, you requested discussion with the Homestead Association. Would you mind clarifying what that means? Like, do you, do you, are you requesting that Member Paltin meet with the Homestead Association

to go over the resolution prior to passing it? Or are you requesting it go to Committee?
Or, if you, if you--

MS. MACDONALD: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: --wouldn't mind explaining?

MS. MACDONALD: No, thank you. Thank you, yes, for allowing me to expand. Yes, you know, we would like the opportunity to sit with Councilmember Paltin as the AHHL Board and especially on Maui. We also have meetings, you know, monthly meetings with the people that are an, beneficiaries that are on the undivided interest list as we speak. And that's because we've been able to, you know, just during COVID, we were able to connect with many beneficiaries throughout that time via Zoom, in getting them in a better position to apply and get awarded for the next phase, which is the Puunani Homestead in Waikapu. So, we were able to engage with what we feel is a good majority of the undivided interest leases on that list. And I think, I believe that we could possibly work out a consensus for future allocation.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. MacDonald. So--

MS. MACDONALD: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: --you don't, you're not proposing amendments to it today. You're just asking that we hold off on passing it today, so that we can have a fuller, have a discussion on it, so that . . .

MS. MACDONALD: Correct. Have a broader discussion, absolutely.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification.

MS. MACDONALD: Yea. Thank you.

CHAIR LEE: Any, yes, I was just about to call on you. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to clarify, cause the resolution is us urging folks to do this. It's not something that we can do. So, you don't want it to be passed today?

MS. MACDONALD: We do. I'm sorry. Yea, we do want it to get, to get passed today. But if there is an open discussion, when that happens with the Department, we would, we would love to be included. Would appreciate it if we would be included in that conversation as well.

COUNCILMEMBER PALTIN: Yea, yea. I mean, we're just asking them to do that. And the conversation continues on, because we don't have, resolutions don't have the force and effect of law. So, it's just a request and my intention was to try and pass it on the floor today to get the process started

MS. MACDONALD: The ball rolling.

COUNCILMEMBER PALTIN: But maybe, and send the subject matter to Committee to continue the discussion like you said. That would be acceptable to you?

MS. MACDONALD: Yes, that would be acceptable.

COUNCILMEMBER PALTIN: Oaky. Thank you so much.

MS. MACDONALD: Okay. Thanks.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo Ms. MacDonald for your testimony. You mentioned for 21-348, Member Rawlins-Fernandez' bill to exempt DHHL for water availability policy. So, you mentioned conditions to that one. I know a previous testifier mentioned just for residential use. So, I was wondering if--

MS. MACDONALD: Correct. Yes. We would like, I guess, a deeper dive into, you know, essentially supporting what the testifier Blossom, Aunty Blossom, had indicated about just looking at residential use. Cause I think agricultural and pastoral activities, you know, definitely need to be separate from that. So, I support what Blossom had said as well.

COUNCILMEMBER SINENCI: Okay. Mahalo. Thank you.

MS. MACDONALD: Thank you.

CHAIR LEE: Alright. Mem, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, the, the bill that I introduced is reserving a seat on the Board of Water Supply. And the second bill is an exemption to the Water Availability Policy. So, the proposed amendment from Ms. Feiteira was to the Water Availability Policy, not to the 21-343 [sic] reso.

MS. MACDONALD: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: I thought, I thought she said the reso. Did I misunderstand that?

CHAIR LEE: Kai?

MS. MACDONALD: Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, that was the question.

CHAIR LEE: Did you hear that question?

MS. MACDONALD: No. Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. The, the question was in reference to Ms. Feiteira's testimony. I thought her proposed amendments were to Member Paltin's proposed resolution in the water section. That's, looking at Member Paltin's face, it looks like perhaps I misunderstood. But so, that proposed amendment is to the Water Availability Policy bill that I introduced, not to the resolution.

MS. MACDONALD: Correct. And that is CC 21-348.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. Yea, that's going to be referred to Committee so we can--

MS. MACDONALD: Talk about that.

VICE-CHAIR RAWLINS-FERNANDEZ: --discuss it.

MS. MACDONALD: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, in Committee. Mahalo, Ms. MacDonald. Mahalo, Chair.

MS. MACDONALD: Okay. Thank you.

CHAIR LEE: Okay. Alright. Anymore comments or questions? If not, thank you, Kai, for coming to testify.

MS. MACDONALD: Mahalo.

CHAIR LEE: Mr. Clerk. Chop, chop.

DEPUTY COUNTY CLERK: Chair, the next individual we have signed up to testify is Lucienne de Naie. To be followed by Kanani Higbee.

CHAIR LEE: Good morning, Lucienne.

MS. LUCIENNE DE NAIE [testifying on County Communication Nos. 21-345, 21-346, 21-347, 21-348, 21-358, 21-360, 21-361, 21-362, & 21-371; Committee Report No. 21-48; and Bill No. 62 (Draft 1)]:

Good morning, Council Chair Lee. Good morning Councilmembers. Bonjour. I am testifying as a private individual today. And I do have a bit of a laundry list. I'd like to start with Bill 62, the zipline regulation and the proposed amendment 345. I, I think that amendment is really needed, because we do have an operator that is kind of hiding the zipline operations under the guise of being part of a historic tour. And I think we need to make it clear that the one size does not fit all here. As far as Bill 62, yes, thank you all for all your work on it. And thanks to good-faith operators, you know, like the folks who have come forward and try to really make their industry pono. Because, you know, Danny Boren, and there are other good-faith operators that are doing a good job.

We have a tough situation here, that Jungle Zipline. It's built in a stream. It's built in Waipio Stream. It's got to be illegal to build something in the middle of a stream with no permit and no more nothing. But I will tell you that those who have tried to, like, report this and so forth, they, they have been threatened by the landowner. So, you know, it's not easy in our neighborhood getting this person into compliance. So, I'm, I'm glad that this is moving forward, and support you get the proper amendments and then get it done as soon, as soon as possible.

Also, I'd like to testify on some other matters. The referrals to committee of the funding for USGS monitoring and groundwater assessment. These are County Communications 346 and 347. As a water researcher and private citizen who very interested in water, these are just great uses of our fund. USGS is the go-to people to try to get some information. And we really need their help in the monitoring. And we need their help to figure out the, the quantity and quality of our, of our groundwater and how it's being affected by the changes in weather patterns.

I'd also like to testify to the ever-popular proposed bill, County Communication 384, 348, sorry, about exempting Hawaiian Home Lands from the water availability rules. I am a little, I, I'm totally in support of this. You know, Hawaiian Home Lands actually has one of the highest priorities to receive water, and they should. It's, like, you don't

give people land and then say, but guess what, there's no water to go with it, so you can't live there until something happens. Of course, the water is a Hawaiian right, it goes with the land, which should be a Hawaiian right. This is Hawaii.

But I think our, our water availability bill does exempt all affordable housing developments, 100 percent affordable housing developments from complying with any water availability proof. In other words, they should go to the front of the line. So, I'm not quite sure how this works with that. I'm sure it's been given thought. But I, I look forward to further refinements when it gets introduced to Committee and we look and see exactly what it says and where it says it. But I just want to bring that up as a consideration. I am definitely in support of residential water use being made available for Hawaiian Homes. But if it's already covered well enough in our water availability bill, this may just need to refine that.

And then onto County Communication 358, relating to wetlands restoration. I just want to thank the CARE's Committee, and, and its Chair, Councilmember King, for being on this. Our wetlands are so important, both in West Maui and South Maui, and even to some extent, you know, in other parts of Maui. Hana has wetland areas, and the North Shore does as well. And they are a lifeline as we have changing climate. When we have these big rain events, we need those wetlands to store the water. So, we, we need to get good at cooperating with nature. And I'm very glad that this is going to be under discussion in the, in the Committee, and strongly support that it move forward.

Item 360, lifeguards for Makena Beach Park. So happy to see this return. It's one of our most used parks, State park or County park, otherwise. It's promoted in all our tourist materials. They see beautiful pictures of Oneloa Beach. And we just do need to have lifeguards there, because there can be dangerous conditions there. It can be fun, and it can be dangerous. So, thank you so much for putting this forward.

And moving onto 361. I have testified in support of this several times. And it's really a great idea to have Hawaiian Home Lands rep on the Maui Board of Water Supply. I'm glad it's moving forward so it'll be made clear. And I'm also happy to see that we're just going to appoint today a Molokai rep, who seems, I, I've met her at water conferences, and I think she'll do a good job on the, on the Board of Water Supply.

Onto 362. Mr. Molina is moving forward on the idea of actually acquiring and managing Wawau Point, which people commonly call Baby Beach in the Paia area. And this is a very, very special area. It's, it's very special to Hawaiian cultural users. You know, it really does need some resolution. You, we had homeowners in the area so desperate that they, they moved some boulders just to block off parking that was dreadfully eroding the red dirt there right into the ocean, which didn't help anybody. But then, they were in violation, because they didn't get an SMA permit to move those boulders.

So, it's been a mess. And we really do need to have someone in charge of figuring out the best way to manage parking, and manage use, and manage sanitary facilities, and so forth. And that, that isn't an absentee landowner, it does need to be the County of Maui because it's the people and visitors to Maui County that go to that beach.

The last thing that I wanted to testify on, oh, last two things, were County Communication 21-371. This will be referred to Committee. But I totally support that we make it clear that you can't just have these conveyance documents that restrict agricultural activities on agricultural land. This has become so common as, you know, "ag neighborhoods" are formed. There'll be some people that really want to farm and other people that just want gentlemen's estates. And they shouldn't be able to dictate to other folks because they bought ag land. You know, if they didn't want to buy ag land, they should have bought someplace else. But farmers should be able to farm if they sincerely want to farm on their ag land.

And last, the support for the State of Hawaii Congressional Delegation's Break Free from Plastic Pollution Act. This is Council resolution 48. Look forward to seeing that pass. We, it is an important part of our ecology here, that we just try to avoid piling up the plastics. We're only one island. And if you've ever traveled and seen places where there's no regulations of plastics, it's pretty sad. It's just you have some places more plastic than water in the waters. So, we, we want to go in the opposite direction and join with others in the State and declare that the plastics are not where, where we want to accumulate our, our good things here. We want to accumulate clean waters and plenty of fish. So, mahalo for your consideration and all your hard work. And thanks for all this time.

CHAIR LEE: Thank you, Lucienne.

We have a question from Member Paltin.

COUNCILMEMBER PALTIN: Oh, thank you, Chair. Thank you, Ms. de Naie for your testimony today. I just had a couple of questions. The first one on 21-371. Do you have any objection to referring that straight to the Planning Commission for review today?

MS. DE NAIE: No. I think you might as well, since it's going to need levels of review. It seems like go to the Planning Commission first, Commissions first, the all three. See what they have to say and then have the Committee take that into consideration. That, that seems a wise course of action.

COUNCILMEMBER PALTIN: Thank you. And the second question I had is do you know who is the current owner of that Wawau Point?

MS. DE NAIE: A&B.

COUNCILMEMBER PALTIN: Oh, okay. Thank you. Thank you, Chair.

CHAIR LEE: Anymore questions, Members? If not, thank you very much, Lucienne. Always appreciate your testimonies.

MS. DE NAIE: Mahalo.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify is Kanani Higbee. To be followed by Francine Aarona.

MS. KANANI HIGBEE (testifying on County Communication Nos. 21-348, 21-361 and 21-363):

Aloha.

CHAIR LEE: Aloha.

MS. HIGBEE: Hi. My name is Kanani Higbee and I'm testifying, oh sorry, you can't see me. I'm testifying on, let's see here, oh, I just lost it. Well, anyways, oh, that's why, because the comments are hidden. Okay, so I'm testifying on a couple bills, but I just can't see the numbers right now. One would be about the representation on the Board of Water, DHHL. I would be supportive of that because then we have a go-to person to discuss that with. Right now, when I try to discuss water with DHHL it's like pulling teeth. I tried to contact so many people and I can't get anybody, and they pass me onto the next person, and the next person. So, I would be in support of that. It's, it's definitely a struggle.

In 2018, I attended a Leialii 1.B meeting. And, you know, we were told that, oh yea, you'll get 200,000 gallons of water. That didn't happen. I asked the Board of Water Director. He was so clueless. He thought that we were going to transport water from Honokowai all the way to Lahaina, Leialii 1.B. He thought that was the plan. It seemed like he didn't even know what was going on. So, I think it would be important if we could get a representative from DHHL on the Board of Water so that there could be better communication.

Another, and, you know, most of you know I've been on the list, my family's been on the list 80 years. We have not gotten a lot. That's crazy. That's failing the people on the waitlist. It shouldn't be allowed. I'm the third generation, still no lots. My daughter just graduated high school. I thought by now we would have had a lot. My grandpa died on the list; you know. It's, more needs to be done about this.

So, the other one was the undivided interest. I'm actually against that because of the different options we have available. There's turnkey, which is the most expensive and most people can't afford that. And when there's rent to own or there's self-help. I am personally in favor of self-help, where we get people like Habitat for Humanity, or Habitat with Humanity, to help us build sweat equity, where our payments are only \$400 a month and we get our ohana to help us. And all the Hawaiians have family. And people are so kind that they even have volunteers that help build. So, that keeps it affordable.

These undivided lease awards, I know people who got those. They have had the award for many years, for decades. They never build anything. They're, they weren't able to fix their credit from the recession. So, they've been paying market rent, because they work in the hotels and they don't qualify for affordables, so they can never save to afford a house. Yea, so there's some drawbacks to the undivided lease awards.

Yes, people do get, hold their spot on the, on the home, but they can't just move in. It's not like they could live there without the infrastructure, without the home. These community associations, they have rules that need to be followed. Some people try to put a container there, they won't allow it, they're very picky. So, it makes it so Hawaiians can't be on the land. So, that is a big issue.

And then, the other thing had to do with the water. The testifier who testified before me, she said people who are on the waitlist for water should be getting water first. Oh, no, no, no, no, Hawaiians should be getting water first. That's the biggest hurdle for us to get on the land. We die on the list. We need to have first rights to water. I don't know much about what that thing's going to look like. But I am hoping that it will make it so that Hawaiians do have first rights for water, because that is the biggest hurdle.

Right now, my family can't get on the land for Leialii 1.B residential like we hoped for, because other places are taking the water. The water that was promised for that is going to Ikaika Ohana. Or at least that's the rumor I've been hearing. And I tried to clarify that with DHHL. And they still haven't clarified it with me. So, it's a big concern for me. You know, as a beneficiary, we should be able to get a lot better communication. We shouldn't be having to pull teeth to get information. Yea, so that's how I feel about it. Any questions?

CHAIR LEE: Member Paltin has a question for you.

COUNCILMEMBER PALTIN: Oh, I just wanted to know if you were aware that Board of Water Supply member Toni Eaton is working with the DHHL? It's not a formal thing where DHHL gets a seat at table. But at this time, they do because Toni Eaton is on the Board of Water Supply and she works for DHHL. And I think Member Rawlins-Fernandez is just trying to make that be a, the way it is. But there currently is a DHHL person on the Board of Water Supply. She's been there for a few years. So, maybe that's an avenue for you if you didn't--

MS. HIGBEE: Yea, I'll, I'll definitely check it out. I've been trying to call them. And I have talked to even our Maui commissioner, and nobody seems to know who is the go-to person, or at least they're denying me of that information, which is really sad because my family's waited a long time. And you kind of wonder why do people wait so long. Maybe it's because, you know, they're not very helpful. And I don't know why that would be. Do I not have the privilege? I don't know.

COUNCILMEMBER PALTIN: Similar, similar problems. Sorry.

CHAIR LEE: Okay. Anybody else have questions or comments? If not, thank you, Kanani.

MS. HIGBEE: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Our next testifier is Francine Aarona. To be followed by Junya Nako.

CHAIR LEE: Aunty Mopsey?

MS. FRANCINE AARONA (testifying on County Communication Nos. 21-357, 21-361, 21-362, 21-363, and 21-364):

Okay.

CHAIR LEE: Okay, there you--

MS. AARONA: Hi, can you--

CHAIR LEE: Yea, we see you.

MS. AARONA: Yea, trying to maneuver this little iPad here of mine. But yes, mahalo. You all know me as Aunty Mopsey. For the record, Francine K. Aaron. Aloha, everyone. And mahalo for your dedication to all of the people of Maui. I sent in a written testimony. But I would like to highlight five of them from my testimony, which I am very in great support of.

And that would be starting with CC 21-357 from Councilmember Tamara Paltin, to restrict the sale or distribution of certain nonwoven disposal products. And I live on the shoreline, so, you know, I see a lot of those products get washed up on the shore that shouldn't be in the water.

Also, for, I am in very high support of CC 21-363, supporting the Undivided Interest Awards policy of the Department of Hawaiian Home Lands Homesteading program. I strongly urge you to pass this bill and to be sure that the list of names at the end of this proposal gets two copies instead of one. Because when they first get the copy, they might fly it into the trashcan, but at least they'll have a follow-up, which their person that is taking care of all their literature will keep it on file for them. But this bill is written to emphasize key points that will take care of our housing crisis and provide what was promised to our people, what was taken away from our ancestors. So, it's really something that we need to be on top of.

The next bill is CC 21-361, the proposed bill for an ordinance requiring DHHL representation on the Board of Water Supply. And I did hear Councilmember Paltin say that there is a representative, but maybe not in the role that everyone expects that representation to be about.

I also support Councilmember Molina in bringing forth the improvements, or the preservation of Baby Beach, Paia, including public safety and mitigation issues. You know, it's, I live on the shoreline, so I try to protect my area. And Baby Beach belongs to the Spreckelsville residents, and they try to protect what is in front of them. We, as people of Maui, try to preserve our beaches, but we also aloha people that come and want to take part in the recreation that is given to us on a day-to-day basis. So, mahalo to Councilmember Molina for bringing this forth, and more discussion on his Committee.

I also am in support of Councilmember Tasha Kama, in relating to the Baldwin Beach Park Master Plan, to bring attention to it again to her Committee. You know, Paia community has waited so long to see this land, this parcel that sits idle, to be used while we wait for permitting or what have you. There's discussion on the table with Hui Malama Paia, the residents of Paia, who have made suggestions while we wait for

permitting to do something with that parcel, to turn it into a recreation avenue for the residents of Paia. So, that is, you know, items that really concern me.

And although I am in support of many of the agenda items, especially the wetlands, and that the violations of zip code [sic], everything that you have brought before the table today to be discussed warrants everyone's ears. And I hope that our residents take the time to at least listen to one of your meetings and really take to heart what you go through for us. So, I appreciate you deliberating on these resolutions and bills that you bring forward. And just keep the people of Maui in mind when you say yes, I approve to the agenda that is before you. So, mahalo. I ask Ke Akua to continue to walk with you and be with you in all your decision-makings. Mahalo.

CHAIR LEE: Mahalo to you, Aunty Mopsey. Any questions, Members? Any questions? If not, thank you very much for coming.

MS. AARONA: Okay. Mahalo.

CHAIR LEE: Mahalo to you.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person we have signed up to testify is Junya Nakoa. To be followed by Tom Croly. Mr. Croly is the last person we have signed up to testify. If there's anyone else connected to the meeting who wishes to testify and hasn't done so yet please notify us in the meeting chat. Thank you.

CHAIR LEE: Morning. Morning, Junya.

MR. JUNYA NAKOA (testifying on County Communication Nos. 21-343, 21-354, 21-357, 21-360, & 21-361; and Committee Report No. 21-54):

Morning, morning, morning. Like the guy Mike Moran said he get nicknames, I get nickname too. The people call me "Walas", cause I always talk too much on this, on this, on this thing over here. And you know what? If they call me Wala, that means they, they watching um. So, I'm glad they calling me Walas. That means they, they watching um, so I was proud. I proud.

Okay, now with that being said, I get plenty for talk about. Dang it, walas again. But I going make um fast. I going make um real fast. I going make um fast. I not going talk about all of em, only some. But, okay, you guys ready?

I going talk about that plastic one, eh, for you know the too much plastic and all that stuff. I was invited for go do this one, kine of like one, one concert at the veteran, the Veterans Hall in Kihei. And then the, the Mayor's Administration when grant them 250 people for show up. And the braddah who was running it, when ask me for come, because he know I'm, you know, I mean I hard head and I walas. So, I went.

And you know what, the guy Kevin Watkins, the, the, the Solutions guy, dude, he was over there and the thing was so fricken awesome. They, they made um so pono. I mean, and eh, sorry eh, but this kine, this thing was . . . that's why, they was calling themselves this, so I going call them this. This was the hippie kine stuff. You know the kine like they get da kine the fire knife da kine? And brah, they was bad ass. I mean, had 250 people all cleaning up their stuff. All had da kine, reusable stuff. And so, if that buggah can be done, you know, the . . . done. So, please, yea, get rid of the plastics. And I glad I bought my, my, my canteen thing, the water stuff, or else I would've got scoldings. But okay, that . . .

Okay, the next one is the 354, the TAT tax. Gunfunnit about damn time we get something out of that damn thing. You know, we get three percent, that's solid. I support that buggah. Enough the buggah always going to Honolulu like dat, yea. Maui get em now. And I seen your stuff, Alice Lee, on the news. Yessah, we going use that money to good use. Yessah, good job. Okay, good job. Support that buggah.

The next one, the 360. I support the Makena lifeguards. I get, I get plenty lifeguards, you know. And like when Tamara was a lifeguard, I support her too. But I rather her be in the Council, cause she is bad ass over here. But, yea, you gotta, you gotta go protect the people of Makena. I no go there too much. My daughter do, though, you know. So, go, go put the lifeguards over there. Go protect them.

Okay. The next one. The 361, the representative for DHHL Water Supply. Oh, brah, more represent, more representation we get in all these departments, all this, all this fake State, more better. Make it work for us Hawaiians, yessah. I support that buggah. Okay. I going to skip that one.

Okay, the 21-54. I know this is, that's the first da kine, reading. But, yea, put a cap on that Short-Term Rentals. Put one cap on that buggah. Yea, nuff already. Too much anyway, but, yea, nuff. And then, okay, okay, that one pau.

And then, I going talk about the, oh, yea, this, this the one I going talk about. You know, the planning, you know what, sorry, 343. The height requirement for the Napili, yea. You know da kine, the Planning Commission, they work, they when deliberate plenty, they when work hard on this buggah. You know, they was trying to, you know,

we had choke questions. I had choke questions. But I like big time mahalo Tamara Paltin and Keani Rawlins for da kine, jumping on top that buggah and clarifying a lot of the questions we had. And so, just, we go da kine, eh, control the height. Keep that buggah at 30 feet, so the thing, they no put any more stuff on top their roof and make um more tall. And you know, keep em, yea, keep, keep em cherry. No make, no make our community all jam up with the kine ugly stuff like that. So, you know, a big time support that one, big time, big time, big time support that one. And, ho brah, I pau. Shoots.

Oh, wait, wait, wait, one more thing. No, no, no, I pau. I pau. I pau. I pau. Thank you. Thank you. Thank you. You guys have a great weekend, yessah.

CHAIR LEE: And do we have any questions for Junya, Members? Alright, I guess not, Junya. You always--

MR. NAKOA: Even better yet.

CHAIR LEE: You always dazzle everybody with your testimony; leaves us speechless.

MR NAKOA: I like make you guys laugh, so you guys can go have a good week, yessah. Have a good one.

CHAIR LEE: You too.

MR. NAKOA: Yessah.

CHAIR LEE: Okay. Thank you.

Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the last person we have signed up to testify is Tom Crolly.

MR. TOM CROLY (testifying on County Communication Nos. 21-343, 21-344, 21-354, & 21-356; and Committee Report No. 21-54):

Aloha, Chair.

CHAIR LEE: Aloha.

MR. CROLY: Aloha, Councilmembers. I wish I could dazzle you the way Junya can. But I'll do my best. I have comments on a number of different items. First, County

Communications 354 and 356, that relate to the transient accommodations tax. I hope that that is simply going to be referred to Committee today. I hope that we're not, you know, jumping ahead. I only say this because I did see Chair Lee's comments saying, hey, we need to move on this as quickly as possible on TV. And there's a lot of work that has to be done on this.

But, but my, my brief comments about it is be sensitive to the effective date. As people take reservations in advance, we're quoting prices to people that include taxes today. And if we don't know what the taxes are tomorrow, then the, the operators are going to be stuck paying the tax, and the, and the person on the other end is going to say, no, I paid Expedia and, and I'm all paid up. So, so we need to have an effective date that works for people and it doesn't just come up on us.

Second, the proposed bill seems to imply that we've already decided to go to three percent and not one percent or two percent, which would more than make up for the taxes that we didn't get from the, from the State. So, I think that's a, a discussion that needs to be had. And the proposed bill seems to imply that the administration of this would happen at the County level. I hope it doesn't. I hope that I don't have to file, you know, another form. And if we do, I hope that we can do it in a way that's consistent with the way the State is collecting their taxes, because it just would be cumbersome. But I know that'll, should get deferred, referred to Committee and we'll have the opportunity to hash those things out in Committee.

The second item that is a communication item, which is CC 343 and 344, I believe may not get referred to Committee today, I believe may be discussed on the floor. So, I'd like to make some comments on the Napili Bay Civic Improvement District changes. And I want to point out that the Napili Bay Civic Improvement District is a de facto Hotel District today. Essentially, what, what that particular district, the uses that are allowed in that particular district are any use allowed in the Hotel District. And this bill will modify that. It will change that.

And it's very, very similar to what the Council did in Ordinance 1797, back in 1989, that modified the uses that were allowed in the Apartment District. What we now know, knowingly call the Minatoya decision. But back then, the Apartment District was a district where motel and hotel uses were outright allowed, outright permitted, and they were made in many of these condos that we now call the Minatoya properties. And what we want to avoid, in anything that we do today, is creating the confusion that that, that that change created 30 years ago. So, that 30 years from now, we're not still discussing whether or not someone can make these uses or not.

To that end, I'd like to move onto County Communication 344, which is a, an amendment that is being proposed by Councilmember Paltin, that I do believe should

make clear what uses are allowed to continue as Short-Term Rental or transient accommodation uses in that district. I believe that that, what she's put forward here would make the changes palatable in, in most cases. However, I would like to see the Council put on record what they would want to see for the established uses, what, what evidence?

Because five years from now, ten years from now, someone's gonna come forward and say to you, hold it, I'm a, I should be allowed to make this use. And we need to be able to look back on the record and say, well, did you meet the criteria that the Council put in place when, when the, when these uses were changed? So, I do support what, what Councilmember Paltin has put forward here.

And I think that evidence might include transient accommodation tax payments that would be a good evidence. Having a website or, or listings right now on the internet, proof of those might be another, another one of those things. But it, it's like a mini change to the Apartment District, cause this is a smaller district where this change is taking place. But it does affect an awful lot of properties and an awful lot of people, so we want to get it right as far as what we do.

Moving onto the final item that I want to make comment on, which is County Report 21-54, which is the Short-Term Rental Home permit caps. Let's be clear, we have always had caps on the Short-Term Rental permits, okay? This is one of the few ordinances ever passed by the Council that has really worked well. Worked as it was intended to work, to regulate this use and to make sure that this use of a permitted Short-Term Rental Home is unlike unregulated uses in the Hotel and Apartment Districts, like we were talking about there in the, in Napili.

And, and as we go forward, we want to make sure that the people who have applied for these permits and are in line, waiting to get their permits granted, that they are not, have the rug pulled out from under them by the action of reducing the caps today. I believe that the Planning Director brought forward some new numbers, so these cap numbers might be changed a little.

And I just wanted to point out that some language that was brought forward after your meeting by, by Mr. Hopper, used some words to say that pending applications that are "deemed complete". And I would like to see that wording changed to "pending applications that were submitted by", as opposed to "deemed complete." The Planning Department doesn't review applications that are given to them expeditiously when they are submitted. They review the applications several weeks or several months, or sometimes even a year after the application was submitted. So, they're not "deemed complete" until they're fully reviewed. But I think the goal was to make sure there wasn't a flood of applications coming in after you made this, this action. And I'm fine

with the July 1, date. But just to say that the application was submitted by July 1, and not reviewed and deemed complete. Because there are, there are the applications that have been submitted two years ago that have not yet been deemed complete. They're still in the processing phase.

Let me just see if there's anything else that I missed on this. I don't think so. So, good luck in your, in your work today. And I look forward to addressing you in Committee when these other items make it to Committee. Thank you, Chair.

CHAIR LEE: Thank you.

Member King.

COUNCILMEMBER KING: Okay. Thank you, Chair. Aloha, Mr. Croly. I wanted to ask you a couple questions on your testimony about the potential TAT surcharge. One was, you said anybody who has reservations should not be subject to this. But some people make reservations a year out or even further, and probably many now because the hotels are so, are so packed right now. So, are you saying that we should, we should push it out like a year?

MR. CROLY: I, I don't think that it's practical to push it out a year. But I do think that it's reasonable to ask for it to be pushed out till the end of this year, okay, probably six months. For example, I'll just give you my, you know, personal example. A guest might make reservations on Airbnb. That money doesn't come to me. That money goes to Airbnb. Airbnb collects the taxes, or the amount based on what I told them the tax rate was. And that money is paid. It's done. It's already in the coffers. Then, after that person stays with me, I get paid that money. Now, I ultimately get paid that money and I'm the one responsible for paying the TAT. So, if you've raised the TAT by three percent in the meantime, that money wasn't collected, it wasn't given to me. I'm going to have to reach into my pocket and, and, and pay it on behalf of, of the guest. In general, our reservations go three months out. The ones that are more than that out, we can probably work with. But, but, but, but typically, we're at least three months out with our, with our reservations.

COUNCILMEMBER KING: Okay. So, we could even do something like, you know, apply it to any new reservations--

MR. CROLY: It just needs to be defined when, you know? A date needs to be--

COUNCILMEMBER KING: The other one, the other question I had for you was on your, you mentioned about the State collecting it, versus the Counties. And we had a conversation about that in the HSAC meeting yesterday, the Hawaii State Association

of Counties. Because the Counties are, the Chair of the Honolulu City and County Council has been talking to some Legislators about that. But the problem is they want a fee.

MR. CROLY: I know.

COUNCILMEMBER KING: And I, and I don't know, I mean, in your head, do you have what an acceptable fee would be? Because my personal opinion is that they shouldn't be, they're taking all our TAT. They should do this for free. But--

MR. CROLY: I agree. I agree. But you know how the State works, right?

COUNCILMEMBER KING: Yea, but if you were to charge a fee what would you--

MR. CROLY: They always want . . .

COUNCILMEMBER KING: --what would you estimate would be an acceptable fee for us to pay? Because they're only going to do it if all four Counties request it.

MR. CROLY: Agree. You know, I hadn't given any thought to that whatsoever. I can't imagine the fee being any greater than one-tenth of one percent, you know, something like that, which would still turn into a lot of money. Plenty of money for all that they really need to do, which is divvy up the funds, you know. They're collecting funds anyway. But if, if we create a separate Maui County filing separate from the two filings that that operators have to do with the State, the GET and the TAT, it is a, an inconvenience and it's difficult, more difficult to, to rectify all those, you know; to make sure that they're all in sync.

COUNCILMEMBER KING: Okay. Well, then that's, I'm sure you'll be visiting when we get this to Committee as well. So, maybe you could think about that cause, you know, that's, that's a, kind of a thorn in my side that they want to charge--

MR. CROLY: I agree. I agree.

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR LEE: Thank you. We have another question from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'd like to dovetail off Member King's question, cause you know a lot of history on these types of things. My understanding was that the original TAT was supposed to go to the County, and the State would collect it, and then give it to the Counties. And then they ended up putting a cap on

that, and said you get this much, and then they took it all and they said, oh, you can do your own one. So, I mean, I think the hesitancy with allowing them to collect the money is they change the rules. And what if they say, well, you know, we're going to just, we're, schools need money, or DLNR needs to jump out of helicopters, or whatever it is, and we're in the same boat again. Like, history repeating itself. Like, we don't tell the State what to do. They kind of bully us around. So, that would be my concern, that we've already went that route and we've seen them take all of the money. And so, I wouldn't want to go that route again. And, and now it's down to the operators to have to ante up another three percent, you know? Whereas, if originally, we had implemented it where the Counties collect it, then it would not be in this situation today. So, that's just my question, is like, is that your recollection of the situation, and are not, are you not concerned of history repeating itself here?

MR. CROLY: Well, I understand your concern. I do believe that this is different than the way it was set up originally. And, and if we go back to the original setup, when they, when they did the TAT, it was basically a sharing situation. It says that the State is going to collect X amount of dollars, we're going to use, or X percent. We're going to use this much for the Hawaii Convention Center. We're going to use this much for the, there was some specific things like, like Turtle Bay Preserve Area. And then, of what's left, we're going to split it up this way among the Counties and so forth. Now, that's not what the law says today. The law says this three percent belongs to the Counties. So, so I don't think that, that it's an exact parallel.

But I understand your fear. I do understand your fear. That in the past, just, you know, one, one action at the State Legislature and they've taken the money away from us. And I do believe that, that the County needs to get its attorneys involved upfront to make sure that that can't happen. But I, but I don't believe that that, what you put forward would happen as a result of this new legislation. But our lawyers need to make sure that it's buttoned up tight, to make sure that it cannot happen, okay?

COUNCILMEMBER PALTIN: And, and you have great confidence in the County's lawyers?

MR. CROLY: I'll, I'll pass on that. We have, we have some very smart people. I believe that we can. Again, all of this can get hashed out in Committee. I'm concerned that it becomes very cumbersome to have to pay it into three places. And if we do have to pay it into, into the County, then I would say that what was put forward as a, as a bill, would need to be rewritten, because that bill is how the State collects it. And it takes into account a 10 percent amount. Ours is only three percent.

So, we need to change some of the, the, the triggers for whether you file quarterly, monthly, and so forth. Otherwise, you're going to end up with people who are filing, I file with the State quarterly, I file with the County every six months. I, you know, I have

to do this. So, we really want to avoid making it difficult. Because if you make it difficult, you will get less money. You know, there will, there will be people who will fail to file and then you will have the problem of enforcement. And that's what you really want to avoid. You don't want to have to be chasing down people to get them to file and have our whole, you know, County finance committee then with that role of enforcement. So, it's a broad issue. It needs, it needs good discussion. But, but I like your, I like your thought of what we need to protect against.

COUNCILMEMBER PALTIN: Thank you.

MR. CROLY: Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Croly. Mahalo for your testimony this morning. I, I don't want to go into a deep discussion, cause this is going to Committee. I just wanted clarification on one thing. And then correction, so you said three percent, I just, the statute says, "up to three percent".

MR. CROLY: Right.

VICE-CHAIR RAWLINS-FERNANDEZ: So, it's not guaranteed three percent, although I'm advocating for the full three.

MR. CROLY: Right.

VICE-CHAIR RAWLINS-FERNANDEZ: So, I just wanted to correct the record on that. And then the second thing is regarding your testimony for clarification. So, I've never stayed at a hotel or resort where they haven't asked me to keep a credit card on file. So, in your testimony, I, I think, do you not think it's kind of misleading, or have you ever stayed at a, at a hotel where they didn't keep your credit card on file? Because if there were any additional charges that were made, that, that's the purpose of holding the credit card on file, so that hotels and resorts would make sure that any charges would be caught at that time, any additional charges.

MR. CROLY: I don't think you have a good sense of how the visitor industry works and how hotel room stays, and so forth, are paid for. I'm not going to speak for others, but I can tell you that stays are not necessarily paid when you check into the hotel. And additional taxes are never tacked onto a credit card that's held. It would be, it would be unprecedented to check into a hotel that was pre, with a pre-paid stay and then have the hotel say, oh, since you made your reservation, these extra taxes have to go on your credit card. That would be unprecedented. I, I've never seen anything like that

in, in my, you know, 25, 50 years of traveling. In my previous life I was kind of a constant traveler. That's, that's what I did. So, no, I don't think that you have any kind of sense of how the visitor industry works and, and how these types of transactions take place.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Well, I, I still think it's misleading. But that's why we're taking it to Committee so that we can talk to experts on this. And then whatever our policy is, will be our policy. Mahalo, Chair.

MR. CROLY: Right.

CHAIR LEE: Any more questions? Seeing none, thank you, Tom. And have a good weekend.

MR. CROLY: Thank you. You too.

CHAIR LEE: Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair--

CHAIR LEE: Yes?

DEPUTY COUNTY CLERK: --there is no one else currently signed up to testify. If there is anyone else connected to the meeting that has not testified but would like to do so, please unmute yourself and identify yourself now. Again, this is our last call for testifiers. Please indicate if you would like to testify.

Oh, I see Kai Nishiki unmuted.

MS. KAI NISHIKI (testifying on County Communication Nos. 21-343, 21-354, 21-360, 21-361, 21-362, and 21-363; and Committee Report No. 21-49):

Hi. Kai Nishiki, wanting to offer testimony. And I wanted to offer testimony on the TA, TAT communication. And how timely, I am actually at the Honolulu International Airport over on Oahu, celebrating my 50th. So, I'm here in line . . . tourist . . . airport . . . the County's getting that three percent. So, thank you for the urgency in bringing that forward.

I also wanted to offer support for the resolution on Farmers Market Week. My dad was instrumental in starting up some farmers markets in the early '80s. And so, it's great to see all of our local farmers and farmers markets being honored. It's, it's great.

I have County Communication 21-363, in support of the accelerated review for Hawaiian Home Lands. There is no better way to get local people back on the land than Hawaiian Homes. So, mahalo. I'll try and keep it short. I know you guys want to get to work.

In support of 21-348 *[sic]*, regarding the Hawaiian Homes representation on the Water Board.

And 362, Wawau Point and Baby Beach. That area really needs to be supported and protected in perpetuity for the public. And one of the best ways that we can do, do that is to have it taken over by the County. And I know this is going to go to Committee. So, thank you very much, Mr. Molina, Councilmember Molina, for giving attention to this matter.

Thank you to Councilmember Tamara Paltin, regarding disposable bodyboard ban. We all know how much trash is caused by the tourism industry. And this is just more tourism trash that we have to deal with.

And moving onto 360, more impacts of tourism, which is why we need that money as soon as possible; lifeguard services for Makena. I, I'm sure that I don't need to highlight how important these services are, and how needed they are. There are rescues, and obviously, yesterday, even a death with the proliferation of too many tourist here.

And finally, for 343, I think, the Napili Bay Civic Improvement District, more impacts of tourism that need to be addressed. So, I really hope that you will address all of these things with the urgency that they deserve. And thank you very much for all of your hard work. And have a wonderful weekend. And hey, if you want to celebrate my birthday with me, I'll be down at Keawekapu on Saturday.

CHAIR LEE: Happy birthday.

MS. NISHIKI: Bye.

CHAIR LEE: Bye. Okay. Oh, do we have any questions for Kai Nishiki?

MS. ANN BASSEL [testifying on Bill 62 (2021), Draft 1]:

One more; Ann Bassel, to testify. My video's off, but I think--

CHAIR LEE: Okay. So, do we have any questions for Kai Nishiki? If not, thank you, Kai.

Let's see, so we have one more testifier. Ms. Bassel?

MS. BASSEL: Yes.

CHAIR LEE: Okay. Proceed.

MS. BASSEL: Okay. Can you hear me?

CHAIR LEE: Yes.

MS. BASSEL: Oh, okay. Thank you. Thank you all. Aloha to all Councilmembers. I just am calling in to, in support of the passing of Bill 62, which regulates ziplines, bungee jumping, etc. I live near to the Northshore zipline. I have testified other times, and I'm very much in favor of the bill as amended. You've done a wonderful job. You've thought it through carefully. It is really hell living in agricultural zoning with screaming ziplines. So, I thank you all and just encourage a vote in favor of Bill 62. Thank you.

CHAIR LEE: Thank you, Ms. Bassel. Are there any questions, Members? If not, thank you to the testifier.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, we did not receive any other person indicating to testify. But I will give one last call. If there's anyone else wishing to testify, please identify yourself now. Chair, no one else has indicated that they wish to testify, and we have received written testimony.

CHAIR LEE: Members, any objections to closing public testimony at this time, public and oral testimony, and receiving the written testimony into the record? Any objections?

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Anne Rillero and Arnie Koss;
2. Pacific Whale Foundation;
3. Wes Hada;

4. April Azar;
5. Jennifer Friedlander;
6. Robert Friedlander;
7. Mufi Hannemann, Hawai'i Lodging & Tourism Association;
8. Kim Harter;
9. Stephen Hynson;
10. Michele Mclean, Planning Director;
11. Napili Bay and Beach Foundation, Inc.;
12. Office of Hawaiian Affairs;
13. Grace Tihada; and
14. Pamela Tumpap, Maui Chamber of Commerce.

CHAIR LEE: So, ordered. I think it's, we passed our break time. So, let's take a ten-minute break, and then I would like to take a lunch break at 12:00 okay? If that is okay with everybody. So, at this time, we will be returning at 11, 11:20. Let's make it 11:20, alright? Meeting in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:08 A.M., AND WAS RECONVENED AT 11:20 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS JOHNSON AND KAMA, EXCUSED.)

CHAIR LEE: Will the Council meeting of July 23 please reconvene.

Mr. Clerk.

COUNTY CLERK: Chair, proceeding with minutes.

MINUTES

The minutes of the Council of the County of Maui's public hearing of April 28, 2021 was presented at this time.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO APPROVE THE MINUTES AS READ BY THE CLERK.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to approve the minutes as read by the Clerk.

Any discussion? If not, all those in favor of the motion signify by saying "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: One, two, three, four, five, six, seven. Okay, all "ayes", zero "noes"; motion carries. Let me just, okay.

Alright. Mr. Clerk.

COUNTY CLERK: Chair, proceeding with the Consent Calendar.

ACTION ON THE CONSENT CALENDAR

COUNTY COMMUNICATIONS

NO. 21-315 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated July 15, 2021)

Informing of the transfer of appropriations from Countywide Fringe Benefits to various departments to cover the cost of Fiscal Year 2021 bargaining unit salary increases.

NO. 21-316 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated July 13, 2021)

Transmitting a copy of the following:

1. Approval letter from the State of Hawaii, Department of Transportation for the Periodic Motor Vehicle Inspection, Commercial Driver License, State Identification, and Motor Vehicle Registration Programs; and
2. Extension of the Memorandum of Agreement with the State of Hawaii Disability & Communication Access Board for implementation of the Persons with Disabilities Parking Program.

NO. 21-317 - HERMAN ANDAYA, EMERGENCY MANAGEMENT
ADMINISTRATOR, (received June 30, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Hawaii Emergency Management Agency for the Emergency Management Performance Grant COVID-19 Supplemental in the amount of \$50,000.

NO. 21-318 - HERMAN ANDAYA, EMERGENCY MANAGEMENT
ADMINISTRATOR, (received June 30, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Hawaii Emergency Management Agency for the Emergency Management Performance Grant in the amount of \$125,000.

NO. 21-319 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN
CONCERNS, (dated July 1, 2021)

Transmitting a copy of the notice of grant award from the U.S. Department of Housing & Urban Development for the Section 8 Housing Program in the amount of \$25,469,611.

NO. 21-320 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN
CONCERNS, (dated July 1, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Department of Human Services for the Kahului Affordable Housing for Homeless Families program in the amount of \$864,200, of which \$432,100 has been appropriated in Fiscal Year 2022.

NO. 21-321 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated July 1, 2021)

Transmitting a copy of the notice of grant award from the U.S. Department of Housing & Urban Development for the Emergency Housing Vouchers program in the amount of \$1,156,620.

NO. 21-322 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated July 6, 2021)

Transmitting a copy of the notice of grant award from Alexander & Baldwin for the A&B Kokua Giving Contribution program in the amount of \$20,000.

NO. 21-323 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated June 28, 2021)

Transmitting a copy of Contract Log No. 16-127, Modification Order No. 10, from the State of Hawaii, Department of Health for the Strategic Prevention Framework Partnerships for Success Grant in the amount of \$110,000.

NO. 21-324 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated July 1, 2021)

Notifying of anticipated voluntary contributions to be received from seniors participating in the Assisted Transportation Program, in the amount of \$15,500, with no letter of intent.

NO. 21-325 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated July 1, 2021)

Notifying of anticipated voluntary contributions to be received from seniors participating in the Congregate Meals Program, in the amount of \$90,000, with no letter of intent.

NO. 21-326 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated July 1, 2021)

Notifying of anticipated voluntary contributions to be received from seniors participating in the Home Delivered Meals Program, in the amount of \$120,000, with no letter of intent.

NO. 21-327 - MICHELE CHOUTEAU MCLEAN, PLANNING DIRECTOR,
(dated June 29, 2021)

Transmitting a copy of a grant agreement between the State of Hawaii and the County of Maui for the Historic Preservation Grants-In-Aid (National Historic Preservation Act of 1966), in the amount of \$25,000.

NO. 21-331 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,
(dated July 9, 2021)

Transmitting a copy of the grant agreement with the State of Hawaii, Department of Health for the Emergency Medical System grant in the amount of \$121,478.96.

NO. 21-332 - ANDREW H. MARTIN, PROSECUTING ATTORNEY,
(dated July 6, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Department of the Attorney General, Crime Prevention and Justice Assistance Division, for the STOP Violence Against Women Formula Grant totaling \$109,946, which includes \$27,487 in matching funds.

NO. 21-333 - ANDREW H. MARTIN, PROSECUTING ATTORNEY,
(dated July 6, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Department of the Attorney General, Crime Prevention and Justice Assistance Division, for the Special Needs Advocacy Project (SNAP) totaling \$825,325, which includes \$1,000 in administrative costs and \$164,865 in matching funds.

NO. 21-334 - MARC TAKAMORI, DIRECTOR OF TRANSPORTATION,
(dated July 2, 2021)

Transmitting a copy of the notice of release of grant award from the State of Hawaii, Department of Transportation for the Federal Transit Administration, Section 5339 Bus and Bus Facilities Discretionary Grant Award in the amount of \$2,900,001.

NO. 21-335 - MARC TAKAMORI, DIRECTOR OF TRANSPORTATION,
(dated July 2, 2021)

Transmitting a copy of the notice of release of grant award from the State of Hawaii, Department of Transportation for the Federal Transit Administration, Section 5311 Non-Urbanized Area Formula Program in the amount of \$675,695.

NO. 21-336 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated June 30, 2021)

Relating to an additional extension on the appointment of a committee to review Chapter 5.16 of the Maui County Code as it relates to taxicabs.

NO. 21-337 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated June 29, 2021)

Informing of the acceptance of Sewerline Easement "S-1", 569 Hana Highway, Hamakuapoko Hui Partition, Lot A, TMK: (2) 2-6-010:017 POR.

NO. 21-338 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated July 9, 2021)

Informing of the acceptance of Waterline Easement "LOT 1-D", Maluhia House Lots Subdivision, TMK: (2) 2-4-007:017.

NO. 21-355 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated July 16, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, EMERGENCY MANAGEMENT AGENCY (HAZARD MITIGATION GRANT PROGRAM (HMGP))".

CHAIR LEE: Very good.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Before I make the motion for the Consent Calendar, I would like to remove CC 21-355, and I'll explain when that item comes up later, and to add item CC 21-356.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

NO. 21-356 - MICHAEL P. VICTORINO, MAYOR,
(dated July 16, 2021)

Relating to Maui County Transient Accommodations Tax.

CHAIR LEE: So, ordered.

Oh, Member Sugimura. Sugimura.

COUNCILMEMBER SUGIMURA: So, I'm wondering if, I wonder if, cause, and this is really a Tamara Paltin question. But 21-360, which is long awaited for to Mayor, for the Mayor to enter into that intergovernmental agreement on Makena Beach Park, to add it to the Consent Calendar to take it up and move it forward. You don't want to? Okay. Disregard.

CHAIR LEE: Yea. There's a reason. There's a reason for that.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR LEE: And we'll get to it. We'll get to it.

COUNCILMEMBER PALTIN: The calendar was stuff for filing, right? Is that--

COUNCILMEMBER SUGIMURA: Right, taking action.

COUNCILMEMBER PALTIN: Oh, but it's filing without taking action, right? Consent Calendar is, I don't want to file it without taking action.

CHAIR LEE: Yea, Vice, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. It's not exclusively for filing. It can also be for referral, or, or passage. But if we put it on the Consent Calendar, then we

won't be able to discuss it. So, if you would like to discuss an item, then you don't put it on the Consent Calendar and you leave it on the regular agenda. And then, when it comes up, then we can discuss it. Mahalo, Chair.

CHAIR LEE: Alright. Back to you, Vice--

COUNCILMEMBER SUGIMURA: Second.

CHAIR LEE: Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: No, I second her motion to proceed.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, mahalo, Member Sugimura. I will make the motion.

I MOVE TO FILE ALL THE ITEMS ON THE CONSENT
CALENDAR.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR LEE: Alright. Any further discussion, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. These communications are informational, and no further action is required by the . . .

CHAIR LEE: Okay. Then we have a question by Member King. Did I see your hand?

COUNCILMEMBER KING: I was just double-checking on the, the ones that were not read or not on, no longer on the Consent Calendar. So, they were pulled out earlier.

CHAIR LEE: Yea, they were pulled out.

Alright. Member Paltin.

COUNCILMEMBER PALTIN: Oh, I just had a question to try to understand the Consent Calendar a little bit more. I thought we, we're supposed to add and remove before testimony. But we can add or remove before or after testimony?

CHAIR LEE: Vice-Chair Rawlins-Fernandez. For the record, just say what your--

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yes. Mahalo, Member Paltin, for the question. Yes, we can remove or add before or after the testimony. But if you know that you would like to add or remove something before testimony, then the preference would be to do it before testimony. And then, that way members of the public will know what the Members intentions are.

COUNCILMEMBER PALTIN: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Ahead of time, so that they can include that in their testimony; to either testify on it or not.

CHAIR LEE: Alright. Vice-Chair Rawlins-Fernandez, are you, anything else before we take the vote?

VICE-CHAIR RAWLINS-FERNANDEZ: I think that's everything. Mahalo, Chair.

CHAIR LEE: That's everything? Okay. All those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. All "ayes", zero "noes"; motion carries. Two "excused".

Alright. Mr. Clerk.

COUNTY CLERK: Chair, proceeding with County Communications.

COUNTY COMMUNICATIONS

NO. 21-312 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated July 6, 2021)

Transmitting the Department of Water Supply's Monthly Source and Groundwater Use Reports for the month ending June 2021.

CHAIR LEE: Oh, wait. I'm sorry. Can you repeat that County Communication again?

DEPUTY COUNTY CLERK: Yes. It's 21-312. Councilmember Sugimura requested it be removed from the Consent Calendar.

CHAIR LEE: Oh, okay. No wonder I don't have it in order. Alright.

Did, Vice-Chair Rawlins-Fernandez, did you have your hand up?

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, yes. That was going to be for CC 21-339. Mahalo for your clarification.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: 21-312 that he just read, right?

CHAIR LEE: Yea, 312.

COUNCILMEMBER SUGIMURA: Yea. Okay.

CHAIR LEE: Okay. Now, I'm confused.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, could I ask the Clerk to also call up 21-313, which is the next item that I asked to pull out of the Consent Calendar?

CHAIR LEE: Mr. Clerk.

NO. 21-313 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated July 13, 2021)

Transmitting the State of Hawaii Commission on Water Resource Management water use reports for May 2021 for all registered well reporters in the County of Maui.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yea, so I would like these two items to be referred to my Committee, my IT Committee, the two water supply reports.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yea, isn't the water, water use under the APT Committee?

COUNCILMEMBER SUGIMURA: Yes.

COUNCILMEMBER KING: So, it would go to the APT Committee for referral.

COUNCILMEMBER SUGIMURA: But I'm asking for it to come to my Committee.

COUNCILMEMBER KING: I just wanted to get Member Sinenci's input on that.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Okay. That's fine. We were, we requested that it be put, placed in a Consent Calendar, but Member Sugimura needs it in IT, I believe it was for her district purposes. That's fine.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: So, any objections, Members?

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Referring this to IT?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I understand the explanation. And so, it, it, I just wanted to clarify for the record that it doesn't, these items don't exactly fall under the description of the IT Committee. But we're all not objecting to it going to the IT Committee.

COUNCILMEMBER SUGIMURA: Thank you. I have a drought problem in my, my district, which I've been getting a lot of emails. I'm sure you have too. So, thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Okay. This is what I, I really encourage Members to do is, when there is some kind of overlap or something actually doesn't technically belong in your Committee, that you work it out with the relevant subject Committee Chair, so that there is this understanding. Cause there are times when--

COUNCILMEMBER KING: Chair.

CHAIR LEE: --there are times when, you know, you, and then the Members will vote whether it's allowed or not.

Member King.

COUNCILMEMBER KING: Yea, just, I, I agree with that, that we should be working it out. I just had been on the other end of this before. And so, I just want, if, if districts, if district, being in someone's district is a reason for sending it to a different Committee than where it belongs, then just remember that, please.

CHAIR LEE: Yea. Okay. We are a team. We just gotta remember that sometimes. Okay. Very good. So, let's see, where did we leave off?

Mr. Clerk.

NO. 21-314 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated June 30, 2021)

Transmitting a list of approved unbudgeted equipment requests for Fiscal Year 2021, from April 1 through June 30, 2021.

CHAIR LEE: Vice-Chair Rawlins-Fernandez, is this to refer to the BFED Committee?

COUNCILMEMBER PALTIN: Oh, that's--

CHAIR LEE: Oh, sorry.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I would like to request to refer this to the BFED Committee. I, I just had some questions, you know, being that we just went through budget and a lot of the police car purchases did not explain like how Finance did, like if this is a new purchase or one of the things replaced due to like how, you know, Finance explained it in their little thing. But there were some with no explanation and we just went through budget and so, you know, just to be prudent, see what's going on there.

CHAIR LEE: Any objections to referring this item to the BFED Committee? Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. So, ordered.

Mr. Clerk.

NO. 21-328 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,
(dated June 30, 2021)

Informing of the receipt of a 2002 Toyota 4-Runner valued at \$4,723 from the State Department of the Attorney General.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And I'm not sure what the appropriate Committee to refer this to. But the reason I would like to take up the matter is because when we were confirming another person to his seat, and there was a issue of a forfeiture fund car and we were just told it was taken cared of, and so I just would like more information on the process of what occurs with a forfeiture car. Is it going to be sold and then the money is used, or how that works? Because in the last time when this occurred, we weren't, we were just said oh it's taken cared of and that's kind of vague.

CHAIR LEE: Okay. Normally, the Police Department comes under the GREAT Committee. But Vice-Chair Rawlins-Fernandez, I saw your hand up.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I had planned to take up forfeiture funds policy, along with other grant items that we accept through, to the Police Department and the Prosecuting Attorney's department. So, I think this could go under that--

COUNCILMEMBER PALTIN: I'm amenable.

CHAIR LEE: Any objections, Mr. Molina?

COUNCILMEMBER MOLINA: No objections.

CHAIR LEE: Okay. Any objections, the rest of the Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered, then. This matter will go to, be referred to the BFED Committee. Thank you.

Mr. Clerk.

NO. 21-329 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,
(dated July 1, 2021)

Transmitting a copy of the budget approved by the E911 Board in the amount of \$1,770,590.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I am okay with filing this, but the issue I had was relevant information. The reason that they're transmitting it to us is so that we have that information was covered up by the post-it that said when the Mayor received it. So, maybe if they could possibly transmit a new clean copy without the post-it so that all the information is on it. Cause that's the point of transmitting the information, so you can see it, right?

CHAIR LEE: Sure. Mr. Clerk, can you ensure that that happens? Requesting, you know, another copy that shows the, a clean copy without any post-it marks.

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: Okay. Alright. So, what does that mean? That you are requesting filing or referral to Committee?

COUNCILMEMBER PALTIN: As soon as there's a clean copy for the record, then we can file it. I mean, cause then we can archive it and look at the information, right?

CHAIR LEE: Okay. So, that means, Mr. Clerk, we'll lay it on the Clerk's table.

DEPUTY COUNTY CLERK: Okay.

CHAIR LEE: Lay it on the Clerk's desk.

DEPUTY COUNTY CLERK: Okay.

CHAIR LEE: Just leave it there for now; the item, the item. Till we get a clean copy.

Okay, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I support that.

CHAIR LEE: Alright.

VICE-CHAIR RAWLINS-FERNANDEZ: Your action.

(COUNTY COMMUNICATION NO. 21-329 WAS FILED LATER
IN THIS MEETING. See pages 69 and 70 for discussion and
action.)

CHAIR LEE: Mr. Clerk, I see you talking. Is there a question?

DEPUTY COUNTY CLERK: Apologies, I'm just conversing with staff. But if the body's ready, if we're laying it on the Clerk's table, we can proceed to the next item, Chair?

CHAIR LEE: Yes.

NO. 21-330 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,
(dated July 1, 2021)

Transmitting a copy of the grant agreement with the Office of National Drug Control Policy for the High Intensity Drug Trafficking Areas grant in the amount of \$399,100.

CHAIR LEE: Who asked for this?

Yea, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And I'm not sure if this would be a BFED or a GREAT Committee referral. My question is in the investigative law enforcement officer overtime amount of \$105,000. The quantity listed was 21. And I'm not sure if that's 21 law enforcement officers, 21 hours, 21 days, but it breaks down to 5,000 a unit. And I just wonder what, what that 5,000 gets us. Does it get us a law enforcement officer? Does it get us one hour of a law enforcement officer? Or does it give us one day of a law enforcement officer?

CHAIR LEE: Sounds like a budget item.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Vice-Chair Rawlins-Fernandez? Okay. So, without any objections, we'll refer this to the BFED Committee.

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. Thank you. No objections, Members.

Alright. Mr. Clerk.

NO. 21-339 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated July 14, 2021)

Transmitting 133 contracts/grants for the month of June 2021.

CHAIR LEE: Okay, let this be the last item before lunch, okay? Cause I'm sure everybody wants to pull out all these different numbers of contracts.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 21-339, EXCEPT FOR THOSE GRANTS AND CONTRACTS THAT COUNCILMEMBERS REQUEST FOR COMMITTEE REFERRAL.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay, moved by Vice-Chair Rawlins-Fernandez, seconded by Member King, to file this item. And then we have a question from Member King.

COUNCILMEMBER KING: Actually, it's the items I, I'm requesting to pull out.

CHAIR LEE: Okay.

COUNCILMEMBER KING: Kind of a long list. So, Clerk, get your pencil out.

SO, THE FIRST ONE IS CONTRACT C6706-2, AND I'D LIKE THAT REFERRED TO THE CARE COMMITTEE. THAT'S THE OHUKAI ROAD SIDEWALK IMPROVEMENTS. THAT'S A SOUTH MAUI DISTRICT.

CHAIR LEE: Okay, wait. Any objections to that, Members? Let's do it one at a time, cause they're all different.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Wouldn't you want it to come to my Committee, if it's sidewalks? Well, why CARE?

COUNCILMEMBER KING: It's my district. It's like your previous concern. This has been a big concern in my community for a long time.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Okay. I mean--

CHAIR LEE: Any objections? Okay.

COUNCILMEMBER KING: Okay. And then I have, one, two, three, four, five, six, seven contracts, well, contracts and grants. So, I'll just name them off.

THEY'RE ALL, THEY ALL FALL UNDER CLIMATE CHANGE AND RESILIENCE. SO C7393, WHICH IS THE MA'ALAEA VILLAGE COASTAL RESILIENCE AND EROSION PLAN. C7437, CLIMATE CHANGE, SUSTAINABILITY, RESILIENCE: WHOLE-SYSTEM SOLUTIONS HEAT MAP INDEX. G5401, WHICH IS THE COUNTYWIDE CLIMATE CHANGE AND SEA LEVEL RISE ADAPTATION, RESILIENCY MASTER PLAN GRANT. C7431, THE CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCE: WHOLE-SYSTEM SOLUTIONS VULNERABILITY ASSESSMENT. C7432, CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCE: WHOLE-SYSTEM SOLUTIONS ASSESSING AND ANALYZING CARBON EMISSIONS. C7434, CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY: WHOLE SYSTEM SOLUTIONS DEVELOPMENT OF A COMMUNITY RESILIENCY HUB. AND C7436, COUNTY OF MAUI JOINT CLIMATE ACTION, RESILIENCE PLAN.

CHAIR LEE: Any objections, Members, to referring these contracts to the CARE Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. So, ordered. Any other contracts, Members, to pull out?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. My first request, these are all items that I'm getting calls about from my community, but I don't want them in my Committee.

I'D LIKE TO REFER TO HCP, C6654-2, HANAKAO'O BEACH PARK PARKING LOT TIME EXTENSION. JUST, THAT WAS A BIG ISSUE, SO JUST WANT TO LET THE PUBLIC KNOW WHAT HAPPENED THERE.

CHAIR LEE: Wait. Are they going to be all different referrals?

COUNCILMEMBER PALTIN: At least two, possible three, cause the third one--

CHAIR LEE: Okay, let's do one at a time.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Any objections, Members, to referring this particular contract to HCP?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections? Okay. So, ordered on that one.

COUNCILMEMBER SUGIMURA: What is the contract number again? What is the contract number?

COUNCILMEMBER PALTIN: C6654-2.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay. Next.

COUNCILMEMBER PALTIN:

AND THEN, THE NEXT TWO WOULD BE TO MEMBER SUGIMURA'S IT COMMITTEE, IF SHE WOULD ALLOW IT. ALSO, LIKE I GET EMAILS HOURLY ABOUT THESE ISSUES. C7406, WHICH IS THE WEST MAUI GREENWAY MASTER PLAN. AND C6983-1, MAUI BICYCLE AND PEDESTRIAN ROUTE DEVELOPMENT.

CHAIR LEE: Okay. Member Sugimura, any objections to taking, referring these two items to your IT Committee?

COUNCILMEMBER SUGIMURA: That's fine. And I wonder if, was connected, I know, that's fine. I wonder if one would be more Member Kama's Committee. But I'll, I'll take it. Thanks.

CHAIR LEE: Alright. Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so ordered.

Okay. Alright. Ms. Paltin, you want to continue?

COUNCILMEMBER PALTIN: Sure. And my last one, I wasn't sure which was the appropriate, more appropriate Committee.

EITHER CARE OR IT, BUT THE ISSUE IS C7410, EV SUPPLY EQUIPMENT. ALSO GETTING MANY COMPLAINTS ON THIS ISSUE WITHIN MY COMMUNITY. IT'S FOR THE ELECTRICAL VEHICLE EQUIPMENT SUPPLY.

CHAIR LEE: Sounds like CARE, huh?

COUNCILMEMBER KING: Yea, it sounds like a renewable energy issue.

COUNCILMEMBER PALTIN: I don't have--

CHAIR LEE: Alright, any objections to referring this particular item to the CARE Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. So, ordered.

COUNCILMEMBER KING: Can you give me that number again?

COUNCILMEMBER PALTIN: C7410.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR LEE: Okay. Now, any other, Members, would like to remove, remove a contract or two? Going once. Okay, too late. Let's finish--

Oh, Member Paltin? You have another one? You're muted.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-329

COUNCILMEMBER PALTIN: Sorry. I just wanted to mention I did receive the clean copy of 21-329. So, I would, if we can file it now, that's, then we don't have to leave a whole bunch of things on James's desk and make it all cluttered.

CHAIR LEE: Members, any objections to filing that item, instead of leaving it?

Oh, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Point of order. I can amend my main motion to include the filing of that item. But if--

SO, I MOVE TO AMEND THE MAIN MOTION TO INCLUDE THE
FILING OF CC 21-329.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay, moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to amend the main motion to include this particular filing.

Any more discussion? All those in favor of the amendment, say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Motion carries; all "ayes", zero "noes", two "excused".

Okay. Vice-Chair Rawlins-Fernandez.

Oops. Member Sinenci, is that, was that a high five or a, what was that?

COUNCILMEMBER SINENCI: I wasn't sure if we're done, if you wanted to take one more up before lunch.

CHAIR LEE: Okay. No. But did we complete the, the procedure on that filing, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yea, so we have the main motion as amended. And so, we just need to take that vote. And then if we want to--

CHAIR LEE: Okay. Let's take that vote first, Mr. Sinenci. Okay. All those in favor say "aye", raise your hand. Main motion as amended.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. All "ayes", zero "noes", two "excused"; motion carries.

Now, Member Sinenci, do you have a contract?

COUNCILMEMBER SINENCI: No. Just, just the next communication, Chair.

CHAIR LEE: Oh. Okay, we're all done with contracts, right? Okay. Very good. So, the next, moving forward, Mr. Clerk, I, I did say we were going stop at the, the 339. So, can you wait till after lunch, Mr. Sinenci? Or you want to take this up right now?

COUNCILMEMBER SINENCI: It shouldn't be too long, Chair.

CHAIR LEE: Okay. Alright.

COUNCILMEMBER SINENCI: Okay.

CHAIR LEE: Let's call up the item.

Mr. Clerk.

COUNCILMEMBER SINENCI: Thank you.

NO. 21-340 - SHANE M. SINENCI, COUNCILMEMBER,
(dated July 16, 2021)

Relating to Councilmembers' report on the virtual town hall meeting on East Maui traffic congestion, hosted by State Senator Lynn DeCoite, held on July 15, 2021.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: I appreciate it, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 21-340.

COUNCILMEMBER MOLINA:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

COUNCILMEMBER KING: Second.

CHAIR LEE: Moved by Member Sinenci, seconded by Member Molina, to file County Communication 21-340.

Discussion, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Councilmembers Molina, Sugimura, and I attended the meeting of the virtual town hall on East Maui traffic congestion on July 15, 2021, hosted by State Senator Lynn DeCoite.

I am making this report pursuant to the State Sunshine Law, specifically Section 92-2.5(e) of the Hawaii Revised Statutes.

The goal of the town hall was to let the East Maui community know that the State and the County governments are working together to address traffic concerns with discussions and reasonable solutions.

A quorum of the Council was not present at the meeting. However, other meeting participants, including Governor Ige, Mayor Victorino, and representatives of Hawaii Tourism Authority, and the State Department of Transportation.

The town hall was not specifically and exclusively organized for our directed, or directed toward Members of the Council. But public meeting, it was a public meeting organized.

No commitment relating to a vote on any Council business was made or sought at the meeting. So, Chair, that concludes my report. And I welcome any additional comments from Councilmembers Molina and Sugimura.

CHAIR LEE: Member Molina, Member Sugimura, anything to add?

COUNCILMEMBER MOLINA: No further comments.

CHAIR LEE: Member Sugimura?

COUNCILMEMBER SUGIMURA: Yea, thank you. I just want to express, express my appreciation to Senator DeCoite for pulling this together, because it kind of pieced all the different questions that I had happened in my IT Committee that she was able to grasp the Governor, Department of Transportation, and those decision-makers from HTA. And it was very productive in, in perspective of information and getting answers to important questions for road to Hana. So, thank you, Mr. Sinenci, for bringing this up.

COUNCILMEMBER SINENCI: Thank you.

CHAIR LEE: Alright. Okay. Any objections to filing this item?

COUNCILMEMBER MOLINA: No objections.

COUNCILMEMBER SINENCI: No objections.

CHAIR LEE: Okay. So, ordered.

Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: There was a motion on the floor to file.

CHAIR LEE: Oh, I'm sorry.

DEPUTY COUNTY CLERK: If the body could just vote on it.

CHAIR LEE: Oh, I'm sorry.

DEPUTY COUNTY CLERK: Thank you, Chair.

CHAIR LEE: My mistake. All those in favor of the motion to file, raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. All "ayes", zero "noes"; motion carries.

So, that brings us to lunch time. So, Members, I'll ask you, do you want to have a one-hour lunch, to return at 1 p.m., or return at 1:30 p.m.?

COUNCILMEMBER MOLINA: One.

CHAIR LEE: One. Three ones and no other, no other suggestions. Alright. Then, we will take a break from now until 1:00. Our lunch break from now until 1:00. Meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:55 A.M., AND WAS RECONVENED AT 1:02 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS JOHNSON, KAMA, AND SUGIMURA, EXCUSED.)

CHAIR LEE: Will the Council meeting of July 23, please reconvene.

Mr. Clerk.

NO. 21-341 - MICHAEL J. MOLINA, CHAIR, GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE,
(dated June 29, 2021)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF JOSEPH BLACKBURN II TO THE COST OF GOVERNMENT COMMISSION FOR THE COUNTY OF MAUI".

CHAIR LEE: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO DISCHARGE THE GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE FROM
FURTHER CONSIDERATION OF THE PROPOSED
RESOLUTION ATTACHED TO COUNTY COMMUNICATION
21-341.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sinenci, to discharge the Committee of this item.

Any discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. The reason for this is the 60-day deadline for the Council to approve or disapprove Mr. Blackburn's nomination to the Cost of Government Commission is July 26, 2021. So, discharge is needed in order for us to act on this matter today. Thank you.

CHAIR LEE: Any more questions or discussion? If not, all those in favor of the motion, please say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, VICE-CHAIR RAWLINS-FERNANDEZ,
AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON, KAMA, AND
SUGIMURA.

CHAIR LEE: One, two, six "ayes"; three "excused". Motion carries.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sinenci, to waive the Rules of the Council.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Approval of this motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolution today. Thank you.

CHAIR LEE: Anymore discussion? If not, all those in favor of the motion, please say "aye", raise your hand. We need all hands.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, VICE-CHAIR RAWLINS-FERNANDEZ,
AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON, KAMA, AND
SUGIMURA.

CHAIR LEE: Thank you. Motion carries. All "ayes", three "excused"; motion carries.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 21-341, AND TO
FILE COUNTY COMMUNICATION 21-341.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sinenci, to approve the recommendation in CC 21-341.

Any more discussion, Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. At the GREAT Committee meeting this past Tuesday, July 20, your Committee met with Mr. Blackburn. And according to his application, Mr. Blackburn has worked in various industries and is currently a small business owner. And he is actively involved with helping the youth of our community. He did disclose to us that his spouse currently works in the County Budget Office. Therefore, your Committee recommended he seek an opinion from the Board of Ethics to determine whether a conflict of interest, if any, exists. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS MOLINA, SINENCI, AND
CHAIR LEE.

CHAIR LEE: One. So, I see three "ayes".

Those opposed, raise your hand.

NOES: COUNCILMEMBERS KING, PALTIN, AND VICE-
CHAIR RAWLINS-FERNANDEZ.

EXCUSED: COUNCILMEMBERS JOHNSON, KAMA, AND
SUGIMURA.

CHAIR LEE: Okay. Motion fails.

Okay. Mr. Clerk. Well, let, let me just say, the "ayes" were Member Molina, Member Sinenci, and myself. And the "noes" were Member Paltin, Member King, and Vice-Chair Rawlins-Fernandez. Okay. Three "ayes", three "noes", three "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair. We would just, the County Communication is still before the body, it just needs to be disposed of, of some way. Or I believe this is appointing.

CHAIR LEE: Was that part of your motion, Mr. Molina, to include the filing of the communication?

COUNCILMEMBER MOLINA: To, to file, yes. Yea.

CHAIR LEE: You want us to take a vote on that, or?

COUNCILMEMBER MOLINA: That was included in the motion, to adopt the resolution--

CHAIR LEE: Oh, that was included in the motion?

COUNCILMEMBER MOLINA: Yea, and to file the County Communication.

CHAIR LEE: Mr. Clerk, did you get that?

DEPUTY COUNTY CLERK: So, right. The, the motion that just failed--

CHAIR LEE: Oh, yea, the motion failed. That's right.

DEPUTY COUNTY CLERK: --was to adopt the resolution and file the CC. So, if the body wants to dispose of the--

CHAIR LEE: Make another motion, Mr. Molina, please, to file the communication.

COUNCILMEMBER MOLINA: Okay.

I MOVE TO FILE COUNTY COMMUNICATION--

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order.

COUNCILMEMBER MOLINA:

--21-341.

CHAIR LEE: Yes, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, the filing of this would result in an automatic appointment, because the Council would not take action. So, because we don't have enough, it's a, a 3-3 vote, may I request that this go to the end of the schedule. And then, perhaps we'll have more Members at that time to take action one way or the other, instead of filing now and allowing for it to be an automatic appointment from the Mayor, because Council didn't take action.

CHAIR LEE: Okay. My knowledge, we took action, the motion failed, yea. So, unfortunately, well, part of the motion included the filing of the communication, so that's why we're taking that up separately. You mean, are you saying the 3-3 vote--

VICE-CHAIR RAWLINS-FERNANDEZ: Is--

CHAIR LEE: --represents no action?

VICE-CHAIR RAWLINS-FERNANDEZ: It's a--

CHAIR LEE: Represents no action?

VICE-CHAIR RAWLINS-FERNANDEZ: That's correct. That would be correct.

CHAIR LEE: Why would that be?

VICE-CHAIR RAWLINS-FERNANDEZ: That would be no action because we didn't take an affirmative action to either approve or deny. We would just be filing the communication. And Council's lack of affirmative action of approving or denying results in inaction.

CHAIR LEE: Vice-Chair, we just denied the, the applicant, the nominee.

COUNCILMEMBER MOLINA: Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: No, we didn't.

CHAIR LEE: Okay. Member Molina.

COUNCILMEMBER MOLINA: Yea, Madam Chair, can we get a, an opinion from OCS or Corporation Counsel. I'm sure, I'm not sure but maybe a counter, a motion could be made now that since there was no consensus on the nominee. If I'm correct, a counter motion could be made to file or what have you down the road. But I'd like to get a clear, find a clearer path as to how we should operate . . .

CHAIR LEE: Of course. David, are you on the call? David?

DEPUTY DIRECTOR OF COUNCIL SERVICES DAVID RAATZ: The body's, oh, there we go.

CHAIR LEE: Richelle?

Well, let's take David first, okay? David.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yea, thank you, Chair. First, the Vice-Chair accurately advised the body that an affirmative vote of five is required to take action by the Council. A resolution to approve or to disapprove would be required in this case for any action by the body to be taken.

CHAIR LEE: I don't understand that Mr. Raatz. There were sufficient people to take action. So, if, if, let's say, five people voted in the affirmative, motion passes, right?

DEPUTY DIRECTOR OF COUNCIL SERVICES: That's correct.

CHAIR LEE: So, if fewer than five people vote in the affirmative, motion fails?

DEPUTY DIRECTOR OF COUNCIL SERVICES: That's correct, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

DEPUTY DIRECTOR OF COUNCIL SERVICES: The, the failure of a motion does not result in--

VICE-CHAIR RAWLINS-FERNANDEZ: --inaction.

DEPUTY DIRECTOR OF COUNCIL SERVICES: --in an action or an adoption of a resolution to disapprove. To disapprove, we would, we would need a resolution.

CHAIR LEE: Okay. So, another alternative. Wait, Vice-Chair, okay? Just wait. Let me finish with him.

David, so logically speaking, if that is the case, then we should take, then someone would make the motion to disapprove the nominee. And then, if there are five votes to disapprove, the nominee would be disapproved. Is that correct?

DEPUTY DIRECTOR OF COUNCIL SERVICES: That's correct, Chair.

CHAIR LEE: Okay. So, at this point in time, another person who voted "no" should make the motion to disapprove the nominee. Is that correct?

DEPUTY DIRECTOR OF COUNCIL SERVICES: That, that would be an option that the Councilmember could consider, yes, Chair.

CHAIR LEE: Okay. Yea, yea, you see, Vice-Chair. I don't want to go around and around in a circle. If there aren't enough votes to support this nominee, let's deal with it now, yea. Let's deal with it right now.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I move to propose adoption of the resolution. Oh, I guess we would have to have a main motion on the floor first, which is to take up CC 21-341 and then amend it. Unless I'm incorrect and, okay, I see Deputy Clerk nodding his head. Because I, I cannot make a main motion with the amendment. Is that correct?

CHAIR LEE: What amendment? We, there, there is no amendment. The motion failed.

(Councilmember Sugimura returned to the meeting at 1:12 p.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, Chair, the, the resolution says, relating to the appointment of, to the Cost of Government Commission for the County of Maui. And so, I would have to amend it to disapprove.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Deputy Clerk.

CHAIR LEE: Make that motion right now.

VICE-CHAIR RAWLINS-FERNANDEZ: Deputy Clerk, main motion and then amend?

DEPUTY COUNTY CLERK: Yes, Vice-Chair. Yea, if the body's intent is to disapprove, then main motion to adopt the resolution, and then an amendment to change the language to a disapproval language. That would be appropriate, yes, Chair.

CHAIR LEE: Okay. So, did you make a motion just now?

VICE-CHAIR RAWLINS-FERNANDEZ:

I MOVE TO ADOPT THE RESOLUTION ATTACHED TO
COUNTY COMMUNICATION 21-341.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member King. Okay, so can you explain--

COUNCILMEMBER SUGIMURA: Point of information. Point of information.

CHAIR LEE: Yes.

COUNCILMEMBER SUGIMURA: I'm sorry. I came in late. So, where, where are we? What's happening?

CHAIR LEE: We're on the item of Joe Blackburn.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR LEE: And the motion to approve failed, yea, 3-3. So, an additional vote of 4 is not going to change it, yea.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO AMEND THE MAIN MOTION TO READ AS
FOLLOWS: THAT IT "DISAPPROVES" THE APPOINTMENT
WHEREVER IT SAYS "APPROVE".

CHAIR LEE: Mr. Clerk, is that language sufficient, or do you want to, you want to revise the sentence?

DEPUTY COUNTY CLERK: Chair, I, I think we would interpret that to mean in the "BE IT RESOLVED" number one, that it would change "approves" to "disapproves", so that it disapproves the appointment of Joseph Blackburn. I don't know if it'd be necessary anywhere else in the resolution.

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: If it is, we'd defer to OCS for that.

CHAIR LEE: Okay. I just want to make it clear rather than having wherever it says "approves", okay?

VICE-CHAIR RAWLINS-FERNANDEZ:

OKAY, I MOVE TO AMEND THE "BE IT RESOLVED" CLAUSE
ONE THAT IT DISAPPROVES.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Mr., Member King. Okay, moved by Member, Vice-Chair Rawlins-Fernandez, seconded by Member King.

Okay, proceed, Vice-Chair. Any more discussion?

CHAIR LEE: No?

Member King.

COUNCILMEMBER KING: Yea, I, I, I think that this is nothing personal, Chair. But it's, it feels to me like a huge contradiction and conflict to be sitting on Cost of Government when your spouse is part of that government and in the Budget Office. So, that's where I have the biggest problem with this. And I know we've asked him to get a Board of Ethics opinion. But it, it just feels too close to me that I, I think I'd rather see that opinion first before having him come back and, you know. Maybe a different commission or board, I think he, he could serve on very well. But this, you know, I think we need people who are a little more removed from the, what's happening actually in the Budget Office of this government, because that's one of the things they look at critically. And I think that's just, it's really hard to do that if your spouse is working for the government in the Budget Office. So, that's my only concern. And nothing against Mr. Blackburn, personally.

CHAIR LEE: Yea, I can see where I just shouldn't have taken this, entertained this vote, because it's not going to change anything. I wanted to just dispose of this matter already. But there aren't enough votes, even for a "no".

Mr. Sinenci.

COUNCILMEMBER SINENCI: Okay. Thank you, Chair. And my apologies. I was on the wrong appointment. So, I can support the, the motion with reservation.

CHAIR LEE: Okay. So, it would be 4-3.

Mr. Clerk, do we need a five in order to make this pass? Five, yea?

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: Okay. And there's only seven of us.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yea, so, I, that was why I was requesting that it be moved to the end of the calendar. Because you, you said that Member Johnson would be joining us later, and then Member Sugimura was just tardy. And so, perhaps we would have enough votes for either way, you know, so that we can take action on it. And I wasn't sure if, when you said that you didn't want to go around and round in circles that perhaps the votes would, would change, so.

CHAIR LEE: No. I, I made a mistake by thinking when, when the affirmative vote failed, I thought the motion failed and so, therefore, the nomination failed. But that was not

correct. So, if there are no objections, we'll just defer this to the end of the calendar.
Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay.

COUNCILMEMBER KING: Chair, just point of, a question.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Does, if we defer it, does, can we just hold that motion open or do we withdraw the motion and then--

CHAIR LEE: Well, we could do it either way.

COUNCILMEMBER KING: Okay. Just leave it open.

CHAIR LEE: Yea, we could do it either way.

Member, I mean, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. I was going to withdraw my motion, both motions. But I, I, if Deputy Clerk or Mr. Raatz say that it's okay to have an open motion on the floor with a deferral, then that's, I'm okay with that too.

CHAIR LEE: Well, we, you know the zipline bill, the motion is still on the floor from the last Council meeting. So, it is possible.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. Just so we're all clear and, you know, Mr. Raatz can correct me, as Vice-Chair Rawlins has stated earlier by the 3-3 vote, that goes in as a no action, so it's like nothing happened basically, right? So, we're back to square one if you will. So, we, at the end of calendar, then a motion can be made again, either in support of Mr. Blackburn or not in support. Am I correct in my understanding of that?

CHAIR LEE: Yea, you could. You could change your vote, like Mr. Sinenci.

COUNCILMEMBER MOLINA: Well, yea. Well, not so much change the vote, but as far as just for the sake of procedure. So, it's like we've, the slate has been wiped clean. The original motion that I put on the floor, that's wiped out.

CHAIR LEE: Yea.

COUNCILMEMBER MOLINA: Nothing happened. And now, by putting it to the end of calendar, we could go through the same procedure again then, basically, right? Except now, we could possibly have Mr. Johnson joining us.

CHAIR LEE: That's the idea.

COUNCILMEMBER MOLINA: Yea. Okay. Alright. Thank you.

CHAIR LEE: Okay. Alright. If there are no objections, Members, we'll defer this to the end of the calendar. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered.

Mr. Clerk, let's proceed.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-341 WAS AMENDED AND ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-122. COUNTY COMMUNICATION NO. 21-341 WAS THEN FILED. See pages 177 through 196 for discussion and action.)

NO. 21-342 - MICHAEL J. MOLINA, CHAIR, GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE,
(dated June 29, 2021)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF ZANE DE LA CRUZ TO THE LANAI PLANNING COMMISSION".

CHAIR LEE: Okay. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO DISCHARGE THE GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE FROM
FURTHER CONSIDERATION OF THE PROPOSED
RESOLUTION ATTACHED TO COUNTY COMMUNICATION
NO. 21-342.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to approve, or adopt the resolution in County Communication 21-342.

Discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. The 60-day deadline for the Council to approve or disapprove the nomination of Mr. de la Cruz to the Lanai Planning Commission is July 26, 2021, so therefore, discharge is needed to enable the Council to act on this matter today. Thank you.

CHAIR LEE: Any more discussion? All those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. We have seven "ayes", two "excused"; Members Kama and Johnson. Alright. Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the item's still on the floor. But the discharge motion succeeded.

CHAIR LEE: Oh. Oh, this is only a discharge. Oh, I'm sorry. Oh, I'm sorry. Okay, the motion to discharge passes.

Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to waive the Rule of the Council.

Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Approval of this motion by a two-thirds vote of the Council will enable the Council to consider the proposed resolution today. Thank you.

CHAIR LEE: Okay. Any more discussion? All those in favor of the motion, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", two "excused"; motion carries. Excused are Members Kama and Johnson.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 21-342, AND TO
FILE COUNTY COMMUNICATION 21-342.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Second? Moved by Member Molina, seconded by Member Sugimura, to adopt the resolution in County Communication 21-342. All those in favor, raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Seven "ayes", zero "noes", two "excused"; motion carries. Excused are Kama and Johnson.

Alright. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record--

COUNCILMEMBER MOLINA: Madam Chair.

CHAIR LEE: Oh, one more?

Member Molina.

COUNCILMEMBER MOLINA: No, no, no. Just, I didn't get a chance to provide some discussion as to how we got to, you know, with Mr. de la Cruz's nomination.

CHAIR LEE: Oh, okay.

COUNCILMEMBER MOLINA: Yea, we did have the discussion July 20. And I just wanted to thank Mr. de la Cruz for, you know, volunteering his services to the Lanai Planning Commission. Thank you.

CHAIR LEE: Okay. In retrospect.

Yes, Mr. Clerk?

DEPUTY COUNTY CLERK: Chair, for the record, this is RESOLUTION 21-111.

And apologies, just to backtrack, the Farmers Market ceremonial resolution, that was RESOLUTION 21-110.

CHAIR LEE: Okay.

NO. 21-343 - MICHELE MCLEAN, PLANNING DIRECTOR,
(dated July 16, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.60.030, MAUI COUNTY CODE, RELATING TO HOTEL USE AND DEVELOPMENT STANDARDS IN THE NAPILI BAY CIVIC IMPROVEMENT DISTRICT (LAHAINA)"; and related documents.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to waive Rule 7.G.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Approval of my motion by a two-thirds vote will enable the Council to consider the proposed bill today.

CHAIR LEE: Any more discussion? All those in favor of the motion, raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Seven "ayes", two "excused"; Kama and Johnson. Motion carries.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO PASS THE BILL ON FIRST READING, AND TO FILE COUNTY COMMUNICATION 21-343.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to pass this bill on first reading. And did you say with the filing of the communication?

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO AMEND THE PROPOSED BILL BY INCLUDING REFERENCES TO A CUT OFF DATE OF AUGUST 6, 2021, IN SECTION 19.60.030, SUBSECTION E., TO READ AS FOLLOWS:

"THE PERMITTED USES SHALL BE AS PROVIDED FOR IN THE HOTEL DISTRICT AS, AND AS LISTED IN CHAPTER 19.14 OF THIS CODE, FOR ANY HOTEL OR APARTMENT-HOTEL USE ESTABLISHED BY AUGUST 6, 2021, PROVIDED, THAT ANY PERMITTED ACCESSORY USE SHALL BE AN

INTEGRAL FUNCTION OF THE HOTEL OPERATION AND SHALL BE OPERATED BY THE MANAGEMENT PROVIDED ONLY FOR THE CONVENIENCE OF GUESTS AND SHALL NOT BE AN INDEPENDENT COMMERCIAL VENTURE. THE PERMITTED USES SHALL BE AS PROVIDED FOR IN THE RESIDENTIAL AND APARTMENT DISTRICTS AS LISTED IN CHAPTER 19.08 AND 19.12 OF THIS TITLE FOR ANY ESTABLISHED USE AFTER AUGUST 6, 2021."

CHAIR LEE: Okay. Did everybody get a copy of the ASF? The amendment?

COUNCILMEMBER PALTIN: Chair.

CHAIR LEE: Yep.

COUNCILMEMBER PALTIN: That's a floor amendment. The ASF that was posted was tied to the wrong bill, the unsigned bill. So, it made it confusing. It's similar substantively. But it was tied to the bill that I introduced to the Planning Commission, instead of the signed bill that came back from the Planning Commission. So, it's, it's a similar ASF, but it's just, it's a floor amendment.

And I would move to file the, the 21-344 after this action, because it's tied to the unsigned bill, instead of the signed bill.

CHAIR LEE: Did everyone get a copy of this in writing, though? No?

COUNCILMEMBER PALTIN: Oh, if you want the ASF, it's, it's on 21-344.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: The next item.

CHAIR LEE: No, I, I have a copy. But I just wanted to make sure others had, had a copy.

COUNCILMEMBER PALTIN: Oh, I'm sorry. My bad.

CHAIR LEE: So, did everybody understand the proposed amend--

Ms. Sugimura, you're saying no.

COUNCILMEMBER PALTIN: It should be on 21-344 on your Granicus; 21-344.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. I'm looking at, looking it up right now. But maybe can you give us a summary of the intention of the amendment, Member Paltin?

COUNCILMEMBER PALTIN: Sure. Sure. And, and, you know, the Planning Commission minutes were in the County Clerk's second transmittal of testimony, the second one after the Mufi Hannemann testimony.

And basically, the original bill that I transmitted to the Planning Commission proposed to lower the height to 30 feet. And what came back from the Planning Commission and, and I think one of the testifiers mentioned that Member Rawlins-Fernandez and myself did testify at the Planning Commission. And I was open to any improvements that they could make to the original bill. And what came back from them was that they said that it should be both 30 feet and two stories, as well as they didn't like my proposal to eliminate Short-Term Rental use mauka of the sea level rise exposure area.

And so, what came back as the signed bill from Corporation Counsel was to eliminate hotel use altogether. And the problem with that is that wasn't how I originally presented the bill. I said that it, it wouldn't have any negative effect, you know, on the Napili Bay and Beach Foundation and whatnot without, and, and no more substantive changes to the Napili Bay Civic Improvement District without a bigger public forum and community meeting. The purpose was just to let the community and their outcry be heard on those two issues that they were very upset about.

And so, while I, I don't disagree with eliminating hotel use, it could have a negative consequence to, you know, all those hotels along the beach, which wasn't my original intention. And so, in essence, if their use was in effect as of August 6, 2021, they can continue on. Without that amendment, they could still renovate and whatnot, but they couldn't expand.

And I just wanted broad support for this bill as it is. Everybody, all the 59 TMK that are part of the Napili Bay Civic Improvement District was reached out to by the Planning Department, as mentioned in the testimony, Planning Commission minutes. So, everybody in there, in the Napili Bay Civic Improvement District was made aware. There has been written testimony in support of this bill sent in by, and the amendment, sent in by Napili Bay and Beach Foundation.

And I believe Ms. Stephanie Chen, who wrote the bill, and probably Director McLean, who helped with the amendment, are on the call if Members have further questions. But this is in line with the work that we've been doing in, you know, bringing down the number of Short-Term Rentals countywide. And so, you know, if it has to go to

Committee, this isn't a Charter deadline issue, and it may take a while before it gets on the agenda. So, just streamlining the process trying to save some taxpayer monies.

CHAIR LEE: Member King, did you get your question answered?

COUNCILMEMBER KING: I, yea, I, I did, but I also, I'm just looking at the amendment. I think there, just a nonsubstantial correct, grammatical correction. So, "The permitted uses shall be as provided for in the hotel district as listed in Chapter 19.14 of this Code, for any hotel or apartment-hotel use that was established by August 6." I think it's just missing that one word "that" between "use" and "was".

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Sorry. Ms. Thomson edited that. And so, she wanted it to be "for any hotel or apartment use established by".

COUNCILMEMBER KING: Oh, I see, so, but then you need to take out the word "was".

COUNCILMEMBER PALTIN: Both words, yea. But the, the Amendment Summary Form is not the document we're going on. That's just for Sunshine Law purposes so that there's no surprise as to how the bill is being amended. But the reason we're not using the Amendment Summary Form here is because it was erroneously attached to the unsigned bill.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Okay. So, your questions have been answered?

COUNCILMEMBER KING: Yea.

CHAIR LEE: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I support Member Paltin's motion to amend and the main motion. I just wanted to double-check on one thing for the record. Member Paltin, you said mauka of the SLR-XA. Did you mean makai of SLR-XA?

COUNCILMEMBER PALTIN: Oh, so my original proposal that got transmitted to the Planning Commission, I proposed no further Short-Term Rental usage mauka of the SLR-XA because I, my reasoning which it doesn't really matter cause they rejected it, but my reasoning was, you know, long-term residents could live mauka of the sea level rise exposure area. And makai of the sea level rise exposure area can be for the tourists, because it's transient usage anyway. And then, when it falls in the ocean, it's done.

But that was just my reasoning. It was rejected by the Planning Commission, and no hard feelings. I, we don't all see eye to eye and that's okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. I support the amendment, which is not anything about the SLR-XA anyway. But mahalo, Chair.

CHAIR LEE: Member Paltin, could you mention again the significance of August 6, 2021.

COUNCILMEMBER PALTIN: If all goes well, I believe that would be our second reading date.

CHAIR LEE: Oh, I see. Okay.

COUNCILMEMBER PALTIN: But I believe that was proposed by, I think Director McLean, and Mr. Hopper, and Mr. Raatz helped with the amendment language. So, that's where it came up with. But my assumption is that's the second reading date.

CHAIR LEE: Alright. Member Sugimura, did you have your hand up? No? Did you have your hand up? Okay.

Member Molina. Yes?

COUNCILMEMBER MOLINA: I have no questions.

CHAIR LEE: You have a question?

COUNCILMEMBER MOLINA: No, no.

CHAIR LEE: You have no question?

COUNCILMEMBER MOLINA: No, on this, on this matter?

CHAIR LEE: Yea.

COUNCILMEMBER MOLINA: Is that what you're calling me out for?

CHAIR LEE: Yea. Did you have a question?

COUNCILMEMBER MOLINA: No. No.

CHAIR LEE: Alright. Let's proceed then. So, what is the, can you repeat the motion? You're muted.

COUNCILMEMBER PALTIN: Sure. Sure thing, Chair. I move to amend the proposed bill by including references to a cutoff date of August 6, 2021, in Section 19.60.030, Subsection E to read as follows:

"E. The permitted uses shall be as provided for in the hotel district and as listed in Chapter 19.14 of this code, for any hotel or apartment-hotel use established by August 6, 2021, provided, that any permitted accessory use shall be an integral function of the hotel operation and shall be operated by the management provided only for the convenience of guests and shall not be an independent commercial venture. The permitted uses shall be as provided for in the residential and apartment districts as listed in Chapters 19.08 and 19.12 of this title for any use established after August 6, 2021."

CHAIR LEE: Okay. So, as you said Ms. Paltin, our amendment and your proposal is not going to affect existing hotels in that area, right?

COUNCILMEMBER PALTIN: Correct.

CHAIR LEE: Okay. Anymore comments or questions? Ready to vote?

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair.

CHAIR LEE: You voting "aye".

DEPUTY COUNTY CLERK: No, no, no. The original motion, this motion, there's still no second. Even when Councilmember initially made the motion, there was no second.

COUNCILMEMBER KING:

SECOND.

DEPUTY COUNTY CLERK: Okay. Thank you.

CHAIR LEE: I thought there was a second. But we will, Member King put her hand up earlier, so she'll be the second person, seconder. Okay, anybody else?

Any other concerns, Mr. Krueger? Ready to vote? All those in favor say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three, four, five, six, seven "ayes"; zero "noes", two "excused"; motion carries.
The excused are Members Kama and Johnson.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. For clarification, was that the vote to
amend the main motion or was that the main motion to amend, as amended?

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: That was the amendment. Now, we're onto the main motion,
as amended.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: Um, do you want--

CHAIR LEE: Any more discussion? Any more discussion, anyone?

COUNCILMEMBER PALTIN: Sure. Members, this has been a issue for my community for a
while now. And, you know, just to clarify what the height should be, 30 foot and
two story; not more than 30 feet, not more than two stories. And, you know, in line with
the action that we've been taking on Short-Term Rental use and reigning it in. Napili
Bay Civic Improvement District is kind of at capacity right now. And we can revisit later
if it ever dips below capacity. But it's, let me tell you, it's at capacity. So, I appreciate
Members support of my motion, and as amended.

CHAIR LEE: Alright. Anybody else? If not, all those in favor of the main motion as amended,
raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Members Kama and Johnson.
Motion carries.

COUNCILMEMBER PALTIN: Thank you, Members.

CHAIR LEE: Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 64 (2021).

NO. 21-344 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 16, 2021)

Transmitting a proposed amendment to the bill relating to the Napili Bay Civic Improvement District (Lahaina).

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you.

I'D LIKE TO MOVE TO FILE COUNTY COMMUNICATION
21-344, AS THE ITEM HAS ALREADY BEEN DEALT WITH ON
THE FLOOR.

Thank you.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to file the County Communication 21-344.

Any discussion? If not, all those in favor of the motion say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Members Kama and Johnson.
Motion carries.

Mr. Clerk.

NO. 21-345 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 15, 2021)

Relating to a proposed amendment to Bill 62 (2021), relating to zipline, canopy, rappelling, and bungee jumping.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Chair, thank you. If there are no objections, I would like to ask that County Communication 21-345 be taken up with Bill 62, Draft 1, at the end of the calendar.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. So, ordered.

(COUNTY COMMUNICATION NO. 21-345 WAS FILED LATER
IN THIS MEETING. See pages 169 through 174, 176, and 177
for discussion and action.)

CHAIR LEE: Next.

DEPUTY COUNTY CLERK: Chair, proceeding county communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 21-346 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated July 9, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH U.S. GEOLOGICAL SURVEY, PACIFIC ISLANDS WATER SCIENCE CENTER, UNITED STATES DEPARTMENT OF THE INTERIOR (COOPERATIVE WATER-RESOURCE MONITORING PROGRAM)".

The recommended action is that County Communication No. 21-346 be referred to the Agriculture and Public Trust Committee.

NO. 21-347 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated July 9, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH U.S. GEOLOGICAL SURVEY, PACIFIC ISLANDS WATER SCIENCE CENTER, UNITED STATES DEPARTMENT OF THE INTERIOR (STUDY TO ASSESS GROUNDWATER AVAILABILITY UNDER SCENARIO-BASED RECHARGE CHANGES ON THE ISLAND OF MAUI)".

The recommended action is that County Communication No. 21-347 be referred to the Agriculture and Public Trust Committee.

NO. 21-348 - KEANI N.W. RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated July 14, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE EXEMPTING THE DEPARTMENT OF HAWAIIAN HOME LANDS FROM THE WATER AVAILABILITY POLICY".

The recommended action is that County Communication No. 21-348 be referred to the Agriculture and Public Trust Committee.

NO. 21-349 - LANCE T. TAGUCHI, COUNTY AUDITOR,
(dated June 29, 2021)

Transmitting the plan of audits proposed to be conducted during Fiscal Year 2022.

The recommended action is that County Communication No. 21-349 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-350 - MICHAEL WILLIAMS, CHAIR, COST OF GOVERNMENT
COMMISSION, (dated June 22, 2021)

Transmitting the Cost of Government Commission's Annual Report for Commission Term 2020 – 2021.

The recommended action is that County Communication No. 21-350 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-351 - ROWENA M. DAGDAG-ANDAYA, DIRECTOR OF PUBLIC
WORKS, (dated June 28, 2021)

Submitting the March 2021 Flooding Event plan for Emergency Funding use.

The recommended action is that County Communication No. 21-351 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-352 - JOSEPH PONTANILLA, COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM MANAGER, (dated July 1, 2021)

Transmitting a notice of grant award from the U.S. Department of Housing and Urban Development, Office of Community Planning and Development for the Community Development Block Grant Program in the amount of \$1,933,806.

The recommended action is that County Communication No. 21-352 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-353 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated July 8, 2021)

Transmitting the Short-Term Investment Reports as of June 30, 2021 (Fiscal Year 2021 Fourth Quarter).

The recommended action is that County Communication No. 21-353 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-354 - KEANI N.W. RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated July 13, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.47, MAUI COUNTY CODE, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX".

The recommended action is that County Communication No. 21-354 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-355 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated July 16, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, EMERGENCY MANAGEMENT AGENCY (HAZARD MITIGATION GRANT PROGRAM (HMGP))".

The recommended action is that County Communication No. 21-355 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILL ATTACHED TO COUNTY COMMUNICATION NO. 21-355 WAS PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NO. 66 (2021). COUNTY COMMUNICATION NO. 21-355 WAS THEN FILED. See pages 120 through 122 for discussion and action.)

NO. 21-357 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 14, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 20.43, MAUI COUNTY CODE, RESTRICTING THE SALE OR DISTRIBUTION OF CERTAIN NONWOVEN DISPOSABLE PRODUCTS.

The recommended action is that County Communication No. 21-357 be referred to the Climate Action, Resilience, and Environment Committee.

NO. 21-358 - KELLY TAKAYA KING, COUNCILMEMBER,
(dated July 15, 2021)

Relating to wetlands restoration.

The recommended action is that County Communication No. 21-358 be referred to the Climate Action, Resilience, and Environment Committee.

NO. 21-359 - MICHAEL P. VICTORINO, MAYOR,
(dated June 28, 2021)

Transmitting the following:

1. A proposed resolution entitled "REMOVAL OF JOHN COPELAND FROM THE COMMISSION ON PERSONS WITH DISABILITIES"; and
2. A copy of a letter from the Chair of the Commission on Persons with Disabilities relating to the non-attendance of John Copeland.

The recommended action is that County Communication No. 21-359 be referred to the Government Relations, Ethics, and Transparency Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-359 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-112. COUNTY COMMUNICATION NO. 21-359 WAS THEN FILED. See pages 104 through 107 for discussion and action.)

NO. 21-360 - BRADFORD K. VENTURA, ACTING FIRE CHIEF,
(dated July 8, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY OF MAUI FOR MAKENA BEACH PARK".

The recommended action is that County Communication No. 21-360 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILL ATTACHED TO COUNTY COMMUNICATION NO. 21-360 WAS PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NO. 65 (2021). COUNTY COMMUNICATION NO. 21-360 WAS THEN FILED. See pages 108 through 116 for discussion and action.)

CHAIR LEE: Okay. Okay, stop.

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I was just--

CHAIR LEE: You had your hand up, right?

COUNCILMEMBER PALTIN: Yea, yea. I just was wondering if Member Molina had anything that he wanted to say. He looked like he was going to hold his hand up, and I--

CHAIR LEE: Okay, Member Molina.

COUNCILMEMBER MOLINA: No. Yea, Madam Chair, I can wait till the Clerk completes the read through of all the county communications. But I do have two considerations for County Communication 359 and 360. So, whenever you deem it appropriate, Madam Chair.

CHAIR LEE: Oh, we can do it right now.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-359

COUNCILMEMBER MOLINA: Okay. Alright.

WITH THAT BEING SAID THEN, MADAM CHAIR, I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL FOR COUNTY COMMUNICATION 21-359.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, waive, to waive the Rule of the Council.

And anymore discussion, Member Molina?

COUNCILMEMBER MOLINA: Yes, thank you, Madam Chair. Approval of this motion by a two-thirds vote will enable the Council to act on this proposed resolution today. Thank you.

CHAIR LEE: Okay, all those in favor of the motion, raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; motion carries. Excused are the same excused for the rest of the meeting; Members Johnson and Member Kama.

Mr. Molina.

COUNCILMEMBER MOLINA: Yes, thank you, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 21-359, AND TO
FILE COUNTY COMMUNICATION 21-359.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura.

Member Molina, your discussion.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. According to the Mayor's letter dated June 28, 2021, John Copeland, a member of the Commission on Persons with Disabilities, has not attended board meetings for the past six months from January to June 2021. Attempts to contact him via phone and emails have been unsuccessful.

And in accordance with Section 2.41.090.E of the Maui County Code, "In a six-month period, once a board, commission, or committee record reflects a member's non-attendance of fifty percent or more meetings, within 30 days of a member's last excused or non-excused absence, the chairperson of the board, commission, or committee must send a letter to the Mayor, with a copy to the Council, informing of the member's attendance records." And of course, a copy of the letter from the Chair of the Commission on Persons with Disabilities that was dated June 1, documented Mr. Copeland's non-attendance, is attached to the Mayor's letter.

So, I would ask for the Members consideration to remove Mr. Copeland for the, based on the reasons that's been stated. And we would need a two-thirds vote of the entire membership of the Council for this removal to occur. Thank you.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Member Molina. I support the motion. The, we set these rules, we all agreed to them, and we informed Mr. Copeland when he came before us. I just was wondering if there is opportunity to do a wellness check if he's not answering phones or emails, if he's okay? Like, I mean--

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Yea, Madam Chair. It just so happens we have Mr. Mossman from the Mayor's Office that might better be able to respond to Member Paltin's inquiry.

CHAIR LEE: Mr. Mossman?

MR. IPO MOSSMAN: Aloha, Chair Lee and Council. Yes, we have, we've tried getting in touch with Reverend Copeland. And he did have an accident back when and it was a concern. But we had, we had not heard from him. So, there were numerous phone calls, numerous emails sent out, and we've been having our, our staffers as well follow through with that. So, yea, we, we have been doing what we needed to do and, unfortunately, no answer whatsoever. And we don't even, I mean, he hasn't been answering anybody at this time.

CHAIR LEE: Any more questions? Thank you, Mr. Mossman.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll, I'll defer to Member Paltin, cause I think the process wasn't what she was concerned about. His, his wellness is what she was, what I heard her express concern about. Like, if he's okay.

MR. MOSSMAN: Vice-Chair Rawlins, that's, that was one of the things that we're trying to find out. So, we went through both the staffer, both the Chair itself, the Chairman of the body, Ms. Watanabe. And we haven't been able to have any conversation or even any communications with that person. He's also a very personal friend with the Mayor. So, it's pretty much something that we are there looking at his wellness, but we just haven't been able to get in touch with him whatsoever. So, you know, that's probably where we still have the questions on how he's doing. But no contact whatsoever.

CHAIR LEE: Ms. Paltin and then Ms. Sugimura.

COUNCILMEMBER PALTIN: I just was wondering, you know, my, my uncle, my dad's brother passed away in the mainland, and a single person. And what we ended up doing was asking the police to go to his residence and check on him. And that's the way that we learned he had passed away. And I just am worried, you know, like maybe we can do a wellness check with the police and just make sure. Because he did, you know, I mean, not that he only deserve a wellness check if he served. But he served on the commission for year as a volunteer. He works, like, I really would just, he used to call me all the time too, and I just want to make sure that he's okay, you know. And if we're not able to contact him, then it makes me more so worried that he's not okay maybe.

CHAIR LEE: Okay.

MR. MOSSMAN: Very well received, Council.

CHAIR LEE: Somebody else has his or her hand, oh yes, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Yea, I just want to say, yea, he, he has also, I've been in touch with him, or he has contacted me, I've been in touch with him. And he lives in a community that there's a lot of people around. So, I, I appreciate your suggestion for, you know, to check on him. But he, and he also, I think he has a caregiver that lives with him too. So, I, I'm hoping, I'm sending him a text now just to make sure he's okay. But thank you, everybody, for concern.

CHAIR LEE: Well, let us know what you find out, Ms. Sugimura.

MR. MOSSMAN: Please do.

CHAIR LEE: Anybody else, comments, questions? Thank you, Mr. Mossman.

Mr. Molina, anything else?

COUNCILMEMBER MOLINA: No. No further discussion, Madam Chair.

CHAIR LEE: Alright. All those in favor of the motion raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes"; motion carries. Two "excused"; Kama, Johnson.

Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is RESOLUTION 21-112.

And then, I believe Councilmember Molina had another item he wanted to bring up.

CHAIR LEE: Mr. Molina.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-360

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. This relates to County Communication 21-360.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

CHAIR LEE: Second, someone?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to waive the Rule of the Council 7.G.

Mr. Molina, any discussion?

COUNCILMEMBER MOLINA: Yea. Just as I've stated before as it relates to waivers. Again, approval of this motion by a two-thirds of the Council will enable the Council to act on this matter today. Thank you.

CHAIR LEE: Any more discussion?

Yes, Ms. Sugimura. No? Oh, okay.

All those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; motion carries. Excused are Johnson and Kama.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO PASS THE PROPOSED BILL ON FIRST READING,
AND TO FILE COUNTY COMMUNICATION 21-360.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to pass the attached bill on first reading and file the communication.

Discussion, Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Members, the intergovernmental agreement is the fourteenth written amendment to the Memorandum of Agreement for Lifeguard Services between the State of Hawaii and the County of Maui for Makena Beach Park for the period July 1, 2021, through June 30, 2022. And funds to the County under this amendment total \$1,446,936, subject to the availability of funds.

And at this point, I'd like to yield to the Council's lifeguard expert, Member Paltin, to add further discussion into the urgency of this matter. Thank you.

CHAIR LEE: Member Paltin. You're muted.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Member Molina. I would just urge the Council to take action right away. I have been receiving calls from friends who work at the hospital. There was a streak of about three weeks where people were coming into the hospital with injuries from Makena Beach. And you know, every day that's delayed is another day that we don't have lifeguards there.

It's not the type of thing that can turn on a dime. ES needs to start the recruitment process. There's written tests, physical tests, medical tests, and then training before we can actually put guards on the beach. And I believe if Members have any further questions, Battalion Chief Jeff Giesea of the Ocean Safety section is on the line as well. But I just would urge Members to take action right away on this matter.

CHAIR LEE: Okay. Anybody else?

Member Sugimura, then Member King.

COUNCILMEMBER SUGIMURA: Yea, I really agree with taking this up and how important it is, especially now. But I remember when this, when we lost this, that what the County did, so maybe if somebody could check on it, we picked up additional insurance or we did something so that if, if our lifeguards were working there or if something came up, that we would be covered. That was my memory of what we ended up doing. So, I wonder if somebody can check on that?

And then the other thing I remember was that the lifeguards that were working there, once we lost the contract, when Tamara made the additional, couple budgets ago, additional appropriation to increase the number of lifeguards in the division, that they all moved there. So, now, do we have to, I'm, I'm going by memory which could be wrong, but I wonder now how are we going to hire, or do we have to hire people to fill those positions, or what would be involved? Thank you.

CHAIR LEE: Member, Vice-Chair Rawlins-Fernandez, then Member Paltin.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And I believe as Member Paltin spoke too, I think we have a representative from the Department online as well. Looks like Battalion Chief Giese. But yea, so the State is funding the salaries. And then the County is funding But I see Battalion Chief on, so I'm happy to defer to him. And so, we will be getting that budget amendment to accompany this IGA at the next Council meeting. Or it'll be directly referred to the BFED Committee. Oh, oh, okay, yea, so it'll come to the Council and then we can, you know, speak more on that. But Chair, if it, if it's okay to ask Battalion Chief?

CHAIR LEE: Sure. Oh--

BATTALION CHIEF JEFF GIESEA: Good afternoon, everybody. Oh, sorry.

CHAIR LEE: How do you, how do you pronounce your last name?

BATTALION CHIEF GIESEA: Giese.

CHAIR LEE: Giese, okay.

BATTALION CHIEF GIESEA: Giese, yes. Yes, so I can address Councilmember Sugimura's question. You are correct. When, when the State withdrew funding for Makena Beach based upon concerns around a lack of funding due to the pandemic,

we were able, fortunately, to absorb all those personnel into vacant County positions. We still, however, have currently nine vacancies just for our positions in our County beaches. So, you know, we're, we're still in a situation right now where we don't have a real surplus of personnel that we could just reassign back to Makena without leaving our County beaches staffed below our minimum guidelines for safe and effective response.

We do have a recruit class that's already in the works, so to speak. It's scheduled to start August 16, and if all goes according to plan will end on October 8, I believe. That's just for seven personnel that'll fill most of our current County vacancies and provide us a little bit of a cushion. And then, we're planning to hire another recruit class as soon as possible after that for, I believe that will end up being about thirteen positions is the plan, which would include the eleven personnel we were going to assign to Makena, as well as the other two County vacancies.

CHAIR LEE: Okay. Any more questions for the Chief?

Member King?

COUNCILMEMBER KING: Thank you. Mr. Giese, you know, my, my recollection of this, this issue was that we never lost the funding for the actual people in my first term. I know that came up. But what we lost was the liability protection. So, and I notice in this agreement it says that this language is deleted, and this is the liability protection. So, that, so, we still don't have liability protection from the State? Are we, are we in that situation?

BATTALION CHIEF GIESEA: So, I am not familiar with the issues with respect to liability protection, and how that's addressed in, in the contracts, and how it's been addressed in the past. We did lose funding for the positions. On April 1 of 2020, the State notified us that, you know, effectively that date, they would not be reimbursing us for our salary and fringe benefit costs incurred for personnel there. So, my understanding is renewal of this contract would essentially enable us to provide about, I think it was, yea, \$1,446,936 that could be used to fund salaries and, yea, salaries and fringe benefits for employees assigned to Makena.

COUNCILMEMBER KING: Okay. Cause I, I think that was one of the big legislative issues, was the liability. And if I am looking at this exhibit, number 6, under number 6, and it says the following language is deleted. And it goes into the, you know, HRS, that says the State shall not be liable for any civil damages resulting from any act or omission of lifeguard while providing rescue, resuscitative, all of this, all this language has been deleted. So, I, I'm just wondering if, does that mean that the County is paying liability? Cause, I, I remember back in my first term that this issue came up, and there were,

there was one Councilmember that proposed to just eliminate all of the positions. The community kind of rose up against that and we put the positions back in. But we've been fighting for that liability protection in the State Legislature ever since. Does that, does that sound accurate?

BATTALION CHIEF GIESEA: You know, I, I wish I could speak more intelligently on the liability issues and the history. Those issues were essentially, I think brought up and discussed and, you know, there was back and forth about those before I came onboard Ocean Safety. So, I, you know, I do know that, you know, we basically have had a contract with the State for quite some time, and my understanding was those issues were resolved. But I can't, I can't say for sure either way. I think that would be something we'd have to refer to Corp. Counsel and, and other folks that were directly involved, maybe, in those discussions.

COUNCILMEMBER KING: Okay, well, I'll . . . Member Paltin . . .

BATTALION CHIEF GIESEA: . . . I could answer your question better.

COUNCILMEMBER KING: Yea, cause we, we've actually discussed this issue about liability with HSAC too, because it's not just our County that got, you know, had become liable. But I, I don't, Member Paltin, you had your hand, were you--

CHAIR LEE: Member Paltin has a comment. Do you want to add something?

COUNCILMEMBER PALTIN: Sure. Historically, the agreement between the County and the State was that the County, or the County would not be liable outside of working hours. So, like 8, before 8 a.m. in the morning and after like 4:55 in the afternoon, it's the signage that is protecting the State. And then, between 8 and 4:45, it's the County that is providing the service, so it's mitigating the State's liability.

The liability issue that we had been discussing at HSAC, my understanding was it's for the lifeguards own being able to be sued in an individual capacity, on where, like, you know, you could sue a lifeguard and they lose their house or any kind of assets they had. And at that time, I believe the State came up with like a special protection for lifeguards that were contracted by the State that's different than regular County lifeguards. But I didn't follow that too much, because I never worked at Makena, I'm sorry.

COUNCILMEMBER KING: Yea, I just, I don't understand the language that they deleted. I understand the language that they deleted, but I don't understand the language that they added. It doesn't seem to address liability. But maybe that's something that you could, you know, I, I, somebody's got to be aware of this at the, at the Fire and Safety

Department, because it's a fairly big issue. So, maybe we can just put in a request for information on that question . . .

BATTALION CHIEF GIESEA: I'd be happy to look into that for you and come back to the Council with . . .

COUNCILMEMBER KING: Alice, you're muted.

CHAIR LEE: Oh. The Chief said multiple times he has no history on this. Okay, so, are you asking for the Chief to go back and get more information?

COUNCILMEMBER KING: Or we could just send a letter to the Department and ask them to give us a reporting back.

CHAIR LEE: Alright, well--

COUNCILMEMBER KING: Cause it's, this has been an issue . . .

CHAIR LEE: We can ask Mr. Molina to do that.

COUNCILMEMBER KING: It's been a, it's been an issue at the, you know, at the State Legislature every year. So, you know, asking for this protection.

COUNCILMEMBER MOLINA: Yea, HSAC matter.

CHAIR LEE: Okay. Any more questions on this?

Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted clarification on what Member King just said. You wanted a subject matter referral, and we would take action on the IGA today? Oh, yea, okay.

COUNCILMEMBER KING: No I, no I just wanted--

VICE-CHAIR RAWLINS-FERNANDEZ: You wanted the IGA to go to GREAT

COUNCILMEMBER KING: No, I, I, I, I think we're taking action. I thought we were taking action. No, I just wanted to send that question to the Department about what's happening with the, the liability issue.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. Oh. Okay.

COUNCILMEMBER KING: That's my main concern.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, just--

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, we need to receive the money, and we're going to have to do a budget amendment. So, perhaps we can include that in the discussion one time?

COUNCILMEMBER KING: Yea, I don't, I didn't want to hold up that, the item. I just wanted to find out what's happening, because it may be one of those things if we want to put into our legislative package again, so.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. And then, if this can be a friendly amendment or request to get the subject matter referred to the BFED Committee, and then that way the Administration can direct refer the budget amendment item to the Committee, instead of going to Council.

CHAIR LEE: Yea, any objections to that, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Subject matter referral to BFED, okay, after we dispose of this today. Alright, any more discussion?

Mr. Molina, so you're asking that this be passed, this bill be passed on first reading, right?

COUNCILMEMBER MOLINA: Yes.

CHAIR LEE: Okay. No more discussion. All those in favor, say aye, raise your hand. Member Paltin?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Johnson and Kama. Motion passes.

And then, in the motion was the referral of the subject matter to the BFED Committee. And so, the, the questions that Member King asked could be taken up at that time, yea. Alright.

COUNCILMEMBER KING: Although, Chair?

CHAIR LEE: Yes.

COUNCILMEMBER KING: If, if, depending on the timing of when the budget amendment comes in, it might be better to get that question answered sooner, because we have some deadlines coming up for the legislative packages for HSAC.

CHAIR LEE: Well, you know what, I'll ask the, the County Clerk to work with the Budget Chair to formulate that letter, okay?

COUNCILMEMBER KING: Okay. Thank you.

CHAIR LEE: Okay. I saw a hand up.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to say, like, for Member King, like, if it's something specifically that she needs information on right away in order to represent us at HSAC, it's something that, you know, she could call the Department about and get that information. And then, we can still have it discussed publicly, so that we all know, and the public knows as well. But for your specific request, if you need that expedited, to just contact the Department. Mahalo, Chair.

COUNCILMEMBER KING: . . . usually we, we ask for it to go through the Chair of the Committee or Council, so, that's what I was doing. But do you prefer, Chair, that I contact them directly, I can do that.

CHAIR LEE: No. No, I think she's saying that if this is a time-sensitive matter, that you need the answer right away, it might be just simpler to--

COUNCILMEMBER KING: Well, I would love to do that, but oftentimes what we get from the departments is their inability to answer us unless we go through the Mayor's Office and this protocol thing they have. And then they tell us that they have up to five days to respond. So, you know, I'm not saying it's going to happen with the Fire Department, but I've had that happen with some other departments. And that's why it seems like

it's an easier thing to get information if it comes through the body that we're, we're discussing it, you know, through the Chair of the body that we're discussing it at. But I, I will try. I'll see if I can get . . .

VICE-CHAIR RAWLINS-FERNANDEZ: Five days. Five, five days would be faster than I'd be able to schedule it.

COUNCILMEMBER KING: Yes, that's what I mean. That's why I was asking I thought it would, might be quicker than five days if it came from the Chair, but.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

COUNCILMEMBER KING: Hit or miss. It's hit or miss whether you can get a direct answer right away.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 65 (2021).

Continuing with County Communications for referral.

NO. 21-361 - KEANI N.W. RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated July 14, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REQUIRING DEPARTMENT OF HAWAIIAN HOME LANDS REPRESENTATION ON THE BOARD OF WATER SUPPLY".

The recommended action is that County Communication No. 21-361 be referred to the Government Relations, Ethics, and Transparency Committee.

NO. 21-362 - MICHAEL J. MOLINA, COUNCILMEMBER,
(dated July 15, 2021)

Relating to the preservation of and improvements to Baby Beach (Paia), including public-safety and litigation issues.

The recommended action is that County Communication No. 21-362 be referred to the Government Relations, Ethics, and Transparency Committee.

(See pages 123 and 124 for discussion.)

NO. 21-364 - TASHA KAMA, COUNCILMEMBER,
(dated July 9, 2021)

Relating to the Baldwin Beach Park Master Plan.

The recommended action is that County Communication No. 21-364 be referred to the Human Concerns and Parks Committee.

(See pages 124 and 125 for discussion.)

NO. 21-365 - TASHA KAMA, COUNCILMEMBER,
(dated July 8, 2021)

Relating to the demand for recreational activities involving play courts such as pickleball, tennis, and basketball.

The recommended action is that County Communication No. 21-365 be referred to the Human Concerns and Parks Committee.

NO. 21-366 - LANCE T. TAGUCHI, COUNTY AUDITOR,
(dated July 12, 2021)

Transmitting the following reports relating to financial data schedules for Section 8 and Family Self-Sufficiency Programs from N&K CPAs, Inc., entitled:

1. "COUNTY OF MAUI DEPARTMENT OF HOUSING AND HUMAN CONCERNS: INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION, Fiscal Year Ended June 30, 2020"; and
2. "COUNTY OF MAUI DEPARTMENT OF HOUSING AND HUMAN CONCERNS: INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES, Fiscal Year Ended June 30, 2020".

The recommended action is that County Communication No. 21-366 be referred to the Human Concerns and Parks Committee.

NO. 21-367 - TASHA KAMA, COUNCILMEMBER,
(dated July 8, 2021)

Relating to the keeping of roosters as domesticated animals in urban areas.

The recommended action is that County Communication No. 21-367 be referred to the Infrastructure and Transportation Committee.

NO. 21-368 - SHANE M. SINENCI, COUNCILMEMBER,
(dated July 14, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE TRAFFIC CODE BY EXPANDING THE VOLUNTEER PARKING ENFORCEMENT PROGRAM".

The recommended action is that County Communication No. 21-368 be referred to the Infrastructure and Transportation Committee.

NO. 21-363 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 15, 2021)

Transmitting a proposed resolution entitled "SUPPORTING THE UNDIVIDED INTEREST AWARDS POLICY OF THE DEPARTMENT OF HAWAIIAN HOME LANDS' HOMESTEADING PROGRAM".

The recommended action is that County Communication No. 21-363 be referred to the Planning and Sustainable Land Use Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-363 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-115. COUNTY COMMUNICATION NO. 21-363 WAS THEN REFERRED TO THE PLANNING AND SUSTAINABLE LAND USE COMMITTEE. See pages 131 through 135 for discussion and action.)

NO. 21-369 - MICHELE MCLEAN, PLANNING DIRECTOR,
(dated July 15, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING THE DIGITAL ZONING MAP AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MOLOKA'I"; and related documents.

The recommended action is that County Communication No. 21-369 be referred to the Planning and Sustainable Land Use Committee.

NO. 21-370 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 13, 2021)

Transmitting a proposed resolution entitled "REFERRING TO THE LANA'I, MAUI, AND MOLOKA'I PLANNING COMMISSIONS A PROPOSED BILL TO LOWER THE MAXIMUM BUILDING HEIGHTS IN THE B-2 COMMUNITY BUSINESS DISTRICT, B-3 CENTRAL BUSINESS DISTRICT, AND P-2 PUBLIC/QUASI-PUBLIC DISTRICT".

The recommended action is that County Communication No. 21-370 be referred to the Planning and Sustainable Land Use Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-370 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-114. COUNTY COMMUNICATION NO. 21-370 WAS THEN REFERRED TO THE PLANNING, SUSTAINABLE, AND LAND USE COMMITTEE. See pages 129 through 131 for discussion and action.)

NO. 21-371 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 15, 2021)

Transmitting a proposed resolution entitled "REFERRING TO THE LANA'I, MAUI, AND MOLOKA'I PLANNING COMMISSIONS A PROPOSED BILL AMENDING CHAPTER 19.29, MAUI COUNTY CODE, TO PROHIBIT INSTRUMENTS OF CONVEYANCE FROM RESTRICTING THE GROWING AND HARVESTING OF ANY AGRICULTURAL CROP OR PRODUCT".

The recommended action is that County Communication No. 21-371 be referred to the Planning and Sustainable Land Use Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-371 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-113. COUNTY COMMUNICATION NO. 21-371 WAS THEN REFERRED TO THE PLANNING, SUSTAINABLE, AND LAND USE COMMITTEE. See pages 126 through 128 for discussion and action.)

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, you're muted.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-355

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Consideration on CC 21-355.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL. THIS IS FOR A GRANT.

CHAIR LEE: 355, okay.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Seconded by Member King. Moved by Vice-Chair Rawlins-Fernandez, to waive the Rules of the Council on CC 21-355, seconded by Member King.

Discussion, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, this is the item that I attempted to put into our Consent Calendar, because this is, we are just receiving a grant to MEMA. But until we amend the Council Rules to not require grants to be under Rule 7.G., then we won't be able to put it into the Consent Calendar. So, the sooner we can take up the Council Rules to exempt receiving grants from Rule 7.G., then we'll, we'll need to do this process. But when we do it, we can put it in Consent Calendar. Mahalo, Chair.

CHAIR LEE: Did you request that this item go on the next Chair's Committee meeting?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. I, I had requested that this be put into the Consent Calendar. And then, I realized that it needed a Rule 7.G. waiver.

CHAIR LEE: Oh.

VICE-CHAIR RAWLINS-FERNANDEZ: So, I then took it out of the Consent Calendar.

CHAIR LEE: Yea, but didn't you just talk about changing the Rules? No?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I did. It's in, it's in Member Molina's Committee.

CHAIR LEE: Oh. Okay.

COUNCILMEMBER MOLINA: Message received.

CHAIR LEE: Message received. Okay. This is for a waiver. This, right, right now, right? All those in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; motion carries. Excused are Kama and Johnson.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE PROPOSED BILL ON FIRST READING,
AND TO FILE COUNTY COMMUNICATION 21-355.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to pass the attached bill in CC 21-355 on first reading, and filing of the communication.

Discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the proposed bill would amend Fiscal Year 2022 Budget, Appendix A, Part I, to add an appropriation under the Emergency Management Agency, entitled "Hazard Mitigation Grant Program", in the amount of \$108,997. These grant funds will be used for the development of a stand-alone hazard mitigation interactive website; super exciting.

Emergency Management Agency Administrator Herman Andaya is available to answer any questions Members may have. I ask for the Members full support of this motion. Mahalo, Chair.

CHAIR LEE: Members, any questions for Mr. Andaya? No? Okay.

Any comments or other questions? All those in favor of the motion say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Johnson and Kama. Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 66 (2021).

CHAIR LEE: Okay. Members, do you have anything else? Oh, yes, we have.

Vice-Chair Rawlins-Fernandez

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 21-362

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. CC 21-362. This is subject matter referral from Member Molina. I just have a request to, when the matter is referred to Committee that it go, that it amend the subject matter from Baby Beach to Wawau Point. And then in parenthesis, that it can have, you know, Baby Beach, Paia in parenthesis, but that the, you know, wahi inoa be preserved.

And I, I know that it may seem insignificant, but this is a practice of erasure of culture and language and, and people. And so, we have to be very vigilant about making sure that we, we preserve the traditional placenames and be, and be actively correcting and using the placenames because it has meaning. And it also holds a history in the name itself. And so, it's really important that we not allow that erasure to continue. It's like a thousand little cuts, and so, but every time it's important. But I really appreciate that Member Molina has introduced this. And it looks like he's okay with that amendment.

COUNCILMEMBER MOLINA: No objections at all. Well stated.

CHAIR LEE: Okay. You know, you are talking to Member Molina, who is part Hawaiian. So, he's very culturally sensitive himself.

COUNCILMEMBER MOLINA: I think I, I should have, my bad, I should have included that in the title of the, you know, the referral as well. But we'll definitely make that correction.

CHAIR LEE: Yea. That's okay, Member Molina. Because, you know, very few people know the correct name.

COUNCILMEMBER MOLINA: True.

VICE-CHAIR RAWLINS-FERNANDEZ: And that's the, and that's the problem.

CHAIR LEE: That's the problem.

VICE-CHAIR RAWLINS-FERNANDEZ: And that's the problem right there. But, and so we get into a habit of just using the nicknames. And then, we forget what the actual placename is. And so, mahalo, Member Molina. Mahalo, Chair.

CHAIR LEE: Alright. Any other comments? Let's see.

So, there's no, Mr. Clerk, there's no need to take a vote or anything? Just, just by consensus, we can make the change on, on the description of the beach, right?

DEPUTY COUNTY CLERK: Yes, Chair. That, that should be fine.

CHAIR LEE: Okay. Alright, so we'll make that change. And so, are any objection?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: On the same . . .

CHAIR LEE: We're at the point where we're going to accept the referrals as read by the Clerk.

COUNCILMEMBER SUGIMURA: Yea.

CHAIR LEE: Unless you have to, want to pull out any other items?

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 21-364

COUNCILMEMBER SUGIMURA: No, I just, I'm just taking the genius of Keani Rawlins-Fernandez. So, on 21-364, for Councilmember Tasha Kama, she might be saying the same thing; what the, the correct name for Baldwin Beach Park might be. And maybe it's not the right time to do it if we're not prepared to, to say it. But I, I just thought maybe since we're on the proper . . .

CHAIR LEE: In this case, in this case, I think it is Baldwin Beach Park. But that's okay. We'll, you know, when the time comes, we will check.

COUNCILMEMBER SUGIMURA: . . . Oh, okay.

CHAIR LEE: What's that? What's that?

COUNCILMEMBER SUGIMURA: There might be a proper name for the area, right? So, anyway, I just thought I would ask. And if Tasha Kama was here, I'm sure she would be asking or trying to make that correction also. So, Keani, I see she's raising her hand, Chair, if you don't mind.

CHAIR LEE: Oh, do you, is there a name for this place, Keani? Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: It's Kapukahehu. Oh, I'm sorry, sorry, Kapukaulua.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Kapukaulua.

CHAIR LEE: Okay, but until we verify that, we're not going to rename this thing, okay?

VICE-CHAIR RAWLINS-FERNANDEZ: And . . .

CHAIR LEE: Until we know that's the correct name, that Baldwin Beach Park is not the correct name.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, mahalo, Chair. And mahalo, Member Sugimura. I really appreciate that. I think that the, the beach park itself carries that name. And I would love to change the beach park to Kapukaulua, which is the traditional placename of that place, and then we can change all of it. But mahalo, Member Sugimura. Mahalo, Chair.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay now, don't be going through the agenda changing all the names, cause we'll, we are going to leave, you know, in about an hour or so.

Member Paltin, you want to change something from Napili to some other name?

COUNCILMEMBER PALTIN: Oh, yea. I always would refer to D.T. Fleming's Beach Park as D.T. Fleming's Beach Park at Honokahua Bay. But that wasn't why I was raising my hand.

CHAIR LEE: Oh, okay. Why were you raising your hand?

COUNCILMEMBER PALTIN: I had three, three items for consideration before we do the committee referrals as read.

CHAIR LEE: Okay. Okay. Go ahead.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-371

COUNCILMEMBER PALTIN: Okay. If there's no objection, I'll start from the back and move my way forward. For CC 21-371, the last one.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Second. Okay, moved by Member Paltin, seconded by Member King, to waive the Rule, the Rule 7.G. on CC 21-371, seconded by Member King.

Discussion?

COUNCILMEMBER PALTIN: Thank you, Chair. Approval of my motion by a two-thirds vote will enable the Council to consider the proposed resolution today.

CHAIR LEE: Anything else? Any other comments, questions? If not, all those in favor to waive the Rule, raise your hand, say "aye". Member Sugimura?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Everybody, seven "ayes", zero "noes", two "excused"; Kama, Johnson. Motion carries.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. So, this is just a, a real straightforward referral to the Planning Commission for review. And basically, what it's seeking to do

is put in that same requirement that rural HOA's can't restrict farming just like ag HOA's can't. So, the major difference between ag and rural is that rural homeowner's association can put limits on farming. You know, like no animals that make noise or, you know, those types of things. And it's really all started as ag lands. And I just, you know, would like to hear feedback from the Planning Commission. And then, when it comes back to us, we can discuss it. I don't, I don't know that there's need to discuss it before it goes there cause it's straightforward.

CHAIR LEE: I would sure like to know what kind of animal doesn't make noise. I mean, I would buy one tomorrow.

COUNCILMEMBER PALTIN: Fish.

VICE-CHAIR RAWLINS-FERNANDEZ: Rabbits. Rabbits.

CHAIR LEE: Rabbits, oh you sure they don't make noise? Okay. Anybody else with comments or questions? So, did we have a second on that? That, this is to--

COUNCILMEMBER KING: Second.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to adopt the resolution in, in County Communication 21-371.

Mr. Krueger.

DEPUTY COUNTY CLERK: Chair, apologies. But I don't think a motion, a main motion was ever stated, but--

CHAIR LEE: Oh.

DEPUTY COUNTY CLERK: if that's the motion--

CHAIR LEE: I thought we voted on 7.G. We did vote, okay.

DEPUTY COUNTY CLERK: We voted on--

CHAIR LEE: You didn't make a motion, Mr., I mean not Mr., Member Paltin, did you make a motion on, on accepting the recommendation in 21-371? I thought you did.

COUNCILMEMBER PALTIN: Oh, I'm sorry.

I MOVE TO ADOPT THE PROPOSED RESOLUTION.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: To refer it to the Planning Commission.

CHAIR LEE: Alright. Moved by Member Paltin, seconded by Member King, to adopt the resolution in 21-371.

More discussion?

COUNCILMEMBER PALTIN:

I, I LEFT OUT, AND REFER COUNTY COMMUNICATION
21-371 TO THE PSLU COMMITTEE. SO, LIKE A DUAL
REFERRAL.

CHAIR LEE: Any objections for that friendly addition?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. Any more discussion? Any questions? All those in favor of the motion, raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", seven "ayes", zero "noes", two "excused"; Johnson and Kama.
Motion carries.

Anything else, Member Paltin? You have two more?

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-370

COUNCILMEMBER PALTIN: Yes, please, Chair. For CC 21-370, transmitting a proposed resolution entitled, "REFERRING TO THE LĀNA'I, MAUI, AND MOLOKA'I PLANNING COMMISSIONS A PROPOSED BILL TO LOWER THE MAXIMUM BUILDING HEIGHTS IN THE B-2 COMMUNITY BUSINESS DISTRICT, B-3 CENTRAL BUSINESS DISTRICT, AND P-2 PUBLIC/QUASI-PUBLIC DISTRICT".

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

COUNCILMEMBER KING:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to waive the Rule 7.G. in regard to 21-370.

Member Paltin?

COUNCILMEMBER PALTIN: So, approval of my motion by a two-thirds vote will enable the Council to consider the proposed resolution today. And the resolution, again, is just a straightforward, talking about maximum building heights that are, you know, more appropriate for Maui than, this isn't like, you know, Waikiki or anything.

CHAIR LEE: Any more discussion, anyone? If not, all those in favor of the motion to waive the Rule, raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Kama and Johnson. Motion carries.

Member Kama *[sic]*.

COUNCILMEMBER PALTIN: Thank you.

I MOVE TO ADOPT THE PROPOSED RESOLUTION AND TO
REFER COUNTY COMMUNICATION 21-370 TO THE PSLU
COMMITTEE.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to adopt the res, the recommendation in 21-370.

More discussion, Member Paltin?

COUNCILMEMBER PALTIN: No. I just respectfully ask the Members support of my motion. It's not necessarily making up a new bill, it's just talking about heights.

CHAIR LEE: Okay. Any more discussion?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Another reminder about the Council Rules that this is one of them that we are requesting to exempt from the Rule 7.G. and then that way we don't have to exempt it from Rule 7.G. So, that was something that Member King had brought up when we were talking about the Rules. But I know Member Molina has a really full budget, but I'm just keeping it on everyone's radar so when it does come up, it'll go smoothly and quickly. And I speak in support of the motion. Mahalo, Chair.

CHAIR LEE: You mean he has a full agenda, right?

VICE-CHAIR RAWLINS-FERNANDEZ: What did I say, schedule? Did I say schedule?

CHAIR LEE: You said he has a full budget.

VICE-CHAIR RAWLINS-FERNANDEZ: He has a full agenda.

CHAIR LEE: You're, you're budget.

VICE-CHAIR RAWLINS-FERNANDEZ: I'm . . . I don't know.

CHAIR LEE: You, you have a full budget. He has a full agenda.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thanks, Member Rawlins-Fernandez, for mentioning that, cause I think when I brought it up it didn't get much support. But every single item that we've been sending to the Planning Commissions since it's gone directly to it without going to Committee first, so I think it's a good idea.

But I just wanted to support this and just confirm that we're talking about the entire County, right? Just as far as these zoning districts? Yea, okay. I . . .

CHAIR LEE: Lanai, Maui, and Molokai, right. The entire County. Okay, anymore comments, questions? If not, all those in favor of the motion, raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", two "excused"; Kama, Johnson. Motion carries.

One more.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-363

COUNCILMEMBER PALTIN: Thank you, Chair. The last one I have CC 21-363, transmitting a proposed resolution entitled, "SUPPORTING THE UNDIVIDED INTEREST AWARDS POLICY OF THE DEPARTMENT OF HAWAIIAN HOME LANDS' HOMESTEADING PROGRAM".

I MOVE TO ADOPT THE PROPOSED RESOLUTION AND TO
REFER THE SUBJECT MATTER TO THE PSLU COMMITTEE.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay. So, there's no Rule waiver here? Okay. Moved by Member Paltin, seconded by Member King, to adopt the resolution, I mean, adopt the recommendation in 21-363.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. May I please request the Clerk read the resolution in its entirety?

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair.

(The resolution was read in its entirety.)

CHAIR LEE: Member Paltin, I have a question for you.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: People on the waitlist are still eligible even if they have a house already?

COUNCILMEMBER PALTIN: I believe they are.

CHAIR LEE: I mean, the list will go down faster if it were only for first-time homebuyers. Just a thought.

Okay, all those in favor of the motion, say "aye". The, the resolution. Pardon me?

COUNCILMEMBER PALTIN: Was there any discussion? I, I had a--

CHAIR LEE: Oh, you had more to say? Okay. Any more discussion?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I just wanted to read an excerpt from a testimony we got this morning as the meeting was about to start. So, I'm not sure if Members had a chance to read all the testimony that came in as the meeting started.

It says, I've been on the DHHL Maui Agricultural waitlist since July 30, 1986. I'm 78 years old and don't know if I'll be here in 2028 to possibly receive an award. I remember going to the first site visit many, many years ago and today it's still the same. We have this land for our people and supporting this resolution would give all of us on the waitlist the opportunity to pass something onto our children, grandchildren, and great grandchildren. The people of Lahaina can't afford the sky-high housing prices and are having to leave to try and succeed. Imagine all the possibilities this will give many families here.

This resolution expresses the County's support of DHHL's mission to provide homes for Native Hawaiians, which this was a Federal act, as well as a condition of Statehood. So, you know, with each person that dies on the waitlist it's kind of like a failure to meet that condition of Statehood. Many have been waiting on the waitlist for many years and never received homestead land, and just die. The Undivided Interest Awards program is a way to help the process along.

Like, you know, Member Johnson says, if your hair is on fire, you better act like it. And just want to relay the sense of urgency is as, you know, many aunties and uncles are, are passing away on the list. This resolution also urges the Mayor and various departments to help by expediting permits, plans, and other requirements for homestead properties. So, I ask the Members full support of this resolution. Thank you.

CHAIR LEE: Any more discussion? All--

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member Paltin, for introducing this resolution. I stand in support of the motion and of this resolution. And a couple of the bills that are on the agenda for referral will also help with the structural hurdles of the department. And, you know, just being more aware, now in this time, and calling out things for what they are, which is structural racism and, you know, addressing it at its core. And I just really commend this Council cause everyone's eyes are always just really wide open. And taking bold action to help the people that, and our lahui that have been desperately asking elected officials to take a, a strong stance for people who have been neglected. So, I just want to mahalo everyone on this Council. Love you guys. Mahalo, Chair.

CHAIR LEE: Thank you. Anybody else? If not, all those in favor of the motion, raise your hand and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Kama, Johnson. Motion carries.

Mr. Clerk, I can't see you.

DEPUTY COUNTY CLERK: Chair, apologies. So, the motion that prevailed was to adopt the resolution and to refer the subject matter. What would the body want to do with the County Communication itself?

CHAIR LEE: Member Paltin?

COUNCILMEMBER PALTIN: Can it be referred as well, with the subject matter?

DEPUTY COUNTY CLERK: The body can do that if it wants, yes.

CHAIR LEE: Any objection, Members, to doing that, referring, referring the communication?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Alright. So, ordered.

Mr. Clerk.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. Chair.

CHAIR LEE: Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Real, real quick. Mahalo, Chair. Just a non-substantive change in the last "BE IT RESOLVED" clause. That, I just got a text now saying that Kammy Purdy is no longer the SCHHA Vice-Chair. That Sybil Lopez is the correct name to put in that place. So, not a substantive. I don't think we need to make a motion on that.

CHAIR LEE: Okay. A non-substantive change. Just a correction and update on the correct person to send it to. Okay.

Mr. Clerk, you got that?

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: Okay. We can move on.

DEPUTY COUNTY CLERK: Okay. Then for the record, the resolution that was attached to County Communication 21-371, that is RESOLUTION 21-113.

The resolution that was attached to County Communication 21-370, that is County Communication 21-114 *[sic]*.

And the resolution that was attached to County Communication 21-363, that is RESOLUTION 21-115.

And then, Chair, we just wanted to confirm that there are no other objections to the referrals as read by the Clerk.

CHAIR LEE: Any more exceptions to the referrals? So, no objections to the, the referrals as read by the County Clerk, yea?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. So, ordered.

Mr. Clerk, all pau with this section.

DEPUTY COUNTY CLERK: Proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 21-47 - BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT
COMMITTEE:

Recommending the following:

1. That Resolution 21-116, entitled "AUTHORIZING THE ACQUISITION OF REAL PROPERTY IDENTIFIED AS TAX MAP KEY NOS. (2) 4-6-011:011 AND (2) 4-6-011:028, SITUATED IN LAHAINA, MAUI, HAWAII, FOR AN AMOUNT NOT TO EXCEED \$650,000," be ADOPTED; and
2. That the Miscellaneous Communication dated May 25, 2021, from the County Clerk, be FILED.

CHAIR LEE: Member Vice-Chair Member, Vice-Chair. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE REPORT 21-47.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to approve the resolution proposed in Committee Report 21-4, no, 21-47. That's, yea, 21-47.

Discussion? Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Your Budget, Finance, and Economic Development Committee met on June 30, 2021, to discuss a proposed resolution to authorize the acquisition of real property identified as tax map key (2) 4-6-011:011 (9,097 square feet) and (2) 4-6-011:028 (1,500 square feet), respectively, in Lahaina, Maui, Hawaii, for an amount not to exceed \$650,000.

Your Committee noted the Mayor intends to purchase the property based on the current zoning, which would allow for the construction of two-family duplex units.

Funding for the purchase of this property is included in the Fiscal Year 2022 Budget under the Affordable Housing Fund, meaning the purchase must conform to the requirements of Chapter 3.35, Maui County Code.

Your BFED Committee convened an executive meeting and based on the information received and the recommendation of the department, your Committee voted 9-0 to recommend adoption of the resolution and filing of the communication. I respectfully ask for the Councilmembers support of this motion. Mahalo, Chair.

CHAIR LEE: Anymore discussion? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Kama and Johnson. Motion carries.

Next.

DEPUTY COUNTY CLERK: For the record, that is RESOLUTION 21-116.

COMMITTEE REPORT
NO. 21-48 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That Resolution 21-117, entitled "REQUESTING THE STATE OF HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT REDUCING THE PRODUCTION AND USE OF CERTAIN SINGLE-USE PLASTIC PRODUCTS," be ADOPTED; and
2. That County Communication 21-223, from Council Chair Alice L. Lee, be FILED.

CHAIR LEE: Member King. You're muted.

COUNCILMEMBER KING: I know. I just saw that. Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-48.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay. Moved by Member King, seconded by Member Sinenci, to approve the recommendations in Committee Report 21-48.

Discussion? Member King.

COUNCILMEMBER KING: Thank you, Chair. Your Committee met on July 7 *[sic]* to review this resolution. The resolution shows the Council's support for the Break Free from Plastic Pollution Act, now pending in Congress, and urging Senators Schatz and Hirono to join Congressman Kahele and Case in supporting the legislation.

The Break Free from Plastic Pollution Act builds upon successful State laws across the U.S. and outlines practical plastic reduction strategies. It's the most comprehensive set of policy solutions to the plastic pollution crisis introduced by Congress.

After hearing from a representative of the Surfrider Foundation on how the act can minimize plastics impact on the environment, your Committee recommended adoption of the resolution and filing of the communication by a 7-0 vote. I ask for the Members support of your Committee's recommendation.

CHAIR LEE: Okay. Any more discussion? If not, all those in favor of the motion--

COUNCILMEMBER KING: Chair? Chair?

CHAIR LEE: Yes, Member King.

COUNCILMEMBER KING: Just . . . a, and, you know, there's an ASF on this. I don't know if we need an ASF just to add a name to the, to the last paragraph of the, of the therefore's. So, my request was to add Senator Jeff Merkley onto the recipients, since he was the author of this bill. He's a U.S. Senator.

CHAIR LEE: Members, any objections? This is non-substantive.

COUNCILMEMBER KING: Yea, it's non-substantive.

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, no. So, ordered. Alright. So, all in favor of the mo--

Mr. Clerk.

DEPUTY COUNTY CLERK: Apologies. Just, we just wanted to confirm. The ASF that we have has two names. So, in addition to Jeff Merkley, there's also Alan S. Lowenthal.

CHAIR LEE: Oh.

DEPUTY COUNTY CLERK: Is that name to be added as well?

COUNCILMEMBER KING: Yea, that's, that's right. Thank you. Thank you for that. I forgot.

CHAIR LEE: Okay. Any objections, Members, to the second name?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Alright. So, ordered. Add the two names. All those in favor of the motion, signify by saying "aye" and raising your hand. Mr. Molina?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Seven "ayes", zero "noes", two "excused"; Members Kama and Johnson.
Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, this is RESOLUTION 21-117.

COMMITTEE REPORT

NO. 21-49 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That Bill 67 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.18, MAUI COUNTY CODE, PROHIBITING THE SALE AND RENTAL OF DISPOSABLE BODYBOARDS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 20-526, from Councilmember Tamara Paltin, be FILED.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-49.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member King, seconded by Member Sinenci, to adopt, to approve the recommendations in Committee Report 21-49.

Discussion? Member King.

COUNCILMEMBER KING: Thank you, Chair. Yes, July 7 *[sic]* was our banning plastics day, so this bill followed the theme. And it would, this bill would regulate the sale and rental of disposable bodyboards and encourage the use of environmentally preferred alternatives. Disposable bodyboards are a source of litter on Maui County's beaches, breaking easily and potentially causing injury to the user. Regulating disposable bodyboards is an effective way to prevent them from being sold in the County.

Your Committee voted 7-0 to recommend passage of the bill and filing of the communication. I ask for the Members support of your Committee's recommendations and would also entertain any amendments that Members wish to make at this point.

CHAIR LEE: Members?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I would move to amend it to use the word "distribution". But would it be okay to check in with Corporation Counsel if that word would be appropriate so that folks wouldn't give out those types of boards for free? I think we addressed sale and rental, but we didn't want to have people, like, I guess lend out those, people or businesses to lend out that. And the word "distribution" was recommended. And I just wanted to run that specific language by the lawyer.

CHAIR LEE: Richelle Thomson, Deputy Corp. Counsel, First Deputy. Oh, hi. Hi, Richelle.

FIRST DEPUTY CORPORATION COUNSEL RICHELLE THOMSON: Thank you, Chair. Yes, I . . . that that addition would be, would be fine. So, I'm assuming that you're looking at adding that word, let's see, "Businesses are prohibited from selling, renting, or distributing disposable bodyboards."

COUNCILMEMBER PALTIN: Yes, please.

FIRST DEPUTY CORPORATION COUNSEL: I don't see any problem with that.

COUNCILMEMBER PALTIN: Okay.

IN THAT CASE, I'LL MOVE TO AMEND THE LANGUAGE ANY PLACE IT SAYS "SALE AND RENTAL", TO SAY "SALE, RENTAL, AND DISTRIBUTION".

CHAIR LEE: Okay. Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Paltin, second by Member Sinenci, to amend the main motion to add the language of "and distribution".

Any more discussion? Anyone? Okay. All in favor of the amendment, raise your hand, say aye?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Seven "ayes", zero "noes", two "excused"; Kama, Johnson. Motion carries.

Any more amendments?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Yea, I just wanted to, and we had this discussion in Committee, but it came up with one of the testifiers about prohibiting the sale or use. And we had, the discussion that we had in Committee was that people might have foam bodyboards that were hanging around and maybe it would be better for them to use them rather than, rather than throwing them out.

BUT I JUST WANTED TO PUT IT OUT THERE AND SEE IF MEMBERS WERE WILLING TO AMEND THE BILL TO SAY BUSINESSES ARE THE, TO PREVENT THE SALE, SALE, RENTAL, DISTRIBUTION AND USE OF FOAM BOARD, SINGLE-USE FOAM BODYBOARDS. I WANT TO MAKE THAT AMENDMENT, MOTION.

And I think we have Shelby Serra on the, on the call as well if any Members have questions of her.

CHAIR LEE: Any questions of the resource person?

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I just saw First Deputy Corp. Counsel pop up, so I'm assuming she has input for this amendment?

COUNCILMEMBER KING: Okay. Well, let's, let's, can we see if there's a second, first?

CHAIR LEE: I was, I was going to call on the First Deputy after we call on the, the resource person, because she's been waiting for hours, you know?

COUNCILMEMBER PALTIN: Okay. I withdraw that.

CHAIR LEE: But we, okay, you withdraw what? Huh?

COUNCILMEMBER PALTIN: My statement.

CHAIR LEE: Oh, your statement. Okay. So, Member King is making an amendment to add the words "or use" after "distribution", right? So, is there a second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay. Moved by Member King, seconded by Member Sinenci to add the words "or use".

Now, do we have any questions for our resource person? Poor thing, she's been waiting for this. No questions for her?

COUNCILMEMBER KING: I, I do, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yea, I would like to hear from Ms. Serra, if she can explain, you know, the importance of not having, not even using, you know, even if you have something that's been in your, your closet for ten years and bringing that out and using it on the beach?

CHAIR LEE: Ms. Serra? Do we, does anybody see her?

COUNCILMEMBER KING: No, I don't see her, but I was told she's on the, she's on the call. Somebody have to let her in.

MS. SERRA: Hello? Hi.

CHAIR LEE: Oh. Hi. Yes, we can hear you. Member King, do you want to repeat your question?

COUNCILMEMBER KING: Okay. Yes. Yes, can you just, can you just give us your . . . background and the studies you've been doing on finding bits of those bodyboards on the beach? Your, arguments . . .

MS. SERRA: Yes.

COUNCILMEMBER KING: . . . ban the use . . . rental.

MS. SERRA: Yes, thank you. We did not propose to add the use, although we support that. The study that we are doing is a part of our marine debris COVID monitoring, where we're looking at amounts that . . . composition of, of the marine debris that's showing up on our beaches. While this is just preliminary stages, we cannot share too many results. And that's not because I won't share it with you. That's because our research team hasn't even shared it with me. But they did share with us that some of the initial findings were turning up, that it was a possibility that some of these small pieces that we're finding are of foam boards and not exclusively takeout materials or packaging materials, or we are able to identify . . . are coming from what source. So, in that way,

I suppose it, it contributes to not using these materials as they just naturally degrade being in the water and in the sun as plastic . . . degrades with UV light, and the saltwater, and with wave action.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yeah, I, I, I'm a little surprised because I thought that your testimony in the beginning, that you wanted the word "use" in there. But I just heard you say you did not propose that?

MS. SERRA: We, oh yes, we were proposing to replace the words "sale and rental" with "distribution". But if you wanted to use "sale, rental, and distribution", that accomplishes the same goal in our minds. So, if that works for you guys, that works for us, as long as distribution is a factor. As well as the situations and instances across the island, where people aren't purchasing or renting, they're just given as an amenity or as a complimentary item.

COUNCILMEMBER KING: Okay. Thank you. Thank you, Serra.

I'M GOING TO WITHDRAW MY MOTION, CHAIR.

Apparently, I misunderstand her testimony.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Alright. And Mr. Sinenci is withdrawing his second.

COUNCILMEMBER KING: Okay.

CHAIR LEE: So, we're back to just the--

Yes, Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you. I'm sorry this might be one, a dumb question. But, you know, a dumb question is one that isn't asked. But anyway, I'll ask it. Someone brought up the issue to me the other day about this legislation, which I do support, about the sale aspect of it. You know how people might have these old Morey boogie boards or styrofoam boards that they want to sell at a garage sale. Under this legislation, would that prohibit, would that prohibit selling in a, as a garage sale item?

CHAIR LEE: Well, it does say sale, the, the language says it prohibits the sale or distribution.

COUNCILMEMBER MOLINA: Okay. Even though if it was just a garage sale, it's not being sold out of a business establishment so to speak, yea?

CHAIR LEE: Okay. Member, I mean not member, but Ms. Thomson. But you're, you're like a member, family member.

FIRST DEPUTY CORPORATION COUNSEL: Oh, it's an elite club. I think that the, because it's targeting businesses, and I think that private sales would not be affected unless that, you know, rose to the level of being a business or, you know, certain private individuals could be conducting a business of sale. But I think the intent is really just to target commercial sales.

COUNCILMEMBER MOLINA: So basically, not sold for commercial purposes. But if someone who is just getting ridding of the stuff, just take a dollar for it at a garage sale, this law would not have any impact on those types of transactions.

FIRST DEPUTY CORPORATION COUNSEL: That's how I--

COUNCILMEMBER MOLINA: Okay.

DEPUTY CORPORATION COUNSEL: Yes. . . . that's how I read it.

CHAIR LEE: It wasn't a dumb question.

COUNCILMEMBER KING: Chair?

CHAIR LEE: Yes, Member King.

COUNCILMEMBER KING: I would challenge that interpretation, because the word "distribution" applies to anybody giving them out for free or reselling them for a buck. But the intent of the amendment was to eliminate what you just talked about, Mr. Molina, where, for single use styrofoam bodyboards. And if it's a, if it's a regular boogie board, then that would not be considered single use, because they can be used over and over again. But the styrofoam, I mean, there's a definition in the bill of durable bodyboard, which means a one-piece, compression-molded, high-density polyethylene or polypropylene bodyboard. So, if, if it's that, if it's that styrofoam that we're trying to get rid of, then that would, that would be part of distributing.

COUNCILMEMBER MOLINA: Okay. Yea, as part of the educational campaign, then I think that should be made clear to the public, who like, like, you know, some may see it as,

okay, this only applies to businesses, it doesn't apply to me. I'm not a business and I'm just selling as a garage sale. But if that's the case, then we should definitely get the word out on that as well to educate the public.

COUNCILMEMBER KING: Yea. I agree.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR LEE: We have another Member. Vice-Chair Rawlins-Fernandez has, has a question, or a comment.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair. Yea, I was just reviewing the bill, cause I, I thought it said by a business. So, I was just trying to identify that exact language of where the distribution or distributing would go? Because if it, if it, if it does restrict it to business, then I would think that individuals at a garage sale wouldn't qualify under this bill. And the concern that I, I thought I understood Ms. Serra talking about is distribution by, like, rental companies, or short-term rentals, or hotels, offering it as, as a complimentary, you know, activity. So, I just, yea, so, that's my comments for. Mahalo, Chair.

COUNCILMEMBER KING: Chair?

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yea, I think, I think Member Rawlins-Fernandez is correct. But I was, I was misinterpreting, I was interpreting the amendment that Member Paltin made as being anybody distributing and/or giving them away for free. But it does specifically refer to businesses here, so you're right. Was that the intent, Ms. Paltin, was to, to just keep businesses from giving them away and distributing them? . . .

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Yea, well, you know, I think they would be the major persons doing that. I mean, if you have an old Morey boogie board before they, the family sold the company, those aren't Styrofoam, you know. It's the, the new Morey boogies after they sold to the Styrofoam. The guys that make em junk. But, you know, if you're asking my opinion, this has been a dream of mine before I ever even wanted to become a elected official, you know? Like, just seeing the effect on our beaches and the majority of the effect is from businesses. It's not one guy at a garage sale, you know. So, I mean, I'm not hung up on the details. It's the, the result.

You know, growing up, we didn't have this kind of proliferation of these single use bodyboards. It's not something that we saw littered at the beach parks, or whatever, as you do today. And so, it's just, my intent was to make a bill that would pass the muster that was widely supported and would take the majority of this rubbish off our shorelines and out of our landfills. So, the easiest, best way to do it, I'm a fan.

COUNCILMEMBER KING: Okay. So, I think we should stick to the letter of the law, the bill refers to businesses. So, it certainly is not regulating garage sales or individual persons passing them from a person to the other.

COUNCILMEMBER PALTIN: Yea, what's easily enforceable.

COUNCILMEMBER KING: Yea. Okay.

CHAIR LEE: Okay. Any more questions? Alright. So, we, we deleted "use", but we're retaining "for distribution".

COUNCILMEMBER KING: Yea, we didn't, we didn't have use in it. We just, I made a motion but then I withdrew it.

CHAIR LEE: Okay.

COUNCILMEMBER KING: So, the word "use" was never in the bill

CHAIR LEE: Okay. Anybody else? If not, all those in favor of the motion, raise your hand, say aye?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Seven "ayes", two "excused"; motion carries. Excused are Johnson and Kama.

Was that only for the, the distribution amendment?

COUNCILMEMBER KING: I think we had already voted on the amendment. And then I made another amendment, but then I withdrew that one. So, that was for the main motion.

CHAIR LEE: Okay. Alright.

COUNCILMEMBER KING: Thank you, Members. Thank you, Member Paltin.

CHAIR LEE: Okay. We're heading down the homestretch. Any other items you want to take out for action or whatever?

COUNCILMEMBER KING: I think we're on committee reports, Chair.

CHAIR LEE: Oh yea. That's right. That's right. I lost my, I lost track.

COUNCILMEMBER KING: That's okay.

CHAIR LEE: Okay. Moving on. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 67 (2021).

CHAIR LEE: Okay.

COMMITTEE REPORT
NO. 21-50 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That Bill 68 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.26, MAUI COUNTY CODE, RESTRICTING THE USE AND SALE OF FOAM COOLERS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-430, from Councilmember Elle Cochran, be FILED.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Okay, thank you, Chair. This is my homestretch.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-50.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second? Moved by Member King, seconded by Member Sinenci, to adopt, to approve the recommendations in Committee Report 21-50.

Discussion? Member King.

COUNCILMEMBER KING: Thank you, Chair. Your Climate Action, Resilience, and Environment Committee met on July 7 *[sic]*, and considered this bill along with the previous two committee reports. And this bill would generally ban foam coolers as a January 1, 2022, when the, the styrofoam foodware ban goes into effect. The prohibition will be placed in Chapter 20.26 of the Maui County Code as part of the general ban on plastic disposable foodware, which takes effect on January 1.

I thank the Administration for its public awareness campaign about chapter, about Chapter 20.26 at MauiCounty.gov/PlasticFree. And they have, they were discussing intensifying that, that campaign as we get closer to January 1. Your Committee voted 7-0 to recommend passage of the bill and filing of the communication. I ask for the Members support of your Committee's recommendations.

And we also had a distribution of the alternate, which I was surprised was available now, I think OCS was distributing it to all Councilmembers, that there are actually compostable coolers now available in Safeway.

CHAIR LEE: Made of what?

COUNCILMEMBER KING: Made of, well, the, you should see the picture. It looks like cardboard, but it's like a composite, like a compostable composite.

CHAIR LEE: Oh, like a, like an egg carton type?

COUNCILMEMBER KING: . . . yea, it looks like that. I don't know if you can see the picture, but they were going to distributed it for this item.

CHAIR LEE: Yea, but, but can it be part of a dog enclosure, that's the question?

COUNCILMEMBER KING: If you put bricks in it, it can.

CHAIR LEE: Okay. Any more discussion? If not, all those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: One, two, three, four, five.

COUNCILMEMBER KING: What happened to--

CHAIR LEE: One, two, three, four. One, two, three, four, five, six. I hear a six.

COUNCILMEMBER KING: Yea, I can see Member Rawlins-Fernandez. I think the only person who, she's got up and left is Member Paltin. I'm not sure what happened. But maybe she went to go find the picture.

CHAIR LEE: Okay, I, okay. So, that's six. One, two, three, four, five, six. Somebody else is missing.

COUNCILMEMBER KING: That's Member Paltin.

CHAIR LEE: So, that's two, four, six. Oh, Member Paltin?

COUNCILMEMBER KING: Yea, she just walked away.

CHAIR LEE: Well, six is enough.

COUNCILMEMBER KING: There she is.

CHAIR LEE: Okay, oh, there we go. Okay. Now, it's seven. Seven, zero, two "excused"; Johnson and Kama. Motion carries.

COUNCILMEMBER KING: Okay. Thank you, Members.

CHAIR LEE: It's unanimous.

Alright. Next item. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 68 (2021).

Mr. Clerk.

COMMITTEE REPORT

NO. 21-51 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending the following:

1. That Resolution 21-118, entitled "APPOINTMENT OF A MEMBER TO THE BOARD OF VARIANCES AND APPEALS FOR THE COUNTY OF MAUI," be ADOPTED;
2. That Resolution 21-119, entitled "APPOINTMENT OF A MEMBER TO THE BOARD OF WATER SUPPLY FOR THE COUNTY OF MAUI", be ADOPTED; and
3. That Resolution 21-120, entitled "APPOINTMENT OF A MEMBER TO THE FIRE AND PUBLIC SAFETY COMMISSION FOR THE COUNTY OF MAUI", be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT 21-51.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Second? Moved by Member Molina, seconded by Member Sugimura, to adopt the recommendations in Committee Report 21-51.

Discussion? Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Your GREAT Committee met on June 29, 2021, to discuss proposed resolutions relating to the Mayor's nomination to the Board of Variances and Appeals, Board of Water Supply, and the Fire and Public Safety Commission. All of these board terms are for five years, expiring on March 31, 2026. And the Council's deadline is July 26, 2021, to approve or disapprove these nominees.

Your Committee interviewed the following nominees: Mr. Ross Takashima, as a nominee to the Board of Variance and Appeals. He's a self-employed civil engineer who lives and works on Molokai. Ms. Juanita Reyher-Colon, a nominee to the Board of Water Supply, who's also a Molokai resident and has over 12 years of industry experience in water issues. And finally, the nominee for Fire and Public Safety Commission, Ms. Kanuha, is a resident of West Maui, who has previously served on the County's Cultural Resources Commission and many other community organizations. All of these nominees did a great job in their interviews. Thus, your Committee voted 8-0 to recommend the nominations of these individuals. I ask for the Members full support. Thank you.

CHAIR LEE: Thank you, Mr. Molina.

Any more discussion? If not, all those in favor of the motion, say aye, raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three, four, five, six, seven. Seven "ayes", zero "noes", two "excused"; Kama, Johnson. Motion Carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, these are RESOLUTIONS 21-118, 21-119, AND 21-120, respectively.

COMMITTEE REPORT

NO. 21-52 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 21-121, entitled "RELATING TO THE APPOINTMENT OF HELEN TABURA TO THE COUNCIL ON AGING," be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT 21-52.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to adopt the recommendation in Committee Report 21-52.

Discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GREAT Committee met on June 29, 2021, to discuss a proposed resolution relating to the Mayor's nomination of Helen Tabura to the Council on Aging for a term expiring on March 31, 2026, due to the resignation of Dorothy Yoza.

Your Committee agreed Ms. Tabura would be a wonderful asset to the Council on Aging. She is a longtime Lanai resident with strong ties to the island, and a well-respected kupuna. Your Committee voted 8-0 to recommend her nomination. And I ask for the Members full support. Thank you.

CHAIR LEE: Thank you, Mr. Molina. Any more discussion? If not, all those in favor of the motion, say aye, raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three, four, five, six, seven "ayes", zero "noes", two "excused"; Kama, Johnson. And motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the, for the record, that is RESOLUTION 21-121.

COMMITTEE REPORT
NO. 21-53 - HUMAN CONCERNS AND PARKS COMMITTEE:

Recommending that the Miscellaneous Communication, from the County Clerk, transmitting the matter relating to a Rapid Response Covid-19 Task Force, be FILED.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO FILE COMMITTEE REPORT 21-53.

CHAIR LEE: Okay. That's enough. A second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second. Moved by--

Yes, Mr. Krueger.

DEPUTY COUNTY CLERK: Chair, apologies. I just wanted to raise, for the body's attention, that filing the Committee Report would mean that the miscellaneous communication referenced in the Committee Report would remain in the Committee. If the intent is to dispose of that miscellaneous communication, the body would consider adopting that recommendation instead.

CHAIR LEE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Okay, I get it.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 21-53.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: And who was the second person? Mr. Sinenci.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Alright. Discussion, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I believe that Member Kama is filing this for the reasons that are stated in the Committee Report. I'm sorry.

CHAIR LEE: Okay. It's a good thing we memorized that Committee Report and understand what you're saying. Of course, I'm being facetious.

Any questions, comments, discussion? All those in favor of the motion raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three, four, five. Ms. King? Ms. King? Seven "ayes", zero "noes", two "excused"; Kama, Johnson. Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, you have before you from your Planning and Sustainable Land Use Committee--

CHAIR LEE: Wait, wait. Hold on. Hold on.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Just a real quick one. Did, was, was that . . .

CHAIR LEE: Okay, you're breaking up.

COUNCILMEMBER SUGIMURA: She's frozen.

COUNCILMEMBER KING: She's frozen.

CHAIR LEE: Okay. Vice-Chair? Yea, try again without the video. Try again.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. How about now?

CHAIR LEE: Good. Clear.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay. Mahalo. No, I just, I wanted to ask for clarification on the CR 21-53, if what Member Sugimura had shared was the discussion on that item?

COUNCILMEMBER SUGIMURA: You know, I am going to ask for, Chair?

CHAIR LEE: Yes?

COUNCILMEMBER SUGIMURA: I'm going to ask for, if you could set this aside, so I can go and read the report, so if you don't mind?

CHAIR LEE: Alright. We can defer this for now.

Mr. Clerk, let's come back to this one. Because--

DEPUTY COUNTY CLERK: Yes, Chair. The, the body already voted on it. But perhaps if, if something needs to be changed--

CHAIR LEE: Oh yea, that's right.

DEPUTY COUNTY CLERK: --perhaps, perhaps the body could reconsider the motion on it.

CHAIR LEE: The question came right after the vote. But I think this is not, you know, earth shattering. So, what the, Ms. Sugimura is going to review the report and give the information to, to the body, okay? So, even though we voted on this, can she not just give that information in retrospect?

DEPUTY COUNTY CLERK: If, if the body is okay with that, then--

CHAIR LEE: Actually, only one Member is asking for that information.

COUNCILMEMBER KING: I'd like it, too.

CHAIR LEE: Member Paltin. Member Paltin, then Member King.

COUNCILMEMBER PALTIN: Oh, I, I was there. I remember the discussion, if you had questions.

CHAIR LEE: Okay. Why don't you share it now?

COUNCILMEMBER PALTIN: So, the discussion was, you know, we asked the Mayor to form this Rapid Response Covid-19 Task Force, and he didn't. And then the discussion was, like, well we can't make him. And then I said, like, well, I don't mind for these Hale Hawaii folks to be our Council's task force. And they're like, that's a good idea. And then, then we filed it.

CHAIR LEE: Okay, that's what happened.

COUNCILMEMBER PALTIN: That's . . . what happened.

CHAIR LEE: And then, to add to that, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yea, basically it says your Committee noted that a Rapid Response Covid-19 Task Force will not be formed. No legislative action is pending for this matter. Therefore, your Committee recommended the Council file the communication. Exactly.

CHAIR LEE: Vice-Chair, Vice-Chair Rawlins-Fernandez, is that satisfactory as far as an explanation?

VICE-CHAIR RAWLINS-FERNANDEZ: That, that was. Mahalo. And then, just clarification on the, the vote. Did we vote to file, or did we vote to recommend the Committee Report's recommendation?

CHAIR LEE: We voted to adopt the Committee Report's recommendations.

COUNCILMEMBER SUGIMURA: Correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that clarification. Mahalo, Chair.

CHAIR LEE: Okay. Mr. Clerk, we're ready to move on.

COMMITTEE REPORT
NO. 21-54 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 69 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030, MAUI COUNTY CODE, RELATING TO SHORT-TERM RENTAL HOME PERMITS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-67, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-54.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay. Moved by Member Paltin, seconded by Member King, to adopt the recommendations in 21-54.

Discussion, Ms. Paltin.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO AMEND THE BILL BY SETTING THE KIHEI-MAKENA CAP AT 45, INSTEAD OF 46; SETTING PAIA-HAIKU CAP AT 48, INSTEAD OF 47; SETTING THE MAKAWAO-PUKALANI-KULA CAP AT 15, INSTEAD OF 14, ON RECOMMENDATION FROM THE DIRECTOR.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay. And what about the consent of the area member?

COUNCILMEMBER KING: Chair.

COUNCILMEMBER PALTIN: Are you at discussion right now, or?

CHAIR LEE: Yea, we're in discussion.

COUNCILMEMBER PALTIN: Okay. It says approval of my motion would revise the cap numbers for short-term rental homes in three community plan areas and cover all the STRH applications submitted by the end of day on July 1, which is the day the PSLU Committee met. In administering the bill, we are essentially allowing those applications that were in the works that day to be processed, which I believe was the intent of the Committee.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Is, is the Director on the call?

CHAIR LEE: Michele McLean? Director McLean?

COUNCILMEMBER KING: And the reason I'm asking is because I did talk to one person who had been in the works for an application and didn't quite make the July 1 deadline, but had spent money on trying to obtain the permit and was going to be talking to Director. So, I wanted to make sure, that was one of the discussion points that we had in Committee was to make sure that if folks had spent money on the permit process, that we weren't cutting them off and, you know, making that money, whatever expenses they had irrelevant. So, just wanted to make sure that that included--

CHAIR LEE: Maybe Member King, I mean, Member Paltin has some information. Do you?

COUNCILMEMBER PALTIN: I just texted the Director. And the information is what came from her, that they had the numbers incorrect. And she says she will call now, or she texted.

CHAIR LEE: Call into our meeting? Call Call into our meeting, Member Paltin?

COUNCILMEMBER PALTIN: I'm going to text her to clarify.

CHAIR LEE: Did anybody else have a comment while we're waiting?

Mr. Sinenci.

COUNCILMEMBER SINENCI: Yea, just clarification.

COUNCILMEMBER PALTIN: She just joined.

CHAIR LEE: Oh, I'm sorry. Mr. Sinenci, hold up, okay? Member, I mean, Director McLean just joined the call.

Michele, are you there?

PLANNING DIRECTOR MICHELE MCLEAN: Yes. Hi, Chair.

CHAIR LEE: Okay. Hi. Did you get the question? No.

PLANNING DIRECTOR: I was juggling back and forth between Granicus and getting on BlueJeans, so--

COUNCILMEMBER KING: Okay.

CHAIR LEE: Let's have Member King ask, ask you the question.

COUNCILMEMBER KING: Hi Michele, thanks for popping, popping up. I, you know, one of the things we had talked about in Committee was that we didn't want to make any financial hardship for anybody who had invested money in a permit. And, and so, I talked to one member of our, or who owns property in our community, who lives in . . . on Maui, who had said that he has been waiting the five-year period. I don't know if you talked to him. His name is Tim Lara. And he, he missed the July 1 deadline, but he did, he did tell me that he had invested several hundred dollars in putting this whole permit process together.

And he had talked to you, so I just wanted to make sure that that number doesn't cut somebody out who's been waiting for five years and then he missed it for a few days. He's already put money into trying to do this. And, you know, it may or may not happen, because the neighborhood may or may not want it? And that's a, that's a very real possibility, because I know where his house is. But, but I was concerned about the investment that had been made, cause that was part of the discussion.

PLANNING DIRECTOR: I, yea, the numbers that we provided were through the end of the business day of the PSLU Committee. So, that's what we used as the, as the cut-off. I did not speak with the person that you, that you mentioned.

COUNCILMEMBER KING: Okay.

PLANNING DIRECTOR: If that is in your district, then, you know, you can make that adjustment to allow for that person, although who's to say that someone else might not sneak in. But that, but no, we only accounted for applications that had been submitted and received by our office by the close of business of your Committee meeting date.

COUNCILMEMBER KING: Okay, so you have, and you haven't heard from them, anyone since? Okay. Alright. So, so the number that, the final number that you are proposing is 45?

PLANNING DIRECTOR: I believe so. I need to find that. Whatever Committee Chair Paltin read through based on our number.

COUNCILMEMBER KING: Okay. Because your original proposal for 46, I guess it was one that wasn't, or that withdrew or something? That was originally--

PLANNING DIRECTOR: One was, one was revoked, yea.

COUNCILMEMBER KING: Oh, okay. Happy to hear you're doing that if it's based on complaints. Alright. Thank you. I'm satisfied, Chair. Thank you.

CHAIR LEE: Anyone else?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I just want to say I agree with the new number for Makawao-Pukalani-Kula from 14 to 15. Thank you very much, Tamara, for making that amendment.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Again, just checking with Member Paltin if we got the Hana reductions of 15 by attrition? Okay. Thank you.

COUNCILMEMBER PALTIN: Yes.

CHAIR LEE: Anyone else? I may as well ask. Member Paltin, Central Maui is at six, right? Oh, you're muted.

COUNCILMEMBER PALTIN: My bad, sorry. I, I think it is at six; you're correct.

CHAIR LEE: Okay. Deputy Thomson.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. I just wanted to make sure, and that we were all talking about the same thing, so in Section 3, it's referring to permit applications that are deemed complete by July 1. But I've heard a couple of Members say "submitted" by July 1. So, I didn't know if there were some that are submitted but haven't been gone through by the Planning Department to make sure that they are complete. So, if the intention is submitted, then it would, I would recommend changing Section 3 to say "submitted on", you know, "on or before that date".

COUNCILMEMBER PALTIN: Friendly Amendment. No? Can we do that?

CHAIR LEE: Of course. We can do anything.

COUNCILMEMBER KING: So, moved. How about "so moved", and I'll second it?

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: Should we vote on that other amendment first or should we combine them as a friendly amendment to the original amendment?

CHAIR LEE: You can. You can.

COUNCILMEMBER PALTIN: Okay.

FRIENDLY AMENDMENT TO THE ORIGINAL AMENDMENT.

CHAIR LEE: Okay. On the caps? On the caps, right?

COUNCILMEMBER PALTIN:

YEA, AND, AND CHANGING THE WORD "DEEMED COMPLETE", WORDS "DEEMED COMPLETE" TO "SUBMITTED".

CHAIR LEE: Okay. Now, I'll bet you anything the Clerk is going to ask us to repeat it. Mr. Clerk, did you get the language, the word changes?

DEPUTY COUNTY CLERK: Yes. So, the word changes is to "deemed complete" instead, or no, to "submitted" instead of "deemed complete". Is that at the, I think that's at the end of the bill.

CHAIR LEE: Okay. And you got the new numbers? You got the new numbers for the caps?

DEPUTY COUNTY CLERK: If okay, can, can Councilmember Paltin repeat it one more time?

CHAIR LEE: Oh, I knew you were going to ask that.

DEPUTY COUNTY CLERK: The, the original motion did not have a second yet. I mean the amendment or motion did not have a second.

CHAIR LEE: Okay. I thought it was Ms. King. Member King.

COUNCILMEMBER KING: Yes, I did.

CHAIR LEE: Member King was the second.

COUNCILMEMBER PALTIN: So, the amendment would be to set the Kihei-Makena cap at 45 instead of 46; and the Paia-Haiku cap at 48 instead of 47; and the Makawao-Pukalani-Kula cap at 15 instead of 14; and changing the words "deemed complete" into "submitted."

CHAIR LEE: Yes, Mr. Clerk, you look confused.

DEPUTY COUNTY CLERK: Oh, no, sorry, Chair, I'm just navigating some stuff. We got that. Thank you.

CHAIR LEE: You got it? Okay.

CHAIR LEE: Member King.

COUNCILMEMBER KING: I have a question. So, since some of the, since that number was based on some permits being in the queue, now we have the language that if it's not submitted by July 1, it won't be accepted, so what if some of those don't come through? Like, say there's three of those permits that don't come through and we're at 42 instead of 45, but we can't take any more that haven't been submitted by July 1. So, we can't ever get up to that cap.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: I would defer to Director McLean. But I think the attrition situation is the, where it matters. If, if there's not an attrition situation, then that doesn't matter.

COUNCILMEMBER KING: What, what--

COUNCILMEMBER PALTIN: But I would defer to Director McLean.

CHAIR LEE: Director McLean, are you still on the line?

COUNCILMEMBER KING: Did you hear my question?

PLANNING DIRECTOR: I did. So, if you set the cap at 45, and some of the applications in the pipeline don't get approved, the cap would remain at 45. And so, other applicants would have the opportunity for those few remaining slots. The same would be true for districts where there is an, a pending application. If an existing permit dropped out, then somebody else can take its place.

COUNCILMEMBER KING: Okay. So, even if it's after July 1?

PLANNING DIRECTOR: Correct.

COUNCILMEMBER KING: He's concerned because we had that date of July 1 and then they had to be submitted by, but if we don't reach the cap, then that--

PLANNING DIRECTOR. Right.

COUNCILMEMBER KING: --that, that, that date doesn't mean anything.

PLANNING DIRECTOR: Right. As Member Paltin said, if it's not attrition, then there's still availability.

COUNCILMEMBER KING: Yea. So, and, and the attrition thing may come up, but it's something that I wanted our community to be able to discuss in the community plan review. So, I didn't want to get too aggressive until I hear from our community. Thank you.

CHAIR LEE: Alright. Anybody else? Okay.

Yes, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Just a quick question for Member King. If the applicant that, you know, you're concerned about owned the property for at least five years? Cause that was, that's part of the qualifications, yea?

COUNCILMEMBER KING: Yea. That was, that's why I was concerned because he said I waited the five years. The five years just came up, you know. I think it was like July 2. And it was too late to apply. So, I just thought, god, to miss it by a day and he'd already put money into putting together his application. So, yea he had waited the five years, but missed it by a day.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Mahalo, Chair.

CHAIR LEE: Okay. Anymore amendments, friendly?

COUNCILMEMBER PALTIN: Oh, no.

CHAIR LEE: Okay, so ready to vote? Right, vote?

COUNCILMEMBER PALTIN: On the amendment. Correct.

CHAIR LEE: On the amendment, yea. Okay. All those in favor of the amendment, raise your hand, say "aye"?

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, AND CHAIR LEE.

NOES: VICE-CHAIR RAWLINS-FERNANDEZ.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Vice-Chair? No. Oh, you're frozen. I see six hands. Vice-Chair, are you voting "yes"? Vice-Chair, are you voting "yes"?

COUNCILMEMBER KING: She needs a voice vote.

CHAIR LEE: Yea, I would like to hear her voice. Oh, there you are. Are you voting "yes"? Are you voting "yes"?

COUNCILMEMBER KING: You're not frozen.

CHAIR LEE: What are you looking at? Who are you looking at?

VICE-CHAIR RAWLINS-FERNANDEZ: The TV.

CHAIR LEE: Yes. Is it "yes"?

VICE-CHAIR RAWLINS-FERNANDEZ: Can you hear me?

CHAIR LEE: Now, yea. Can you vote?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I voted "no".

CHAIR LEE: Oh, you voted "no"? Okay, so that's six "ayes", one "no", and two "excused". Okay. The "no" is Vice-Chair Rawlins-Fernandez. The excused are Johnson and Kama.

Did you get that, Mr. Clerk? Okay. That, that was on the amendment.

Now, the main motion as amended. All those in favor, say "aye" and raise your hand.

COUNCILMEMBER PALTIN: Oh. Is there discussion on the main motion?

CHAIR LEE: Any more discussion? Any more discussion on the main motion? Anyone?

COUNCILMEMBER PALTIN: I just wanted to say thank you, Members. This is the trend that we're going in to reduce the number of short-term rentals, and hopefully, increase the number of long-term rentals. I find it interesting that we were told that nobody is going to buy a house and wait five years to turn it into a short-term rental. And as we're doing these actions plenty of folks seem to be coming out of the woodwork and saying five years is almost up, I want to turn it into a short-term rental. So, I mean, it just kind of goes to show, I think the, the sentiment of the community might be a little bit more on point than the folks who are trying to profit off of, you know, this, this type of industry.

And, and just that, you know, I really would encourage folks that if you have a second house, to consider our local families and, and, you know, consider it as an investment in our community when you rent to local people. And, and it's not to say that I don't appreciate folks who want to do a small business out of short-term rental, but at this time, our community desperately needs long-term rentals. And, and, you know, if there comes a point in time where those are so plentiful and there's not enough space for tourists, then, you know, then hopefully, whoever is on the Council is reactive to adjust to the current trends. But the current trends right now is not what that is. And so, I, I thank the Members for the support of this bill. And that I just was trying to work through it in a way that is equitable to the people that have been working on it, but you just can't please everybody all the time.

CHAIR LEE: Yes. Welcome to the club.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I think that's a club we're all in, right? I, I speak in support of the motion. I, I want to echo exactly what Member Paltin stated. And I also want to point out like for those that oppose this, I think, you know, when we're doing the cap for Molokai, we were told that there was about I think at the time there was about 20-30 permitted, maybe 20 permitted, STR's on Molokai. And there was like about 25 known illegal STR, or unpermitted STR's. And so, while our Planning Department is doing a much better job at enforcing against unpermitted STR's, there will always be unpermitted STR's. And so, these caps in place are the ones that are permitted.

And then there will always be, you know, houses that could be long-term rentals that are being used as STR's that are not permitted. And so, even though we look at the total number of permitted STR's and, and think like, oh, that's not a very large number, we have to take into account the number of unpermitted STR's. And, and then it becomes a much larger number, so. And I'm not talking about the, the ones on the Minatoya list. I'm talking about single-family houses that are, you know, operating without permits. So, we need long-term rentals. And I hope that the incentive that we passed via tax relief will be attractive enough for people who have multiple homes to consider renting long-term to our local families. Mahalo, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Chair, thank you. I thought that's what you said. Thank you, Chair. Along with everything else that has been said by Members Paltin and Rawlins-Fernandez, I also want to recognize that the, one of the people who was originally involved in creating the short-term rental, allowing short-term rentals on the island has now rescinded that sentiment and said that he made a mistake. It was a planning commission member from way back. And so, so, I want to thank Wayne Hedani for his thoughtful, or reconsideration. And I do think that, you know, the, that there's a lot less harm done by bed & breakfast, because people live there. It's a, it's a hosting opportunity.

So, I, I think that we should look at, you know, and I'm hoping my community will support attrition and, and I think it's going to be a lot easier to police illegals if we don't have any. Because you know, they're the ones that are going to stand out. But I also wanted to encourage the Planning Department to, you know, really consider, consider it, consider putting permit numbers on all short-term rentals, even all those condos on

the Minatoya list, because that's what's going to help us really crack down on the illegals. And I also hope that we can support legislation again this year to encourage the State Legislature to give Counties the authority to regulate the platforms that are promoting the illegal short-term rentals because we have been fighting for that for years now.

So, anyways, I want to thank the Council for supporting this legislation, and for really thoughtfully working with each community, knowing that each community is different and accommodating the needs of each community. And as we all come together, hopefully towards an eventual zero, I think we're going to be better off for it. And we'd be, we'll be marching towards the end goal in a way that's comfortable for everybody. So, thank you, Member Paltin, for really working on this bill thoughtfully and considering each community. And I whole-heartedly support the bill.

CHAIR LEE: Okay. Very well-said. Anybody else? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON, KAMA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

(MEMBERS VOICED NO OBJECTIONS TO CHANGING THE
VOTE FOR VICE-CHAIR RAWLINS-FERNANDEZ FROM
"EXCUSED" TO "AYE" LATER IN THE MEETING. See pages
174 through 176 for discussion.)

CHAIR LEE: So, one, two, three. Vice-Chair, are you there? Okay.

COUNCILMEMBER KING: I think she supports it, because she seems, spoke in favor of it, but.

CHAIR LEE: But she's, she's not there. So, six, six "ayes", three "excused"; motion carries. The three excused are Johnson, Kama. Did, did you see a message flash on by Vice-Chair?

COUNCILMEMBER PALTIN: Keani chatted "yes" in Olelo Hawaii. I don't know if that counts, but she chatted it, her vote.

CHAIR LEE: You know, I don't think that counts, but let me check.

Mr. Clerk?

DEPUTY COUNTY CLERK: Chair, that certainly is not the preferred way for voting. If the, if there is anyway--

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: --for her to vote--

CHAIR LEE: Alright. Alright, we'll just go 6-3. Six "ayes" and three "excused", as I called it initially. Alright?

Okay. Can we go onto the next one? The last one, I believe? Oh, not last one. There are two more. Two more items, yea?

DEPUTY COUNTY CLERK: Yes, Chair. For, for the record, that is BILL 69 (2021).

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: Chair--

CHAIR LEE: Yes?

DEPUTY COUNTY CLERK: --proceeding with unfinished business.

UNFINISHED BUSINESS

ORDINANCES

ORDINANCE NO. _____
BILL NO. 62 (2021)
Draft 1

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE RELATING TO ZIPLINE, CANOPY, RAPPELLING, AND BUNGEE
JUMPING ACTIVITIES IN THE AGRICULTURAL DISTRICT

DEPUTY COUNTY CLERK: Chair, at the Council's meeting of July 2, it was moved by Councilmember Paltin and seconded by Councilmember Sugimura to pass the Bill 62 (2021) on second and final reading. The bill was subsequently amended, resulting in the current Draft 1 version of the bill posted for today's meeting. The body then postponed the main motion as amended to today's meeting. That postponed motion is now on the floor for the body's consideration. Thank you, Chair.

CHAIR LEE: Okay. So, the main motion is on the floor. Ma, ma, Member Paltin.

COUNCILMEMBER PALTIN: So, the, the main point of the amendment is that the bill applies to all ziplines within the County ag district with that amendment. So, it's needed to be consistent, and I support it.

Director McLean had to go to another appointment, so you got me as your resource.

CHAIR LEE: You want to repeat the amendment?

COUNCILMEMBER PALTIN: Sure. The amendment is the ASF attached to County Communication 21-345.

CHAIR LEE: Okay. Why don't you just read it.

COUNCILMEMBER PALTIN: Okay. Substitute the attached proposed bill to, oh no, this isn't it.

CHAIR LEE: Mr. Clerk, do you have it handy?

DEPUTY COUNTY CLERK: Hi, Chair, apologies. I'm having connectivity issues. Can you guys hear me?

CHAIR LEE: Member King?

COUNCILMEMBER KING: I have the ASF.

CHAIR LEE: Okay. Can you, can you read it, please?

COUNCILMEMBER KING: Amend Bill 62 by "(a) amending the list of principal uses in the Agricultural Zoning District in SECTION 3 to exclude zipline, canopy, and bungee jumping commercial operations that may be incorporated into the restoration of a historic site". And "(b) to amend transitional provisions in SECTION 8 to establish that the standards for commercial zipline and canopy tours that received approval as a principle use are the same as the standards for those that received approval, that

received approval as an accessory use; and (2) waive Rule 19.C. of the Rules of the Council to allow the Council to pass Bill 62 on second and final reading as amended. Does that sound right?

CHAIR LEE: Okay, Member, yea, Member Paltin, that covers it, right?

COUNCILMEMBER PALTIN: That covers it.

CHAIR LEE: Alright. So, we're at a, we have the bill, the main motion as amended.

Mr. Clerk, I just want to make sure.

DEPUTY COUNTY CLERK: Yes, Chair. So, right, first, apologies I should have also mentioned that yes County Communication 21-345, which contains Councilmember Paltin's amendment is also before the body at this time. And yes, the main motion as amended from last meeting is on the floor right now. And that's, that's the main motion as amended to pass the bill on second and final reading.

NO. 21-345 - TAMARA PALTIN, COUNCILMEMBER,
(dated July 15, 2021)

Relating to a proposed amendment to Bill 62 (2021), relating to zipline, canopy, rappelling, and bungee jumping.

CHAIR LEE: Okay. So, all we need is one vote, right?

DEPUTY COUNTY CLERK: If, if the body wants to amend the, amend the bill, then they would need to amend the main motion, essentially, if they need to amend the bill further.

CHAIR LEE: Okay. Members, we're ready to, to vote on this matter as amended. Do you have any more amendments to make? No? Okay.

COUNCILMEMBER PALTIN: Do we have, we don't have to amend it then? It already got amended last time is what you're saying?

CHAIR LEE: Mr. Clerk?

DEPUTY COUNTY CLERK: Included, so there was two amendments proposed at last, at the last meeting. The first amendment was passed.

CHAIR LEE: Non-substantive, yea.

DEPUTY COUNTY CLERK: Right. Then there was a second amendment that the body did not move on. And my understanding is that's the amendment that you posted for today's meeting. So, if, if you want to proceed with that amendment, then a amending motion is necessary.

CHAIR LEE: Okay. Member Paltin.

COUNCILMEMBER PALTIN: Okay.

I MOVE TO AMEND BILL 62 BY:

AMENDING THE LIST OF PRINCIPLE USES IN THE AGRICULTURAL ZONING DISTRICT IN SECTION 3 TO EXCLUDE ZIPLINE, CANOPY, AND BUNGEE JUMPING COMMERCIAL OPERATIONS THAT MAY BE INCORPORATED INTO THE RESTORATION OF A HISTORIC SITE; AND

TO AMEND TRANSITIONAL PROVISIONS IN SECTION 8 TO ESTABLISH THAT THE STANDARDS FOR COMMERCIAL ZIPLINE OR CANOPY TOURS THAT RECEIVED APPROVAL AS A PRINCIPLE USE ARE THE SAME AS THE STANDARDS FOR THOSE THAT RECEIVED APPROVAL AS AN ACCESSORY USE; AND

TO WAIVE RULE 19.C. OF THE RULES OF THE COUNCIL TO ALLOW THE COUNCIL TO PASS BILL 62 ON SECOND AND FINAL READING AS AMENDED.

CHAIR LEE: Wait, wait, wait. We, I don't think we need that part, right, Mr. Clerk?

DEPUTY COUNTY CLERK: Chair.

CHAIR LEE: This, okay, this amendment that she's reading was brought up at the last meeting, right? Right?

DEPUTY COUNTY CLERK: Yes, Chair. In response to your question, the, since this amendment is posted on today's agenda--

CHAIR LEE: That's right.

DEPUTY COUNTY CLERK: --a waiver of Rule 19.C. does not, is not necessary to move forward with the bill on final reading, unless there are further amendments after this ASF, or if there's a change in this ASF as well.

CHAIR LEE: Exactly.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: So, what I was going to say--

COUNCILMEMBER KING: I'll second your motion.

CHAIR LEE: --Member Paltin, we don't need to waive that Rule. This, this amendment that you're making was posted, unlike previously. So, this one is ready to go, if the Members so choose. Alright? So, let's just go one at a time. This, this amendment, if you have another one, just wait. Any more discussion on this amendment? All those in favor of this amendment, raise your hand, and say "aye".

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: One, two, three, four, five, six, seven. Seven "ayes", two "excused"; motion carries. Excused are Johnson and Kama.

Is there another amendment? No. So, we are ready, Mr. Chair, I mean, Mr. Clerk, to take the, the vote on the main motion as amended?

DEPUTY COUNTY CLERK: Yes, Chair. That's before the body now. And the body can proceed with that vote if it so chooses.

CHAIR LEE: Okay. Any further discussion? Otherwise, all those in favor of the main motion as amended, signify by saying "aye" and raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three, four, five, six, seven "aye", two "excused"; Members Kama and Johnson. Hooray. This is done. Alright. That takes care of this one. And then, we have the unfinished business of Mr. Blackburn.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Yes? Yes, Vice-Chair.

DISCUSSION RELATING TO
COMMITTEE REPORT NO. 21-54

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, good. You can hear me. Okay. I, I could hear, I could hear you folks talking. And I heard Member Paltin mention my vote inside the chat on CR 21-54. Can my vote be included in the record, if this body has no objections?

CHAIR LEE: Well, I asked the Clerk about it. James, do you want to change your mind, or what do you want to, what position do you want to take?

VICE-CHAIR RAWLINS-FERNANDEZ: He, he, he said that it's not preferred, but there's no rule against it.

CHAIR LEE: Mr. Clerk, what is your opinion?

DEPUTY COUNTY CLERK: Chair, right. It's not preferred on our end. I, and mainly that's because I don't know if there's any legal sort of considerations for taking a vote in that manner.

CHAIR LEE: Okay. Let's ask David. David, are you on the call? David are you on the call?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair Lee. Yes, and we're double-checking the Governor's most recent proclamation, which partially suspends

the Sunshine Law and provides guidance on the conduct of online meetings while the Covid-19 emergency proclamation is in effect. And--

CHAIR LEE: My, my only concern, Vice-Chair, is that there's no way of confirming you wrote that in the chat or somebody else wrote it in the chat. See, if you, if we heard your voice or we saw your face, that's one thing. But I have--

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: --you know, I have no major objection. Just want it to be legal.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I understand the concern. I, I'm also here confirming that I wrote that in the chat. And I was trying, but you couldn't, my network issues didn't allow you to hear me.

CHAIR LEE: David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yea, thank you, Chair. The Governor's proclamation actually gives the body wide latitude. There are some suggestions on how votes should be conducted. But ultimately, the body has discretion on what manner of voting to recognize and, and what not, not to recognize.

CHAIR LEE: Okay. Members, if you have no objections, can we change the vote to 7-2? And Vice-Chair will not be considered "excused". Her vote will be an "aye". Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: We have that latitude, according to David.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Members.

CHAIR LEE: Alright. Okay, that takes care of--

COUNCILMEMBER KING: We know how you felt.

CHAIR LEE: --that one.

What's that Member King?

COUNCILMEMBER KING: I just said, we know how you felt. She, she gave a whole speech about it, so.

CHAIR LEE: Yea, and then poof, you're gone.

Mr. Clerk, the last item.

COUNCILMEMBER MOLINA: Ma, ma, Madam Chair?

CHAIR LEE: Yes, Mr. Molina.

COUNCILMEMBER MOLINA: Sorry. Sorry. Just wanted to add, there's one more reason why we need to review the Council Rules, right, in the next month?

CHAIR LEE: Mr. Molina, great idea.

Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, still before the body is County Communication 21-345. I just wanted to know if the body had a disposition for that item?

CHAIR LEE: Okay. Just bring us up to date. Where, where we did, did we leave off?

DEPUTY COUNTY CLERK: That's the, that's the item that--

CHAIR LEE: No, I know what item that is. Where did we leave off, exactly?

DEPUTY COUNTY CLERK: Oh no, Chair. This is the, Councilmember's Paltin ASF for Bill 62, Draft 1. The body didn't file that communication or anything, so I just wanted to know if there was some action for it.

CHAIR LEE: Member Paltin, you didn't file your communication.

COUNCILMEMBER PALTIN:

I MOVE TO FILE IT.

COUNCILMEMBER KING:

SECOND.

COUNCILMEMBER PALTIN: I can easily remedy that, right?

CHAIR LEE: Okay. Any discussion? Been moved and seconded to file that communication. All in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS KING, MOLINA, PALTIN,
SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Okay. Seven "ayes", two "excused", zero "noes"; motion carries. Excused are Kama and Johnson.

Now, we're on Blackburn, right, Mr. Clerk? Just bring us up to--

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: --where we left off, exactly where we left off.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-341

DEPUTY COUNTY CLERK: So, Chair, before the body now is County Communication 21-341. The body left off with a main motion on the floor to adopt the resolution, with an amendment to change the language to disapprove, disapprove the nominee. That's where the body is on the floor.

But apologies, Chair, I do need to raise an issue, a procedural issue. It was brought to my attention that since this motion is basically a duplication, the main motion to adopt the resolution is the same as the first motion that was made by Councilmember Molina. It would be more appropriate for the body to instead reconsider Councilmember Molina's motion rather than proceed with a new similar main motion.

CHAIR LEE: Okay. We could do that. Who wants to move for reconsideration? Okay, those who can move for consideration are--

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: --those who voted for it.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order.

SO, MR. KRUEGER, SHOULD WE WITHDRAW, SHOULD I
WITHDRAW MY MOTION FROM EARLIER.

DEPUTY COUNTY CLERK: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Is that, it, it was inappropriate at the time?

DEPUTY COUNTY CLERK: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Improper?

DEPUTY COUNTY CLERK: Yes, Vice-Chair. I, I believe withdrawing the amending motion
and the main motion would be appropriate. And then, the body can put forth a motion
to reconsider.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo.

CHAIR LEE: Did she make both motions? Did she make the amending motion and the main
motion? Okay.

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: So, you're withdrawing that. And who did the second?

VICE-CHAIR RAWLINS-FERNANDEZ: Member King.

CHAIR LEE: Okay.

COUNCILMEMBER KING:

WITHDRAW.

CHAIR LEE: Okay, it's vanished, gone. Where, where are we now? We need that reconsideration vote?

COUNCILMEMBER MOLINA: Madam Chair?

CHAIR LEE: Yes, Mr. Molina.

COUNCILMEMBER MOLINA: Just a question. Now, my understanding with reconsiderations, you gotta have a prevailing side, yea? But there's no prevailing side, was 3-3 on that, the vote that was taken, yea? So, I'm just wondering if maybe just for the sake of making it cleaner, can't Member Rawlins-Fernandez just make a new motion on the floor? Rather than us . . .

CHAIR LEE: No, no, I really don't think that's the way. But let's check out everybody's comments.

Member King?

COUNCILMEMBER KING: Yea, I think the reconsideration just has to be moved by somebody who voted for it. But the rest of the body can vote on reconsideration. It could be seconded by somebody who didn't vote for it. It just has to be moved by somebody, so, one of the three of you has to move for reconsideration. Then second.

CHAIR LEE: That's, that's my understanding, but let's check with the Clerk.

Mr. Clerk.

DEPUTY COUNTY CLERK: Right. The reconsideration vote needs to be moved by someone on the prevailing side. So, in the event that this motion, which failed, those who voted no, would be on prevailing side. Or the motion could be made by someone who wasn't present at that vote. I believe, no everybody was present at that vote who is here. Oh, Council--

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: Oh, apologize.

CHAIR LEE: Well, we don't have--

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura. Member Sugi, or, point of information. Member Sugimura wasn't here. But I, since the motion failed, that would put us, put the "no" votes on the prevailing side.

SO, I MOVE FOR RECONSIDERATION.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay, all those in favor of reconsideration, raise your hand, say "aye".

AYES: COUNCILMEMBERS KING, PALTIN, SINENCI,
AND VICE-CHAIR RAWLINS-FERNANDEZ.

CHAIR LEE: One, two, three, four. Mr. Krueger, there are four "ayes".

And those against, raise your hand.

NOES: COUNCILMEMBERS MOLINA, SUGIMURA, AND
CHAIR LEE.

EXCUSED: COUNCILMEMBERS JOHNSON AND KAMA.

CHAIR LEE: Three "noes". Two "excused".

VICE-CHAIR RAWLINS-FERNANDEZ: So motion fails.

CHAIR LEE: Yea, I'm waiting for Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair. The, because the vote is four "ayes", three "noes", two "excused", the motion fails. So, the body is unable to reconsider that motion.

CHAIR LEE: So, where do we stand now?

DEPUTY COUNTY CLERK: So, the communication before the body, the body could consider some sort of different motion. They could postpone the motion to another meeting, postpone the item to another meeting.

COUNCILMEMBER MOLINA: Cannot.

CHAIR LEE: Yea, I think there's a--

COUNCILMEMBER MOLINA: Deadline is next week.

CHAIR LEE: --a time deadline on this one.

DEPUTY COUNTY CLERK: Then the--

CHAIR LEE: So, then, then the, what happens is the Mayor's nomination is approved.

COUNCILMEMBER MOLINA:

MADAM CHAIR, THEN MAYBE I GUESS I'LL, I'LL JUST MAKE
A MOTION TO FILE, SINCE WE'RE NOT GOING TO MAKE THE
DEADLINE FOR ANOTHER MEETING ON THIS ONE. PUT
THAT OUT THERE, A MOTION TO FILE.

CHAIR LEE: A motion the floor to file. Second? There's no second to file? Got me.

COUNCILMEMBER SUGIMURA: Doesn't then, Chair--

CHAIR LEE: I want to go home. I want to go home.

Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, doesn't then Mayor's nominee prevail and then Joe
Blackburn is on the Cost of Government . . .

CHAIR LEE: Yea, that's what happens.

COUNCILMEMBER SUGIMURA: We can't come to a decision?

CHAIR LEE: Yea. That's why, if we could file this, you know. But it's up to you. You know,
you want to keep this on, on Mr. Molina's, you know, well, on the Clerk's desk because
it's no longer a property of the Committee, yea? Did you, didn't you discharge it?

COUNCILMEMBER MOLINA: Yea. Was discharged to Council, so it's actually out of
Committee.

CHAIR LEE: Right. Yea, it's out of the Committee. It's in the limbo on the County Clerk's desk. That's where it's going to reside.

Member King.

COUNCILMEMBER KING: Chair, maybe we leave it on the Clerk's desk until we, we hear what the ruling from the Board of Ethics is, potential conflict?

CHAIR LEE: Oh, the conflict. Your, your concern is the conflict with him and his wife?

COUNCILMEMBER SUGIMURA: Objection. Objection. Because I thought that that would, to go to Board of Ethics was only if he was confirmed. I, I don't think the discussion was in order for him to get our approval that he has to go Board of Ethics first. I think that's really unfair. Otherwise, we should send everybody Board of Ethics to make sure that they're clean and, you know, squeaky clean before we approve them.

COUNCILMEMBER KING: Chair, all it, all it takes is for one, somebody to inquire, you know, about potential conflict and then the Board of Ethics takes it up. I mean, this has happened with some of us. It's happened with other people on other boards and commission. And he seemed willing to do that, so.

COUNCILMEMBER SUGIMURA: But that wasn't the, that wasn't the discussion about him going there. It was only if he got confirmed and I think he agreed to that. I, I--

VICE-CHAIR RAWLINS-FERNANDEZ: Point of information.

COUNCILMEMBER SUGIMURA: I think we're changing the ground rules.

CHAIR LEE: Okay. There, there's really no sense in us arguing or debating this issue because, because we can't resolve it. We don't have the votes one way or the other. We can't resolve it.

Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Member Sugimura, if Council doesn't take action by July 26, it, he automatically is confirmed. So, you, you don't have to be concerned about him not being appointed. He, he will be because Council is not taking action on it.

But I like what Member King said, that we can just keep it on the Clerk's desk and, and then that way we have an item that we'd be able to get a report on when Mr. Blackburn gets an opinion from the Board of Ethics.

CHAIR LEE: I, I really have no objection, because he's going to be confirmed, Ms. Sugimura. You know, that, that's the main thing. Did he offer, did he volunteer to get a, an opinion?

COUNCILMEMBER MOLINA: Yea.

CHAIR LEE: He did? So, if he did, then, you know, it's going to happen anyway. Are there any objections to leaving this matter on the Clerk's desk?

COUNCILMEMBER MOLINA: Madam Chair?

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Yea, no objections to leaving it on the Clerk's desk. And, you know, it was, it's been pointed out, Mr. Blackburn did say in Committee if he's approved that he would go, you know, to the Ethics Board.

Now, being that now the Council has not reached a consensus on his nomination, I guess there could be that argument, he could say no I don't have to. But then, it comes down to the, a person's, I don't know what you would want to call it, maybe integrity or, you know, if you, because there is, there is that valid perception that there may be a conflict. So, I would hope that if he doesn't have to do it, that he still does it anyway.

And as a former EA for the previous Administration who oversaw boards and commissions, also oversaw the Cost of Government Commission. Typically, Cost of Government Commission members are assigned various departments to do research and analysis. So, it would be advisable that if he is on the Cost of Government Commission, which he will likely be, that he not be assigned to do any research and analysis on the Mayor's Office and the Budget Office, which his spouse is in, is employed there. So, that's one way he could avoid the perception of conflict, or not take any votes related to the Budget Office as a Cost of Government Commission member. So, that's one way he could avoid any speculation of conflict. So, just my thoughts on that, Madam Chair. So, I would hope he still follows through with that opinion.

CHAIR LEE: Okay.

COUNCILMEMBER MOLINA: Getting an opinion.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: I just had a question for Corp. Counsel. The way it works for me is like, somebody made a complaint, and then I went to get a opinion. Is that the same way for, for the board, for the Cost of Government Commission. If somebody makes a complaint, then you go get a Board of Ethics decision?

FIRST DEPUTY CORPORATION COUNSEL: Thank you for the question. You can go voluntarily and request an opinion. It doesn't have to be complaint driven.

COUNCILMEMBER PALTIN: But it can be?

DEPUTY CORPORATION COUNSEL: It can be.

COUNCILMEMBER PALTIN: Okay. I just was wondering. Thank you for the information.

CHAIR LEE: Alright. Any objections to leaving the matter on the Clerk's desk? No objection.

Uh oh, the Clerk is objecting.

DEPUTY COUNTY CLERK: Chair, I just wanted to clarify, for postponing the item and leaving it on the Clerk's table, is there a certain time or event that this item should be brought back up, or should we just bring it back up at the next Council meeting?

CHAIR LEE: Let's bring it up at the next Council meeting and see what happens. Okay?

(Councilmember Johnson arrived at the meeting at 4:09 p.m.)

COUNCILMEMBER SINENCI: I see Gabe.

CHAIR LEE: And where have you been? Geez.

COUNCILMEMBER SUGIMURA: Hi, neighbor.

COUNCILMEMBER JOHNSON: Hi. I may lose reception. I'm on the ferry. I beg your pardon.

CHAIR LEE: No, no, no. I'm sorry. I'm just teasing you.

COUNCILMEMBER JOHNSON: I was at a funeral.

I'D LIKE TO MOVE FOR RECONSIDERATION . . . IF
POSSIBLE, CHAIR?

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, second.

CHAIR LEE: Yes, James? You have your hand up?

DEPUTY COUNTY CLERK: Chair, apologies. My current understanding of a reconsideration vote is that it, it cannot be reconsidered, I suppose, unless the entire body consents to the reconsideration of that vote. I, I just wanted to raise that. I don't know if, if, I might need a spate of time to research it, but that's my current understanding.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Chair, I, I think it has to come, it has to be moved by somebody who's on the prevailing side. So, rather than Mr. Johnson moving, Member Rawlins-Fernandez should make the motion. Member Johnson can second it. But, but, you know, we've done reconsideration votes before that didn't have a total, a unanimous vote. So, maybe Mr. Raatz can speak to that?

CHAIR LEE: Yea, let's, let's hear from David. David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair Lee. I'm just looking at page 321 of Robert's Rules of Order on motions to be recons, motions for reconsideration. One of the characteristics of a motion to reconsider is that it "cannot be reconsidered". If it is voted on and lost, the motion to reconsider cannot be renewed except by unanimous consent.

COUNCILMEMBER KING: Oh. Because we voted on it once already? Is that why?

DEPUTY DIRECTOR OF COUNCIL SERVICES: That's correct, Chair. That's our understanding.

COUNCILMEMBER KING: Okay. Can I ask you another question? Can we make a new motion to disapprove?

CHAIR LEE: Well, that, that would amount to a reconsideration, right, David?

COUNCILMEMBER KING: No, the reconsideration was the original motion, which was to approve. And then there was an amendment to it. But if we make a new motion to disapprove.

CHAIR LEE: Which would be a reconsideration of that same vote, right?

COUNCILMEMBER KING: We haven't taken a vote to disapprove yet.

CHAIR LEE: David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. What's pending before the body is a resolution, not approval, you know, a motion to approve or disapprove, per se. It's a resolution. And that, that was the main motion that, that started these deliberations. So, it would appear based on Robert's, that that's been exhausted, unless there's unanimous consent to effectively reconsider the failed reconsideration motion again.

CHAIR LEE: Yea.

COUNCILMEMBER KING: But weren't there, weren't there different iterations of the resolution? And we, we made a motion to approve. But isn't there an also alternate resolution to disapprove?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Chair, if I may? There's only one resolution pending under this matter on the agenda today.

CHAIR LEE: I, I think we did, you know, I think we have worn this out already. I think that we had, before Member Johnson joined the call, I think we had sort of resigned ourself that this was over. So, if, if the ruling now is that, you know, there's, there is no opportunity according to Robert's Rules to reconsider once more, and to vote once more, cause we voted already. Then I think we just have to accept that, that interpretation of the rules.

Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I don't have my Robert's Rules in front of me. So, I just wanted to ask Mr. Raatz that if a Member that wasn't in attendance for the vote for reconsideration, does it have any mention of that? Cause, I, I, Mr. Krueger mentioned that someone who wasn't in attendance could make the motion for reconsideration.

CHAIR LEE: Mr. Clerk, did you make that statement?

DEPUTY COUNTY CLERK: Chair, yes, as it regards to the original vote for reconsideration. But my understanding is that once that vote to reconsider is lost, I don't believe there's any qualification as to who or how someone can reconsider it? The only one is by unanimous consent.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Chair?

CHAIR LEE: Okay, Members.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Chair Lee, if I may just, if the body wants to consider all possible option, there's one other possibility to continue work on this matter. Robert's Rules of order is only relevant because your Rules of the Council give it relevance. It basically says in, as a default matter to the extent that the Rules of the Council don't resolve the parliamentary question you look at Robert's Rules of Order. So, it's essentially a product of the Rules of the Council. And the Rules of the Council can be waived or suspended by a two-thirds vote at any, at, at the preference of the body. So, that would, that would basically set Robert's to the side and allow the, the body to proceed on a different parliamentary route, if they choose to do so, again by a two-thirds vote. Thank you, Chair.

CHAIR LEE: Oh, but we have one, two, three, four, five votes. That's not two-thirds, Mr. Raatz.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. Well, again, there hasn't been a motion to suspend the Rules. So, you know, we don't know exactly how that would come out necessarily. But it would be six votes. It's based on the number of, of voting members.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO SUSPEND THE RULES.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Kelly King to suspend the Rules.

Discussion, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think we all are very inclusive and, and fair when it comes to ensuring that everyone's vote, or if everyone has an opportunity to vote. One of the reasons that I had asked to have this at the end of the calendar was because of the announcement that Member Sugimura was going to be tardy, and then Member Johnson was going to attend later in the meeting. And I know it's, it's been a long day for Member Johnson and it, I'm sure it's taking a lot for him to be here right now. And I, I think it would be fair to allow Member Johnson to vote on this item, since he mustered up the strength to join us in this meeting at this time. So, that will be my request of the Members for their consideration of our colleague, to give him that opportunity to vote. Mahalo, Chair.

CHAIR LEE: Okay. All those in, any more discussion? All those in favor of the motion to waive the Rules, the Council Rules which require six votes, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-
FERNANDEZ.

CHAIR LEE: Okay. One, two, three, four, five, six.

All those against, raise your hand and say, okay, say "no".

NOES: COUNCILMEMBER SUGIMURA, AND CHAIR LEE.

EXCUSED: COUNCILMEMBER AND KAMA.

CHAIR LEE: Six "ayes" and two "noes" allows us to waive the Rules of the Council, Rules of the Council. Okay, and one excused. One excused; Member Kama.

Okay, what is your pleasure, Members?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, the Robert's Rules don't allow us to take a vote on a motion that has been made before. I would like the Council to consider taking up a motion that was voted on previously.

AND THAT MOTION WOULD BE FOR THE ADOPTION OF THE
RESOLUTION ATTACHED TO COUNTY COMMUNICATION
21-341.

CHAIR LEE: Mr. Clerk, your comment?

DEPUTY COUNTY CLERK: Chair, the body, at this point, has waived their Rules of the Council, and I guess along with that, Robert's Rules, so you know, if, at this point, if the body's acting, is acting by its own volition, it can do what it needs to do without regard to the Rules. Thank you.

CHAIR LEE: Okay. So, your, repeat your motion, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The motion is for the adoption of the resolution attached to County Communication 21-341.

CHAIR LEE: Adoption? Second?

COUNCILMEMBER MOLINA:

SECOND.

CHAIR LEE: Second by Member Molina.

Discussion? Adoption is to approve. Yes, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO AMEND THE RESOLUTION IN, IN THE FIRST, IN
THE FIRST "BE IT RESOLVED" CLAUSE FROM "APPROVE"
TO "DISAPPROVE".

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Paltin, to move, to revise the resolution to, to say "disapprove the nominee". Okay. Discussion?

Yes, Mr. Krueger?

DEPUTY COUNTY CLERK: The motion needs a second?

CHAIR LEE: Yea, Member Paltin. I think I said that.

Discussion?

COUNCILMEMBER PALTIN: I second the motion.

CHAIR LEE: No, okay. We got that already.

So, there's no discussion? All those in favor of the motion to disapprove the nominee.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: --raise your hand. To disapprove Joe Blackburn.

COUNCILMEMBER MOLINA: Wait, wait, wait. Madam Chair, discussion.

CHAIR LEE: Oh, there is discussion. Okay.

COUNCILMEMBER MOLINA: I think--

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Oh, sorry. I think Vice-Chair wanted to discuss the amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. Mahalo, Member Molina.

CHAIR LEE: No. I asked for discussion and nobody answered.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I, I was just, I was raising my hand because I think Member Johnson is going off and on. And I'm not sure if it's his video or if it's because he's in the middle of the channel. Okay. I think he might be turning off his video.

COUNCILMEMBER JOHNSON: I'm really sorry. I don't know if you understand me. I . . . in the channel, I apologize . . . I don't know what the question was. I'm having a hard time hearing you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. He says he supports the amendment. But we are, we are not voting yet. That was just--

COUNCILMEMBER JOHNSON: . . .

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, the ques, the question was if you were turning off your screen, but you could still hear us?

COUNCILMEMBER JOHNSON: Yes, I can hear.

CHAIR LEE: You know, I find this highly irregular. But if you folks want to continue on with this, go right ahead. Now, I did ask several times, discussion? So, I'm asking again, is there any discussion on the motion?

Member Molina, do you have discussion?

COUNCILMEMBER MOLINA: Yes. Thank you very much, Madam Chair. And I want to thank my colleagues for bringing this issue out. This is a tough one. And I know the, what seems to be bone of contention is the potential conflict or perception of, for Mr. Blackburn. And I, and I appreciate he did disclose the fact that his wife is employed in the Budget Office, which comes under the Office of the Mayor. So, I appreciate that he did that.

But at the same time, I respect the fact my colleagues, who are on the other end of this issue, are concerned about his being put on this commission, which could put him in potential conflict. And I would hope that if this nomination does move forward that he gets the Ethics Board opinion, which was requested of him, and also to maintain a very cooperative work environment with his colleagues whether he agrees or disagrees with them.

And I'm, you know, like many of you, I know Mr. Blackburn, and he's a very strong-willed individual with his opinions, and that's certainly respected. And I have had some disagreements with him, but I'm looking at it through the lens of well, he's passionate of participating so I'm willing to give him the benefit of the doubt. So, I will not, reluctantly, not support the motion on the floor which is to disapprove his nomination. Thank you

CHAIR LEE: Okay. I'm going to be asking for a legal opinion. Mr. Johnson is really, is clearly not present. He's in and out of this meeting. We counted his vote. And so I will proceed with taking this vote, but I will ask the Clerk to make sure that you request a legal opinion on this matter, okay?

Alright. So, any more discussion? All those in favor of the motion, raise your hand and say aye?

Three, four, five. So, Mr. Molina, I can't see your hand. Your, are you an "aye"?

COUNCILMEMBER MOLINA: No, I, I'm not supporting the motion on the floor.

CHAIR LEE: Oh. Okay. The motion is to approve, I mean, disapprove Mr. Blackburn. Okay. So, again. All those in favor of the motion to disapprove Mr. Blackburn, raise your hand again.

So, let's do a roll call. Mr. Krueger, let's do a roll call. It's hard for me to get people's, see people's hands.

DEPUTY COUNTY CLERK: Yes, Chair. Proceeding with a roll call vote.

Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

DEPUTY COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: NO.

DEPUTY COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

DEPUTY COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

DEPUTY COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

DEPUTY COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: NO.
DEPUTY COUNTY CLERK: Presiding Officer Pro Tempore Tasha Kama.
CHAIR LEE: EXCUSED.
DEPUTY COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
DEPUTY COUNTY CLERK: Council Chair Alice L. Lee.
CHAIR LEE: NO.

AYES: COUNCILMEMBERS JOHNSON, KING, PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-FERNANDEZ.

NOES: COUNCILMEMBERS MOLINA, SUGIMURA, AND CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: The results?

DEPUTY COUNTY CLERK: Chair, there are five "ayes", three "noes", one "excused"; motion carries.

CHAIR LEE: Okay. Thank you. So, there's no reason for the matter to be on the Clerk's desk as we had, as we had talked about earlier. And there was no objection.

Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, we have the main motion as amended on the floor. And just, my, my discussion for the main motion is, you know, I'm just going to repeat what Member King said earlier this morning, that this is, is not a personal issue. This is something that is precedented, where there were financial conflicts involved with a nominee's spouse. And so, in those, those were hard ones,

and it was kind of a split vote as well. And so, whenever there's these financial conflicts with spouses working in the department directly involved with that board or commission, that's where we have a hard time.

Because we all acknowledge Mr. Blackburn's contributions to our community, and working with our, our, you know, the basketball team, children. And none of that can be denied. And so, but it, this is as far as the precedent and policy that, that this Council has held, is if, when there's financial conflict involved as in a spouse working in the, the relevant department of that board or commission, we have voted to not approve the nominee for that commission or board. Mahalo, Chair.

CHAIR LEE: Anybody else?

Mr. Clerk?

DEPUTY COUNTY CLERK: Chair, the main motion as amended is before the body at this time.

CHAIR LEE: Okay. Any more discussion? All those in favor of the main motion as amended, say "aye".

One, two. Roll call. Easier that way.

DEPUTY COUNTY CLERK: Chair, proceeding with the roll call vote.

Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

DEPUTY COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: NO.

DEPUTY COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

DEPUTY COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

DEPUTY COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
DEPUTY COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: NO.
DEPUTY COUNTY CLERK: Presiding Officer Pro Tempore Tasha Kama.
CHAIR LEE: EXCUSED.
DEPUTY COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
DEPUTY COUNTY CLERK: Council Chair Alice L. Lee.
CHAIR LEE: NO.

AYES: COUNCILMEMBERS JOHNSON, KING, PALTIN,
SINENCI, AND VICE-CHAIR RAWLINS-
FERNANDEZ.

NOES: COUNCILMEMBERS MOLINA, SUGIMURA, AND
CHAIR LEE.

EXCUSED: COUNCILMEMBER AND KAMA.

DEPUTY COUNTY CLERK: Chair, there are five "ayes", three "noes", one "excused"; motion carries.

CHAIR LEE: Okay. That takes care of that item.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record--

CHAIR LEE: I see you're conferring with your staff. What, what are you conferring staff, with staff for?

DEPUTY COUNTY CLERK: Oh, nothing. Just, just confirming that, for the record, resolution is, that is RESOLUTION 21-122.

Chair, there is no further business before the Council.

CHAIR LEE: Okay, Members. That takes care of that. Too bad it had to end on such a, such a note. But have a nice weekend. Meeting adjourned.

ADJOURNMENT

The regular meeting of July 23, 2021 was adjourned by the Chair at 4:31 p.m.



KATHY KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

RECEIVED

2021 JUL 22 PM 3:22

TESTIMONY

Submitted by Anne Rillero and Arnie Koss

July 22, 2021

RE: Relating to the preservation of and improvements to Baby Beach (Paia) including public safety and litigation issues

OFFICE OF THE
COUNTY CLERK

Aloha Maui County Council Chair Alice Lee, Vice Chair Keani Rawlins-Fernandez and Maui County Council Members,

We are testifying in reference to Item #21-362 on the July 23, 2021 Maui County Council Agenda. We support the County's acquisition of the 30 acres surrounding Baby Beach, including the current parking lot, and urge the County to begin maintenance of this very unique and treasured beach area on Maui.

As Kula residents, Baby Beach in Paia is our closest beach and one of our favorites on Maui. Our son and later our grandson enjoyed countless hours playing in its protected, usually calm, sparkling waters.

While the County pools were closed due to COVID, we both swam laps at Baby Beach in the early morning hours. We'd arrive for our swim around 7 am. Before the parking lot was barricaded and closed, we'd often arrive to find several camper-style vehicles parked there. Clearly the vehicles had camped overnight. The parking lot often smelled of urine and we could see toilet paper in the surrounding bushes. It was unsanitary and troublesome to see the abuse of this beautiful area.

We were slightly inconvenienced when the parking lot was shut down and barricaded, but it made a lot of sense to us. This fragile area needed to be protected.

We still believe that this area needs protection. We urge the County Council to move forward on purchasing the surrounding 30 acres through the Open Space Fund, so it can forever be protected as a Maui County public beach park.

However, we also see that improvements need to be made to protect this fragile area:

1. A gate should be installed at the entrance to the current parking site and locked each night to keep out overnight campers, and then opened each morning for beachgoers. This gate can be locked and opened each day by the same Parks and Rec Department employee responsible for opening and locking the gate at Baldwin Beach.
2. Portalets – or preferably a permanent bathroom – should be installed and maintained. (The nearest bathroom is a half mile walk down Baldwin Beach. The bushes and dunes should not become a de facto bathroom area.)

3. Professional environmental consultants should be hired to evaluate the soil erosion that's occurring at the parking lot site and create a management plan to slow the erosion rate. If necessary to prevent erosion, parking should not be allowed at the current parking lot site.
4. Homeowners in the streets adjoining and near Baby Beach should not be allowed to place boulders or other landscaping features to prevent legal street side parking by beachgoers. Rocks, fences and landscaping that block legal parking should be removed. Baby Beach is a public beach and the public has a right to legally park on the roadsides near the beach.
5. If the beach parking lot is closed due to erosion, the County should consider adding other parking options for residents who wish to use this beach, such as purchasing the informal parking area at the corner of Paani Place and Nonohe Place, or investigating the feasibility of providing weekend parking at Kaunoha Senior Center with a free shuttle bus to/from Baby Beach.

Baby Beach is an important community resource and needs County protection to ensure that future children – and adults – are able to enjoy this unique and beautiful part of Maui. Please use the tools available to you as Councilmembers, including proceedings in eminent domain, to protect this valuable beach area.

Thank you.



Protecting the ocean through science and advocacy and inspiring environmental stewardship

Testimony on Restricting use of Disposable Body Boards

Testimony to the Maui County Council, Friday, July 23, 2021.

Committee Report 21-49 from the Climate Action, Resilience and Environment Committee.

I am testifying on behalf of Pacific Whale Foundation.

PWF supports the proposed restrictions on disposable bodyboards in the bill attached to CR 21-49.

We continue to support any restrictions on the use of products containing polystyrene.

Studies currently under way by our Research department, relating to the polystyrene ban, shows potential evidence that some polystyrene pieces found are from foam boards, therefore greater restrictions are appropriate. Studies have shown that microplastics, which can be the byproduct of a degraded bodyboard, can affect phytoplankton growth and can have toxic effects on zooplankton (Shen, 2020). As phytoplankton and zooplankton are the most important producers and consumers of the ocean (Banse, 1995), ensuring their health and longevity is ensuring the health of the ocean.

The results of PWF's study will be published in 2022.

Our request today is to seek tightening of the proposed bill by recommending minor revisions.

Section 20.18.010, Purpose, item B, states: "the sale and use of plastic bags, and sale and renting of disposable bodyboards must be regulated."

To tighten this provision, we might suggest using the language: "the sale and use of plastic bags and disposable bodyboards must be regulated."

Furthermore, Section 20.18.040, Subsection C, states: "Businesses are prohibited from selling or renting disposable bodyboards."

We might suggest stating: "Businesses are prohibited from the distribution of disposable bodyboards."

Removing references to "sale and renting" may assist with potential loopholes in the future.



PACIFIC WHALE FOUNDATION

Protecting the ocean through science and advocacy and inspiring environmental stewardship

Such as, some tour operations may provide complimentary disposable bodyboards as a floatation devise while snorkeling.

Additionally, most hotels/resorts may currently rent disposable bodyboards, the proposed bill may allow the complimentary distribution of disposable bodyboards as an amenity.

Therefore, to prevent unintended consequences we request the removal of the use of "sale and renting".

Accordingly, if you incorporate the recommendations, the title of the proposed bill should be revised to read:

"A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.18, MAUI COUNTY CODE, PROHIBITING THE DISTRIBUTION OF DISPOSABLE BODYBOARDS"

We offer these recommendations to strengthen this vitally important piece of legislation.

We thank Councilmember Paltin introducing the legislation and the Council for considering this proposal.

We also appreciate the opportunity to provide our comments.

Thank you for your consideration.

References

Shen, M., Ye, S., Zeng, G., Zhang, Y., Xing, L., Tang, W., Wen, X., & Liu, S. (2020). Can microplastics pose a threat to ocean carbon sequestration? *Marine Pollution Bulletin*, 150, 110712. <https://doi.org/10.1016/j.marpolbul.2019.110712>

Banse, K. (1995). Zooplankton: Pivotal role in the control of ocean production. *ICES Journal of Marine Science*, 52(3-4), 265-277. [https://doi.org/10.1016/1054-3139\(95\)80043-3](https://doi.org/10.1016/1054-3139(95)80043-3)

RECEIVED
2021 JUL 23 AM 9:17
OFFICE OF THE
COUNTY CLERK

County Clerk

RECEIVED

From: PSLU Committee
Sent: Friday, July 16, 2021 2:01 PM
To: County Clerk
Subject: FW: PSLU Committee #62 Testimony

2021 JUL 19 PM 2:06

OFFICE OF THE
COUNTY CLERK

Bill 62.

From: Dawn Lono <Dawn.Lono@mauicounty.us>
Sent: Friday, July 16, 2021 1:49 PM
To: PSLU Committee <PSLU.Committee@mauicounty.us>
Subject: FW: PSLU Committee #62 Testimony

From: Wes Hada <weshada@yahoo.com>
Sent: Wednesday, July 14, 2021 1:59 PM
To: Dawn Lono <Dawn.Lono@mauicounty.us>
Subject: PSLU Committee #62

Aloha, This is Wes Hada. I was the art teacher at Hana High and Elementary 1992 1993. I am now a homeowner amongst others being subjected to some Haiku lawlessness. The crux of the matter is that Lothar, a well known person to the County Council has established a compound on 50 E Waipio Rd, Haiku, where he has installed a commercial enterprise called Jungle Zipline. You may realize he has had surveyors arrested, personally sued your colleagues for doing their jobs and locked out EMI with a gate and sued the County in order to keep his enterprise secreted.

In summation he has defied laws and abused the processes of governance to defend his isolationism that sustained his non transparency regarding liberal uses of Roundup and atrocious unauthorized stream diversions. His blatant disregard is threatening the existence of Lo'i from Kahiko times and of my hard work restoring traditional Hawaiian farming practices (Kalo) on my humble parcel directly downstream from him. Worst of all he is getting away with it so far. We need to know what other environmental abuses are taking place.

Let me know how we can go forward together into bringing some long overdue oversight. PSLU #62 is our hard work. Please vote for the integrity of our Aina.

Ua mau ke ea o ka aina i ka pono o Hawai'i !

Mahalo Nui, A hui hou,
Wes Hada

County Clerk

From: April Azar <aprilinparadise@gmail.com>
Sent: Tuesday, July 20, 2021 7:44 AM
To: County Clerk
Subject: ZIPLINE TESTIMONY

RECEIVED
2021 JUL 20 AM 8:06

OFFICE OF THE
COUNTY CLERK

Aloha Councilmembers.

Please pass the ordinance Bill 62
that will regulate zipline and canopy tours in rural agricultural communities.

I live on West Waipio Rd. My house of over 20 years is located approximately 100 ft. from the platform of the Line 7 of the Jungle Zipline, located on East Waipio Rd. Line 7 is the "longest, steepest, and last of the zipline tour". I know this because I literally hear them tell that to all the tourists who have just landed on the platform after screaming their way through the gulch on the other 6 lines, through which Waipio Stream is located. I can hear them giving their orientation and preparing them for their 700-1000 ft. descent. I can hear the conversations and when I ask them to quiet, they turn up their microphones. And worse conflicts have occurred. Then the blood curdling screams that echo through the gulch, landing on the platform not far from the Friedlander residence.

It is a long bumpy West Waipio Rd. that goes to my house. It is not maintained by the county or any entity other than this community, yet I have hundreds of tourists a week just 100 ft. out my back door. This has gone on long enough. Please help to bring some infrastructure and enforceable regulations on this nuisance and desecration of the peace of our agricultural communities and homes.

Thank you for your time and efforts to resolve this issue.

Sincerely,
April Azar
258 West Waipio Rd.
PO Box 791395
Paia HI 96779
aprilinparadise@gmail.com

County Clerk

From: R&J Friedlander <waipio2021@gmail.com>
Sent: Monday, July 19, 2021 4:57 PM
To: County Clerk
Subject: ZIPLINE TESTIMONY

RECEIVED

2021 JUL 20 AM 8:06

OFFICE OF THE
COUNTY CLERK

Aloha County Council Members,

I am requesting simply to please pass the zipline ordinance bill 62, relating to zipline/canopy activities in the agricultural district.

Specifically Jungle zip is located on less than 15 acres in a very narrow valley between houses. Operating without permits, disturbing all the neighbors, running a commercial tour , bringing tourists down our small, substandard dirt access roads. Quite simply ziplines do not belong in this location.

I cannot states strongly enough how important this is to us, and my friends next to North Shores zip, whose lives are also very affected.

I truly appreciate all your time and effort towards this matter.

Thank you for this opportunity to testify,

Sincerely,

Jennifer Friedlander,

280 W. Waipio Rd. Haiku, HI, 96708

PO Box 701597, Paia, HI, 96779

Landline: 808-573-8154

Email: R&J Friedlander. waipio2021@gmail.com

List of people who's lives are disturbed by the zip line, and who have complained about Jungle Zip/ Aloha Eco Adventures.

Jennifer & Robert Friedlander,

tmk: 29005069000

280 W. Waipio Rd. Haiku, 96708

April Azar,

tmk: 290050040000

258 W. Waipio Rd. Haiku, 96708

Paul Milton Carter,

tmk: 290050560000

230 W. Waipio Rd. Haiku, 96708

Carmen Jimenez & Scott Schellhammer,

tmk: 290050440000

36 E. Waipio Rd. Haiku 96708

Wesley Hada,

tmk: 290050350000

271 E. Waipio Rd. Haiku 96708

Christine Gleason,

tmk: 290050020000

E. Waipio Rd. Haiku 96708

William Wolf,
tmk: 290050520000
85 E. Waipio Rd Haiku 96708

Gina & Ben Hattenbach,
tmk: 290050500000 + 290050530000
161 (20) E. Waipio Rd. Haiku 96708

Angela Kepler & Francis Rust,
tmk: 290050510000
103 E. Waipio Rd. Haiku 96708

County Clerk

RECEIVED

From: Robert Friedlander <rbyhi@yahoo.com>
Sent: Wednesday, July 21, 2021 8:29 AM
To: County Clerk
Subject: ZIPLINE TESTIMONY

2021 JUL 21 AM 8:38

OFFICE OF THE
COUNTY CLERK

Aloha County Council Members,
I am requesting that you pass bill # 62 concerning zip lines.
Regulations need to be put in place immediately, to put an end to unregulated, illegal, unwanted, invasive zip lines.
Jungle zip is about 50 feet from my home!
Thank you for all your efforts, please pass this bill.
Sincerely,
Robert Friedlander.
280 W.Waipio Rd. Haiku,HI 96708.
Landline: 808-573-8154
Email: rbyhi@yahoo.com

Sent from my ipad
Yahoo email : rbyhi@yahoo.com



HAWAII LODGING & TOURISM
ASSOCIATION

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Maui County Council
July 23, 2021

CC 21-354: A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.47, MAUI COUNTY
CODE, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX

Chair Lee and members of the Council, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—continues to advocate on behalf of an industry that still finds itself fighting to recover from the effects of the COVID-19 pandemic. Hotels and other lodging entities in particular are taking the steps necessary to recoup losses that have accrued over the past year and a half, and we feel strongly that county governments should be making this process easier for businesses rather than more difficult.

It is our position that now is not the time to levy additional tax burdens on businesses that have been disproportionately affected by the pandemic. Historically, Maui County has relied heavily upon tourism for jobs, tax revenues, and visitor spending that supports local businesses of all types from restaurants to retail to small business. At the height of the pandemic, travel was at a near standstill, and Maui's unemployment rate soared to unprecedented levels. Unemployment in the Maui metropolitan area, defined by the Bureau of Labor Statistics to include Kahului, Wailuku, and Lahaina, went as high as 35% in April of 2020. In 2019, visitors to the island of Maui alone accounted for nearly thirty percent of statewide visitor spending, which equated to \$5.13 billion in monies brought into the local economy. Should the Council enact an additional three percent surcharge, or a thirty percent increase to the TAT, it would make the county among the highest taxed municipalities for travelers in the nation.

The three percent surcharge also stands to have unintended consequences. For one, elevating the cost of staying at traditional, brick and mortar lodging properties will force budget-conscious travelers to increasingly utilize illegal short-term rentals- a problem that has troubled Maui neighborhoods for years. If the twofold intent of this Council is to stem tourism while also filling county coffers, this is an issue that must be addressed. We know that the growth of illegal rental units has far outpaced that of brick and mortar lodging properties, and the proliferation of these units throughout the county has exacerbated numerous factors associated with overtourism. Reigning in illegal short-term rentals and making sure that legal operators are paying the appropriate taxes would shrink the overall inventory of transient accommodations and generate a significant amount of monies through both taxation and fines. Maui residents have continued to push for better enforcement of short-term rental ordinances, and this would be an opportune time to answer these calls.

RECEIVED
2021 JUL 22 PM 2:05

OFFICE OF THE
COUNTY CLERK

As such, HLTA strongly opposes this proposed measure.

Thank you for the opportunity to offer this testimony.

TESTIMONY

Submitted by Kim Harter

July 23, 2021

RE: Relating to the preservation of and improvements to Baby Beach (Paia) including public safety and litigation issues

Aloha Maui County Council Chair Alice Lee, Vice Chair Keani Rawlins-Fernandez and Maui County Council Members,

I am testifying in reference to Item #21-362 on the July 23, 2021 Maui County Council Agenda. I support the County's acquisition of the 30 acres surrounding Baby Beach, including the current 'parking lot', and urge the County to begin maintenance of this very unique and treasured beach area on Maui.

The parking lot at Baby Beach is not necessary except for those unable to easily walk. It creates a dangerous and eroded entry to a beautiful County beach. While the County pools were closed due to COVID, I swam laps at Baby Beach in the early morning hours around 7 am. Before the parking lot was barricaded and closed, I'd often arrive to find several camper-style vehicles parked there, sometimes up to the edge of the shoreline. Clearly the vehicles had camped overnight. The parking lot often smelled of urine and we could see toilet paper in the surrounding bushes. It was unsanitary and troublesome to see the abuse of this beautiful area. *It felt unsafe.*

When the parking lot was shut down and barricaded, it was easy to find parking along the quiet streets. Walking to the beach was a nice way to meet other daily visitors and neighbors. The entry 'parking lot' area was open to the view of the beautiful shoreline and no longer being eroded by car traffic or housing transient visitors. *It felt safe.*

There are no toilets at Baby Beach. The area is regularly used by residents and visitors. Baby Beach is a protected and safe place to swim – for young and old and is regularly used by both. Many people walk the ½ mile long sandy shoreline beach that stretches from Baldwin Beach to Baby Beach – and swimmers and surf riders play in the waters along that stretch. But there is no bathroom except at Baldwin Beach, a ½ mile away from Baby Beach, and as a result, the ocean and surrounding dunes provide the only nearby 'toilet'. Making this improvement – providing toilets at Baby Beach - would protect the environment and public health and safety of Maui County and its visitors.

I believe that this area needs protection. I urge the County Council to move forward on purchasing the surrounding 30 acres through the Open Space Fund, so it can forever be protected as a Maui County public beach park.

I see that some improvements need to be made to protect this fragile area:

1. A gate should be installed at the entrance to the current parking site and locked each night to keep out overnight campers, and then opened each morning for beachgoers. This gate can be locked and opened each day by the same Parks and Rec Department employee responsible for opening and locking the gate at Baldwin Beach.
2. Portalets – or preferably a permanent bathroom – should be installed and maintained. The nearest bathroom is a half mile walk down Baldwin Beach. The bushes and dunes should not become a de facto bathroom area.
3. The shoreline should be protected. Professional environmental consultants should be hired to evaluate the value and significance of the area, the effects that the various uses of the area has on it, and create a management plan to protect the area.
4. The ‘parking lot’ area should be developed to create a safe, beautiful and easily accessible entrance to Baby Beach – the west end of Baldwin Beach Park – ideally that has showers, a bathroom, a drop-off area, garbage cans, dog-poop bags, handicap parking, and signage that describes the significance of the area and rules for use.
5. Street Parking should be provided. Homeowners in the streets adjoining and near Baby Beach should not be allowed to place boulders or other landscaping features to prevent legal street side parking by beachgoers. Rocks, fences and landscaping that block legal parking should be removed. Baby Beach is a public beach and the public has a right to legally park on the roadsides near the beach.
6. Other Parking Options should be provided. The County should consider adding other parking options for residents and visitors who wish to use this beach, such as purchasing the informal parking area at the corner of Paani Place and Nonohe Place, or investigating the feasibility of providing weekend parking at Kaunoha Senior Center with a free shuttle bus to/from Baby Beach.

Baby Beach is an important community resource and needs County protection to ensure that future children – and adults – are able to enjoy this unique and beautiful part of Maui. Please use the tools available to you as Councilmembers, including proceedings in eminent domain, to protect this valuable beach area.

Mahalo,
Sincerely,
Kim Harter

RECEIVED
2021 JUL 23 AM 9: 57
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Kelly King
Sent: Friday, July 23, 2021 10:03 AM
To: County Clerk
Subject: FW: Yes on Bill 62

Testimony for Bill 62

With Aloha,
Sarah Sexton
On behalf of Councilmember Kelly Takaya King

Office of Councilmember Kelly T. King
South Maui Residency
Office: 808.270.7108
200 South High Street, 8th Floor
Wailuku HI 96793
<http://mauicounty.us/>

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COUNTY CLERK

On 7/22/21, 11:54 AM, "Stephen Hynson" <schynson@icloud.com> wrote:

Councilperson King - I am writing to ask for your yes vote on Bill 62 - an ordinance relating to the regulation of canopy tours, ziplines, etc. Living in close proximity to North Shore Zipline, my neighbors and myself have borne the brunt of loud screams and other disruptive behaviors emanating from the zipline. Ziplines have no place in our neighborhoods. In addition, I am concerned about the liability exposure the County currently has with these unregulated activities. What impacts the County, impacts its citizens.

Thank you,
Stephen Hynson
87 Nohea Place
Haiku

Sent from my iPhone

MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

July 22, 2021

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OFFICE OF THE
COUNTY CLERK

Honorable Michael P. Victorino, Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 7/27/21
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair Lee and Councilmembers:

**SUBJECT: BILL FOR ORDINANCE AMENDING SECTION 19.60.030,
MAUI COUNTY CODE, RELATING TO HOTEL USE AND
DEVELOPMENT STANDARDS IN THE NAPILI BAY CIVIC
IMPROVEMENT DISTRICT (LAHAINA) (CC 21-343)**

Attached please find the minutes from the Maui Planning Commission (MPC) meeting on July 13, 2021, regarding Resolution 21-66 which transmitted a proposed bill to amend Chapter 19.60, Maui County Code, relating to the Napili Bay Civic Improvement District. The MPC recommended approval of the bill with minor revisions recommended by the Department. The bill for ordinance was transmitted to you via County Communication 21-343.

Sincerely,

Handwritten signature of Michele McLean in blue ink.

MICHELE MCLEAN, AICP
Planning Director

Attachment

xc: Councilmember Tamara Paltin
Jacky Takakura, Administrative Planning Officer

MCM:JMCT

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**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
AGENDA ITEM B.1.
JULY 13, 2020**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Christian Tackett at approximately 9:00 a.m., Tuesday, July 13, 2021, online via BlueJeans; Meeting ID: 375 864 204

Mr. Christian Tackett: Good morning Director, Corp Counsel, Commissioners. It's great to see . . . (inaudible) . . . How's my feedback? Is my feedback horrible? Is it okay? Everybody can hear me . . . (inaudible) . . .? So roll call. We're going to have roll call first. Good morning Commissioner La Costa. Good morning PD. Are you there?

Ms. P Denise La Costa: Aloha Chair. Sorry, I was on mute. Aloha Kakahiaka and nice to be back.

Mr. Tackett: Good morning Commissioner Edlao.

Mr. Jerry Edlao: Good morning Chair, Vice-Chair, Director, the rest of the Commissioners and anybody who's joining us today.

Mr. Tackett: Thank you. Good morning Commissioner Freitas.

Ms. Carolyn Takayama-Corden: He's not in attendance today.

Mr. Tackett: No. Moving on to Commissioner Hipolito. Good morning.

Mr. Mel Hipolito, Jr.: Good morning Chair. Good morning Vice-Chair, Director, and fellow Commissioners, good morning.

Mr. Tackett: Thank you for coming. Good morning Commissioner Lindsey.

Ms. Ashley Lindsey: Good morning everyone. Nice to see your faces this Tuesday. It's been a long three weeks. I, I --.

Mr. Tackett: I'm glad you could make it. Commissioner Pali, good morning. Is Kellie here today? Commissioner Thayer, good morning.

Ms. Kimberly Thayer: Aloha Kakahiaka. Good morning. Nice to see you all again. I'm excited for today.

Mr. Tackett: And I see, I see Kellie just popped up. So good morning, Kellie.

Ms. Kellie Pali: Good morning everyone.

Mr. Tackett: Awesome. And then, last but not least, good morning Dale, Commissioner Thompson.

Mr. Dale Thompson: Good morning all. Looking forward to a great day.

Mr. Tackett: Me too. You know, it's hard to lose with a crew like you guys. Okay, I believe I got to go over the extractions or the instructions for the testimony when we have testimony. Three minutes each for each testifier. We're going to be kind of strict with it because the rules have to be the same for everybody. So, please hold your testimony to three minutes. Use the chat function if you would like to testify. If not, at the end of testifying . . . (inaudible) . . . call for testifiers after all that have signed up has gone through. Please don't use the chat function to offer testimony or comments, and keep your audio and video muted until you're called. If you don't keep your audio and video muted until you're called then . . . (inaudible) . . . everything that's going on in your house. So, so that will, that will be real helpful for us if you could, if the testifiers could please keep your audio muted until such a time you're called.

B. PUBLIC HEARINGS

1. MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 21-66 referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapter 19.60, Napili Bay Civic Improvement District, to clarify the maximum building height and phase out short-term rental homes for properties outside the 3.2-foot sea level rise exposure area. Some minor revisions and updates are also proposed. (J. Takakura)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/126849/Draft-Bill-for-Ordinance-relating-to-Chapter-1960-Napili-Bay-Civic-Improvement-District-?bidId=>

Mr. Tackett: I believe the first of order of business, Director, is it the, the proposed bill to amend the Maui County. Is that our, is that our agenda item?

Ms. Michele McLean: Yes, Chair. Can you hear me?

Mr. Tackett: Yeah, I can hear you.

Ms. McLean: Yes, the first item is a transmittal, from myself to the Commission, a County Council Resolution 21-66 which referred to you a proposed bill to amend Maui County Code Chapter 19.60, relating to the Napili Bay Civic Improvement District, to clarify the maximum building height and to phase out short-term rental uses for properties outside the 3.2-foot sea level rise exposure area (SLR-XA). Some minor revisions and updates are also proposed because the Department has alternative recommendations to the bill that was sent to the Commission from the County Council. Jacky Takakura, our Administrative Officer, is taking the lead on this project. Jacky?

Ms. Jacky Takakura: Thank you, Director. Good morning Maui Planning Commission. So I'm going to share screen. I just have a real short presentation. Can you give me a thumbs up if you

can see the screen? Okay, so this is the proposed bill regarding Napili Bay Civic Improvement District. And this is part of the Maui County Code, Chapter 19.60.

Mr. Tackett: Sorry, sorry to interrupt, but I just need to swear you in first. Do you promise to tell the truth?

Ms. Takakura: Yes, I do.

Mr. Tackett: Thank you so much. Please proceed.

Mr. Michael Hopper: Chair, just for these two . . . (inaudible) . . . Corporation Counsel

Mr. Tackett: You're saying for the next two resolutions, no need to be sworn in because they're reading, they're reading the resolution?

Mr. Hopper: Well, these are just recommendations you're making to Council, so that's right. For this one and the next one, no need to swear anybody in or allow cross examination of testimony, so you're good.

Mr. Tackett: And is there, is there testimony for both items?

Mr. Hopper: Yes, you would allow testimony for both items, and then Commissioners questions. But just no need to have --. It's not a permit application, so you wouldn't need to swear anybody in or have cross examination of the, of the testifiers. There's an item later, the C.1., you would have to do that for. The remaining items, I know two are off our agenda. So every item other than C.1., today, there's no need to swear in testifiers or allow cross examination of the testifiers, except for C.1. So you're --. Other than that, you can just proceed as normal.

Mr. Tackett: Thank you Corp Counsel. I appreciate that clarification. Thank you. Alright, please proceed, and sorry for the interruption.

Ms. Takakura: No problem. I'll be truthful anyway.

Mr. Tackett: I, I figured, I figured as much.

Ms. Takakura: So this is Maui County Code Chapter 19.60 which is the Napili Bay Civic Improvement District. And just some background information about the zoning district. There's 59 master parcels. If you look at all the condominiumized parcels, it totals to about 900 parcels. It's a small zoning district, 51.26 acres, and I'll show a map on this. This chapter is really old. It's from before the days of ordinances, and there's only been minor changes over the years. There's only been two, in fact, that I could find, and they were just minor, minor revisions. So, it is from the 1960s. Time to update it.

This is the zoning district. This is from the digital zoning map. If you can see this lavender cross hatched or trellis pattern, that's the Napili Bay Civic Improvement District. It mentioned it is kind of a smaller zoning district. And you can see it's kind of mixed with the yellow. The yellow is

residential. This light-green is Ag, and then this white with green print is golf course. But, the zoning district in question is this lavender cross hatched or trellised pattern area.

So the first change that we're proposing is regarding building height. So right now, the current language is that the building height shall not exceed two stories. What the County Council is proposing in their resolution is that building height must not exceed two-stories or 30-feet in height. And what the Department's proposal is that structures be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells, vent pipes and antennae.

So the reason for this change is that, like I said, this zoning chapter is really old. Over the years most of the other zoning districts have been updated and now use either feet, or feet plus stories. Napili Bay only uses stories and that can be vague. Limiting height to 30-feet would allow for more housing opportunities if a property owner wanted to build a three-story structure. And there are a few existing three-story structures in this zoning district. There's Napili Gardens, Napili Kai, Napili Pointe, Napili Sunset. So this would not be inconsistent with what's already in this zoning district. We're proposing that everything be limited to 30-feet. Even the accessories and the things on the roof.

The second proposed change is regarding transient accommodations. And the County Council is proposing to add the part you see is underline here in the top first paragraph. So, the existing language, permitted uses are consistent with Chapter 19.14, and 19.14 is the zoning code for Hotel District. And then the County Council is proposing to add this line, it's underlined, except short-term rental homes are prohibited on properties located outside of the 3.2-foot sea level rise exposure area. And then the rest of that paragraph is the same as what's existing regarding the hotel . . . (inaudible) . . .

What we're proposing is changing it so that the permitted uses shall be as provided for in the residential and apartment districts as listed in Chapters 19.08 and 19.12. And why this change? Currently use is allowed in the Hotel Zoning Districts are okay in Napili Bay, and that's meant that transient use of single-family dwelling and multi-family dwelling is outright allowed. So there's no short-term rental home permits in this area. So we're proposing to change from making it following Hotel District to changing it to follow Residential and Apartment Districts, so that residential and apartment district uses would be allowed. And that would mean that short-term rental home permits or Special Permits would be needed for...vacation rentals. And right now, like I mentioned, because we've -- they've been outright allowed, we would like to change it so that apartments would be needed.

Regarding the sea level rise, it's not clear of the relationship between sea level exposure area and vacation rentals. It would be clear and more consistent to regulate the entire zoning.

And then finally, we're proposing to prohibit new hotel and short-term rental home uses, but existing may continue as nonconforming. Bed and breakfast homes could be allowed with a permit in accordance with the bed and breakfast chapter, which is 19.64. And then any other new transient uses would need to obtain a County Special Use Permit, the Maui County Code 19.5.10.070. And that would mean that they would come before the Maui Planning Commission.

And then also these proposed changes would be consistent with the community plan, which has this area down as residential.

And then we just have some other minor revisions. Because like I mentioned, this chapter is really old. We just want to change Item F of this part of the chapter; location of accessory uses must be to the rear or interior of the lot. Right now, it says rear of interior of the lot. I think that's a typo. It should be rear or interior of the lot. For G, including that reference to Chapter 16.13 of the Code because that's the chapter that regulates commercial signs. And then, the last item, adding the word use, Special Use Permit because that's the actual name of the permit, Special Use Permit. And that, I'd like to add that section 19.510.070 because that's the chapter that regulates the Special Use. And those would be things that be approved by the Maui Planning Commission, so there would be some public review.

Like I said this is a short presentation. To summarize, we support the bill with the following amendments: the 30-foot building height limitation, uses consistent with residential and apartment zoning districts, existing would not be affected, and then just the minor changes to bring this chapter to the 21st century.

So the Commissions have options. You can recommend that the County Council approve the following bill. You can recommend that the Council approve the bill with amendment, recommend denial, or vote to defer action in order to gather additional information. We're hoping that you recommend that the Council approves the bill with amendments. So if you have any questions, I'm going to stop sharing, and we can take it from here. Thank you.

Mr. Tackett: Thank you. Nice job. Commissioners, does anybody have any questions for Planner Takakura? I believe we had PD, then Kellie, then Dale, so ... go ahead PD.

Ms. La Costa: Mahalo Chair. Jacky, thank you for your great presentation as always. Under Section G where it says signs and advertisement shall not be gaudy or excessive in size, there's no determination of excessive in size as far as I can tell. Did there not be specific sizes not to exceed?

Ms. Takakura: Thank you Commissioner La Costa. Right now in the zoning code it doesn't have it. That's why we want to add that reference to Chapter 16.13 because there are limitations in that chapter, so that would make it clear. Yes.

Ms. La Costa: That works. Thank you.

Mr. Tackett: Thank you, PD. Kellie, go ahead please.

Ms. Pali: Chair, I did not raise my hand. Thank you, though, I appreciate it.

Mr. Tackett: Sorry, I missed that. Okay, Dale, you're up.

Mr. Thompson: And my question was answered. Thank you so much.

Mr. Tackett: Right on. Thanks you guys. Commissioners, anybody else have any questions? Commissioner Thayer, go ahead please.

Ms. Thayer: Thank you. Thank you for your presentation. Just by way of background, I'm wondering if you could tell us a little bit of like the origin and the intent of the Napili Bay Civic Improvement District. Like why was it created and, like, how will these changes support what was intended in the first place.

Ms. Takakura: Thank you Commissioner Thayer. I think this chapter came out before, like, you and I were born, so I'm not really sure. Maybe the Director might have some, but we would just like to make this chapter, you know, consistent with other chapters. And like I mentioned, you know, consistent with the community plan. But, yeah, it's been around since the 60s so I'm not sure. But maybe the Director might know.

Ms. McLean: Thanks, Jacky. I apologize for my troubles of logging on this morning. So back in 1960 was when the County Code was first adopted in its current form. And the intent is still written in that chapter. It's focusing on that area and the kind of improvements that the County at that time wanted to see. It, it's not purely a Hotel District because the area could have just been zoned Hotel. It was specific to that region. Since its adoption in 1960 it hasn't been touched, and so development has progressed under the standards that are in the code now. And it wasn't until recently, and you probably all seen the paper with one particular parcel that's being developed when the community came out objecting to how this particular development was being -- had been approved and was being constructed. So, up until this one particular development, the standards had worked fine. There's nothing that no attention had been called. Everything was harmonious. But this one example has stood out as reasons to, not necessarily change the intent of the district, but to just kind of freeze it where it is and not allow any expansion beyond, you know, the one parcel that's being now such a problem.

Ms. Thayer: Thank you.

Mr. Tackett: I believe Ashley has a question now. Commissioner Lindsey, go ahead.

Ms. Lindsey: Maybe a couple of years ago in the Maui Redevelopment, when I was on the MRA, the Wailuku area, we kind of went over something similar area. And there was some consideration based on length of wood for construction that was kind of considered, like, standard lengths of wood. I guess they're like eight feet lengths versus ten. And was that considered in this writing of 30-feet, or where did that number come from?

Ms. Takakura: Thank you, Commissioner Lindsey. Thirty-feet in height is consistent with the residential zoning district, you know, the yellow parts of that map that I showed you that were nearby. It's also, I believe, in Interim and Ag. That's pretty standard in most of our zoning districts for building height. There's only a few where it can be higher. So it's just kind of that's the standard number that we use for the zoning.

Ms. Lindsey: Okay, thank you.

Ms. McLean: And I would add if I could. That's what the, the community has been calling for in these changes.

Mr. Tackett: Thank you Commissioner Lindsey. I believe Commission Edlao, followed by Commissioner La Costa. Go ahead, Commissioner Edlao.

Mr. Edlao: Just to be clear, these changes would apply to everybody that's within that red circle, even the residential.

Ms. Takakura: Thank you Commissioner Edlao. It was -- if you have the map, it's the lavender kind of like a cross hatched pattern. So only those 59 parcels, master parcels. And existing can continue. Those would be okay. If anything new that would be the, the changes are made.

Mr. Edlao: Okay, thank you.

Mr. Tackett: Thank you Commissioner Edlao. Commissioner La Costa, go ahead please.

Ms. La Costa: Thank you, Chair. This question is more for the Director. If there isn't a consistency throughout the County in the residentially zoned areas have a height restriction of 30-feet, then would it make sense to make sure that it is the same across the board so you don't have some at 35 and some 30, or is that an act of Congress which would never get done to do that? Thanks.

Ms. McLean: To change a maximum building height in the County Code would require Commission recommendation -- actually all three Commissions -- as well approval by the County Council. So it's not, it's not an impossible task. So, so, it really depends on the zoning district. Thirty-feet is pretty standard for two-stories. Sometimes 35-feet in districts where there might be structures allowed other than dwelling, you know, it's expected to have a higher height. But we're used to administrating the code with all the different heights in all the different zoning districts, so there isn't a need for it to be consistent across the board.

Ms. La Costa: I thought that would be something that would make the public know that they could not build them over 30-feet in height so that you wouldn't have to jump through all those hoops.

Mr. Tackett: Make sense PD. Do, do you have any other questions? No?

Ms. La Costa: No, Chair. Thank you.

Mr. Tackett: Thank you. Commissioners. I believe Commissioner Thayer has a question. Go ahead please.

Ms. Thayer: Thank you. I think this is a question for the Director. Based on one of the pieces of written testimony that was submitted there was a suggestion about regarding the two-stories

and 30-feet in height that a roof deck should be considered as a floor if it is accessible to normal activities by occupants. And just wondering how the Department view, views that.

Ms. McLean: We have seen roof decks in, you know, back to Vice Chair La Costa's example, we have seen roof decks in the Residential District. Even on a single story. The definition of story in the County Code does require a floor and a ceiling so a roof deck wouldn't be considered a story. The, the understanding that we have, from the community, is they want a height limit. And certainly the Commission could recommend and we'll be hearing testimony today, you know, you could add a prohibition that roof decks are not allowed, period. That's one way to address that issue. When you talk about building height, you know, that's a visual impact. And if the building height stops at 30-feet and there's a roof deck, you know, is, is that something you want to prohibit because you want that height to be it? You know, that, that could be a way to go. We haven't gone that far in any other districts before. But certainly this situation in Napili is unique. But we felt that limiting the height, that's where the building has to stop. And if someone builds a little lower than that in order to have stairway to get up there, you know, they should be allowed to do that.

Ms. Thayer: Okay, thank you.

Mr. Tackett: Thank you Commissioner Thayer. I believe Commissioner Edlao has a question. Go ahead Commissioner Edlao.

Mr. Edlao: What if the structure to be built is on a slope? You know, the topography slopes ten, 15, 20 percent, where do you measure your 30-feet from?

Ms. Takakura: Thank you Commissioner Edlao. We measure from the natural or finish grade that's part of the Code and the definition of height.

Mr. Edlao: But if --. Yeah, so if it's on a slope and they cut, right, so the lower portion, that's the natural grade. So you measure from there or in the back where it's going to be higher?

Ms. McLean: I will read you the definition of height from the County Code. Jacky's correct that we use finished or natural grade, whichever is lower, right. So if someone --

Mr. Edlao: Okay.

Ms. McLean: -- can add a bunch of . . . (inaudible) . . . build on top of that.

Mr. Edlao: . . . (inaudible) . . . but you said whichever is lower, that's fine. I can live with that. Thank you.

Ms. McLean: Whichever is lower.

Mr. Edlao: Okay.

Ms. McLean: And then in terms of a slope, let me see how the definition addresses that

because it's a very long definition. Okay, it, it -- from the diagram that accompanied the definition, it looks like it would be the lowest point. The height is measured from the lowest point on the slope. So you could -- if you're on the slope, you could cut into the slope in order to get the more mauka portion of the building to have a complete story there. And then you start at the lower portion of the slope would have to cut in to have a two-story structure. So the height is taken from the lowest point.

Mr. Edlao: Okay, thank you.

Ms. McLean: You're welcome.

Mr. Tackett: Thank you Commissioner Edlao. Commissioners, do we have any other questions? Sorry Commissioner PD. Go ahead PD.

Ms. La Costa: Thank you Chair. At some point there was a definition that said that the height shall be determined from mean grade level. So halfway up and half way down. So does that no longer apply?

Ms. McLean: That could be a definition in the building code. I was reading from the zoning code. I was looking at the zoning code definition. I think the vertical distance measured from a point on top of a structure to a corresponding point directly below on the natural or finished grade whichever is lower. You could have -- back to Commissioner Edlao's question -- you could have a structure that tiers up as the parcel goes up. But if it's going to be just a straight structure, you would have to cut in and measure from that lowest point.

Ms. La Costa: If the building codes are different from zoning, then that can cause confusion, and then people could build and then be violating one or the other set of laws.

Ms. McLean: When it comes to the zoning code, the building codes doesn't have building height limits in it, only the zoning code does. But there might be a definition of height in the building code, but it --. When a building permit is reviewed, the building permit office wouldn't review for a height limit. That would be the Planning Department based on the zoning code.

Ms. La Costa: Mahalo for your education as always.

Mr. Tackett: Thank you PD. Commissioners, any other questions? I got a question for the Director please. So, so as it stands right now, Director, under two-stories, what is the height limitation of two-stories? Is it fairly indefinite under the current process? So I believe what is, what is the tallest building on Maui? Because there is a highest point, right? There is levels that you cannot exceed correct?

Ms. McLean: Correct. As Jacky mentioned most zoning districts now have a limit of feet versus stories. You know, theoretically, in the Napili Bay Civic Improvement District with a height limit of two-stories, theoretically, you could have two, two-stories that are 40-feet each. You could have an 80-foot building. We haven't seen that fortunately. So stories, you know, don't really help us limit a building's height. Also with stories, one of the reasons we started changing to feet

is because there are things like lofts and mezzanines which can meet our definition of story, but don't add to a building's height. So it -- overall height is, is what should be regulated rather than the stories. There are building code requirements for how, for how low a ceiling can be for habitation. But beyond that if you want to have 30, 30-foot ceilings in your house, single-story, go ahead. But you can't go higher than 30-feet.

Mr. Tackett: Got it. And then, and then just for clarification, I believe I heard you right, but should, should, should somebody build a deck on top of their structure so that whatever their, their, their rail height is you would start at 30-feet and work down if you wanted something like on your roof. It's allowed, but it would have to be approved by the Department and it would start at that maximum height and work down, correct?

Ms. McLean: Under the Department's recommendation that the structures must be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells. So yeah, that would be your 30-feet and then you'd have to work from within that. So if you wanted a roof deck with railings around it, accessed by a stairwell or if the stairwell goes up eight-feet, then your roof deck would have to 22-feet.

Mr. Tackett: Thank you. And then just, just a comment for Ashley. I believe if you stay under 30-feet, you could use eight-foot studs, you could use ten foot studs or you could use 12-foot studs which is a fairly substantial room height and still have enough room for a roof. So, there's still quite -- in the 30-foot number there's still kind of a lot of leeway for, for people to get that they want. That's all the questions I have. Commissioners, anybody else have any questions? I believe, Director, is it testimony time?

Ms. McLean: Yes, Chair. We have four people so far who've signed up to testify on this item. The first is Jeremy. Jeremy, if you could also let us know your last name, then you can unmute your audio, and if you wish, unmute your video.

Mr. Tackett: Are you there Jeremy? Going once, going twice, Jeremy you there? Director, could we have the next testifier please?

Ms. McLean: Yes, Chair. We can come back to Jeremy. I don't see Jeremy in the column box, so we call again. Next is Brian Tatman.

Mr. Brian Tatman: Hey folks.

Mr. Tackett: Good morning.

Mr. Tatman: Okay, can you hear us?

Mr. Tackett: Yeah, we can hear you well. You have three minutes, Brian.

Mr. Tatman: Okay. Myself, my name is Brian. This is my wife, Mara. We purchased a house in the Napili Civil District in March of 2020. And in dealing with Jordan Hart and Ana Lillis in the Planning Division, the Department of Planning, specified that we were in this Napili District. We

had asked questions about opening a B&B. We asked questions about short-term, you know, rental permits in this area. And we were told that this is basically a non-permitted area, and that if we wanted to open a B&B, we would be allowed to open a B&B. We would just open it. We have e-mails with -- what's here name? -- Tara Furukawa as well that described that as well. So we purchased this building in 2020, and I believe what we're looking to get is why is the proposed changes to the short-term rental permit process, why are they going forward? I believe you covered extensively the height restriction, and we understand exactly why that's being approached. But according to the short-term rental process, why is it that you're leaving an exception for the water zone? Is our biggest question is wells 2.5-feet above the water zone. We are above that limit. And we are also near a condominium complex that does short-term rentals, I'm sure, mostly without permits since none of them signs or have . . . (inaudible) . . . So we just wanted basically to see if there's going to be a grandfathered list of properties. We are technically a single-family residence here. We are duplex building. However, in this little section of our neighborhood, just above that water limit probably. And our plans were to eventually either open a bed and breakfast or do short-term rent a portion of the property, and that seems to be now under question. And we just purchased the property in 2020. I understand that there's now a five-year limit to apply for the short-term rental permit. So where does that leave homeowners like us that just purchased? I've talked with the Department of Planning about what is going on in this neighborhood. And then we see proposed changes that will affect the value of our property and our proposed, you know, what we're planning to do with it. And will you allow a process to for people that wants to apply for a short-term rental permit in this area a means to do so outside of the regulations of the five-year minimum for a purchase of a property. Because when we purchased the property that minimum did not apply. And so it's drastically changing what we're planning on doing in the neighborhood. I understand there's concerns about the short-term rentals, but this puts stipulations into that process that allow for people to complain, allow for a manager to be on regulation, and so I, you know, I agree with the process. We just need an opportunity to actually participate in that process without having to go through a special Council. You know, I understand that if that's the only way that we'll go about that process.

Ms. Takayama-Corden: Three minutes.

Mr. Tatman: But, you know, why --. Got it. Understood. Thank you.

Mr. Tackett: Thank you. I appreciate it. I believe, Director, was there, was there anybody that wanted to respond to that or not?

Ms. McLean: Chair, we respond to Commissioners' questions after testimony if the Commission does have questions.

Mr. Tackett: I kind of felt that from the silence which I -- I just wanted to, just wanted to confirm.

Mr. Tatman: There will be an opportunity for us to ask questions as well through the Commissioner, to the person proposing this?

Mr. Tackett: No. So what happens is as you guys are testifying, and then, and then the Commission, the Commissioners, they'll, they'll bring up those questions later if they have those kinds of questions. So basically you guys, you guys get to enter that into the forum and then, and then everybody . . . (inaudible) . . .

Mr. Tatman: . . . (inaudible) . . .

Mr. Tackett: Well, I would say that that's a pretty negative way to go about it, Brian. You don't know that there's no response, but nothing positive ever comes from negativity. So I'd . . . (inaudible) . . .

Mr. Tatman: I understand, I understand but this directly affects the values and of the plans of our property, and if you guys don't have a means to respond, then why did we attend? . . . (inaudible) . . . allowed to pose questions to the Commissioner?

Mr. Tackett: Brian, you're not helping yourself, but suit yourself, you know what I mean. You're not helping yourself . . . (inaudible) . . .

Mr. Tatman: . . . (inaudible) . . .

Mr. Tackett: You don't know us. You don't know if we're going to agree to that or ask questions about that. What you did was bring it to the forefront and that's what testimony is for.

Ms. Mara Tatman: Alright, thank you.

Mr. Tackett: So if you stay, stay at least neutral, stay out of the negative zone because you're not going to do anything good yourself that way.

Ms. Tatman: Okay. Thank you.

Mr. Tackett: You're welcome. I believe I have questions for you guys perhaps, so if you could still stay on the line. PD, you have a question for the testifiers?

Ms. La Costa: Thank you, Chair. I do have a question for the testifiers, and actually it's a clarification. When you talked about purchasing your property in 2020, and you were told that you could do specific things, who told you that you could do those, number one? And number two, during your due diligence of your property, did you check those things or just presumed that they could be done after you purchased? And the reason I'm asking those questions is there was legislation enacted September 27th of 2019 that prohibited the application unless you've owned it for five years. So unless I'm incorrect that is the statutes that's on the books. So you purchased in 2020, tell me about the due diligence period and now you're expecting things to be changed.

Ms. Tatman: Yeah, that's a totally fair question and we were thinking the same thing when we bought it. And so it was Jordan Hart and the Director of Planning, and Ana Lillis who's the planner, with the County. And Tara Furukawa was at the Department of Planning as well, and

he said the same thing. We're like, you know, if we wanted to do this, like, how do we know that we can? And so it was sold with the expectation of no, it is available for short-term rental, and we were --. Because we talked about the five-year requirements. We were planning on, you know, doing that five-years from now, and thought we'd have to build that into our, to our plan. And Tara had said no, because of the Civic Improvement District, because it's Napili Bay's criteria and the rules around that area that it's zoned as a hotel and that you could do those tomorrow if you chose. Which we're -- we still aren't doing tomorrow either, you know. It's still a plan. I mean, we're, you know, we are applying for all the proper restrictions, like, we're, you know, we're rule followers. And so we wanted to make sure that we had it all. We always have our ducks in our row before we made investments like this. So, that's why we were just really curious about what is the motivation for the restriction and how will it improve, you know, the nature of the community and the value the community, and around, you know, having the exceptions for the waterfront homes, but not for us. And understanding too that even when you do apply for things like B&B or ohana permits it's usually very limited. And so it's not as if, you know, there's going to be, you know, will there be enough for everybody like we have, you know, most units, apartments next to us. And so, you know, what is that process look like and how do we even go about it knowing that we just bought last year with this expectation until now that it would be restricted. And just to understand more about what is, what is the motivation there and why --

Mr. Tatman: We're wondering . . . (inaudible) . . .

Ms. Tatman: Yeah, one area and not the other, and why it would it improve the community overall. I'm guessing you're not just doing it for . . . (inaudible) . . .

Ms. La Costa: You're correct there. So may I ask the Director, please, to -- or Tara --- to chime in on that. Because it is conflicting about why, why the Napili -- I should know this by now -- why the area there -- yeah the improvement district was not included. And as far as the apartments, they are under the Minatoya Act, I believe so they are excluded from signage and yadda, yadda, yadda. So Director, could you please give some additional information so that we're all on the same page? Mahalo.

Ms. McLean: The, the Tatmans are correct that...because the uses in the Napili Bay Civic Improvement District includes those uses allowed in the Hotel District. Condominiums, Apartments have operated as vacation rentals similar to the way that the Apartment District also used to be allowed to do vacation rentals, and now that . . . (inaudible) . . . has continued.

Similarly for short-term rental homes or for single-family homes -- excuse me -- historically, the Department has allowed single-family homes in this district and in the hotel district to conduct vacation rental use without having to go through any sort of permit process. The development that has led to these proposed changes brought to our attention from irregularities in allowing that to happen. And that's why we notified the owner of that property that they would not be allowed to do short-term use.

Putting that aside though I, I don't question that back in 2019 and 2020, we would have told them that you can do vacation rental use. It comes to the five-year requirement that is specific to

what's called the short-term rental home and getting a short-term rental home permit. That is specific to certain districts, residential district, and the agricultural district and rural district where that use is listed as a permitted use if you get the permit. To date that hasn't been the case in the Napili District.

Mr. Tatman: Specifically, why allow it in half of the district, up to 2.5 feet above the water . . . (inaudible) . . .

Mr. Tackett: Excuse me? Excuse me, you got, you got --. Hey, you got three minutes. It is not between you and her. It is between the Commission and her, so you need to --

Mr. Tatman: Her question was asked.

Mr. Tackett: Yeah, but it's not your turn to ask questions, you know. You had your three minutes. Please let the Commissioners work through the process.

Ms. Tatman: Go ahead Michele.

Mr. Tackett: Go ahead Director. I apologize for interrupting.

Ms. McLean: No, that's okay. That's okay. So similarly to the way that the Apartment District was amended to no longer allow short-term rental use, those that had been conducting that use already were allowed to continue. The same would be through here if the bill passes to restrict or limit short-term rental use. Any short-term rental use that has been conducting would be allowed to continue.

Mr. Tackett: PD, does that answer your question?

Ms. La Costa: It does. Thank you very much, and thank you Director.

Mr. Tackett: Thank you.

Ms. Tatman: One quick thing, though, just for clarification. It doesn't mean you're grandfathered in just because you were doing it. Meaning you were grandfathered in if you've been appropriately permitted, right?

Mr. Tackett: Mara, you have three minutes. After that, it's the Commissioners.

Ms. Tatman: Okay.

Mr. Tackett: Now is not . . . (inaudible) . . .

Ms. Tatman: No, I just wanted to make sure I understood what she was saying.

Mr. Tackett: Please, please stop.

Ms. Tatman: I wasn't challenging.

Mr. Tackett: I'm just saying that it's not your turn to talk unless you're called on. And as I, as I understand it you weren't called on. And now I have my Corp Counsel that wants to say something about it which is -- which we're going to find out right now. But that's the process. Everybody gets three minutes to testify. The Commissioners get to digest it, they get to ask questions about it, and that's the process. So I'm going to turn it over to, to Mr. Hopper, and I'm going to get his clarification on it. And then we have Kellie that also has a question. Mr. Hopper, go ahead please. Mr. Hopper are you there?

Mr. Hopper: I had a message that said that there were network issues and I wanted to check and see. It looks like some people are off. I didn't know if all the Commissioners were still on or not.

Mr. Tackett: I see all my Commissioners. Mel, are you there?

Ms. McLean: I see all of the Commissioners too. It was showing, it was showing poor network for you, Mike, not for the Commissioners.

Mr. Hopper: Okay, if it was just for me, that's fine. Thanks.

Mr. Tackett: Thanks you guys. Go ahead Kellie. You had a, a question?

Ms. Pali: Yeah, it's actually not for the testifiers, but pertaining to this. And I think the confusion is it sounds like the testifiers don't understand the nature of our meeting today, nor do they understand that this is not the forum for them to have questions. So I would like the Director, for this testifier and all testifiers after today because we got a big agenda, and we can't be derailed on our first item, right? So Director, can you just explain to this testifier and all other testifiers who may not have clarity on our duties today and just reaffirm that they can come give their opinion about an item, but this is not the forum for them to bring up problems that would have immediate solution. There's another avenue they can go to, to learn, to understand, to get the background information. But it's not from us here today. Our task is to focus on just getting their opinions, if they have a high opinion. It sounds like this testifier wants to say, no, don't allow this portion to go through. So, I hear that from the testifiers. But as far as the questions and answering, that's not what we're here for, for the testifiers. Can you clarify what their due process would be for further inquiries on the matter so they can have resolution themselves? Thank you.

Ms. McLean: Thank you, Commissioner Pali. You said it very well. For testifiers who have questions that may not be answered by the presentation and by the Commission's deliberations, you can contact the Planning Department with your question. For the first two items on the agenda today, from today, they go to the County Council for further action, so there's another opportunity to testify. Between now and when the Council might take these bills up, you can get your questions answered and that might inform the testimony that you give to the Council down the road.

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Mr. Tackett: Thank you, Kellie. Thank you, Director. Commissioners, does anybody else have any questions? Can we get the next testifier please?

Ms. McLean: Yes Chair. The next testifier is Nick Drance, and he will be followed by Robin Knotts. Are you still --

Mr. Nick Drance: Hello? I am. Good morning. First, I wanted to thank the Commission Chair, Vice-Chair and members for asking such decisive questions that appears to have loopholes. No one like loopholes just as the way the present rules reads. So please direct that wording and I encourage you to continue on so that we don't get huge structures in this area.

Regarding this Resolution, 21-66, the Napili Bay Improvement District, I hope the height limit applies island wide as the Vice-Chair mentioned and this comment be forwarded to Council for review. It has popular support. I'm sure you know that this particular property is considered a debacle by residents who brought this to light. And had they not brought it to light, it wouldn't, we wouldn't be discussing it. And this particular property also escaped the view of the Planning Department for years until, I think, last year. No, beginning of this year when residents brought this problem up. So there's a lot of projects that are escaping Planning Department judgment. So I wished that there was an audit for that.

As far as the improvement district is concerned, civic improvement appears largely to mean urban development. And a lot of residents resent that interpretation which makes Maui look more like the mainland. That's a violation to Maui County Plan. And I wished these sort of things were first viewed through a lens at the Maui County and Community Plans. And I understand that this designation was made in that area when it was largely rural. So hopefully the new community plan will remedy that, and I hope that the designation for this area is up for a review.

As far as Item Two goes, please recommend -- I recommend and I ask you recommend approval of this along with any amendments that strengthen the bill.

Regarding Communication Item One, I know a lot of locals object development in this area because not only it's a flood plain, but when it rains hard, it becomes a raging river that deposits into the ocean as far as the eye can see. In addition to it being some of the last remaining open area in this area. I know that homes are often built on flood plains, but the adjacent flood plain in wetland areas have already been developed. So it looks like Mother Nature has nowhere else to turn in this particular case. The challenge is so big it seems like this is a job for the Army Corp of Engineers to evaluate especially given the extreme climate change. So this area could carry far more water in the future than it does now.

And I'm told that decisions made by you are sometimes based on technicalities that residents are unaware of. Perhaps that --

Ms. Takayama-Corden: Three minutes.

Mr. Drance: -- was case --. Well --.

Mr. Tackett: Thank you Nick for your testimony.

Mr. Drance: I thought I was -- the three minutes began with Item One, Communications.

Mr. Tackett: The three minutes begins the second you, you are acknowledged. So everybody get three minutes from beginning to the end.

Mr. Drance: Oh, I'm sorry. I thought it was three minutes per. Well, just to --

Mr. Tackett: I can't --

Mr. Drance: Alright. Thank you. Alright. Alright. No arguments. No arguments. Good. Thank you.

Mr. Tackett: Please stick around in case there's questions, Nick. Commissioners, any questions for Nick? PD, go ahead.

Ms. La Costa: Thank you Chair. Nick, would you please continue what you were saying? You did get cut off mid-sentence, and I was interested in your perspective. Thank you.

Mr. Drance: Okay. Thank you. It's --. Residents consider the Maui Coast approval to be a disaster because there's already mile long lines of traffic right there. Kam One is right there, and it's already too crowded. So if we can't understand how that project was approved, and it's really, really a very, very big sore subject. It probably had a lot to do with the initiative about the hotel moratorium which that is excluded from. But that hotel expansion is viewed by residents in the area to be a complete disaster along with the projects on either side of Piilani. Kihei is becoming an urban city. So that's why I brought that up. We can't understand how that could be approved despite outrage from local residents.

Ms. La Costa: Are you discussing the, the item before us, the Napili Bay Civic Improvement District, or I heard you talk about Kihei so it's not . . . (inaudible) . . . and apples?

Mr. Drance: Yeah. Yeah. It's --. You know, Vice-Chair, you ask very incisive questions about this so you're talking about avoiding loopholes. And this particular thing to residents looks like there's a loophole and that's how it was approved as well. So I'm encouraging you to continue your dedication towards avoiding loopholes. And I'm mentioning that one as an egregious apparently loophole. So I encourage you and thank you for your incisiveness.

Ms. La Costa: Mahalo for your comments. Appreciate you testifying and being here with us.

Mr. Drance: Thank you.

Ms. La Costa: Thank you Chair.

Mr. Tackett: Thank you PD. Commissioners, any other, any other questions for Nick? Thank you Nick.

Mr. Drance: Thank you. Aloha.

Mr. Tackett: May, may I have my next testifier please, Director?

Ms. McLean: Yes Chair. And I was mistaken. Robin Knotts wishes to testify on a later item, not this one. We do have two more, so far, who want to testify on this item. Next is Tom Croly, who will be followed by Sam Small.

Mr. Tom Croly: Aloha Commission Members. Tom Croly testifying on my own behalf. Hopefully giving you information that helps you make a better decision about this. Both legislative items that are coming before the Commission today, I find very troubling. I find that both measures to be dishonest and inconsistent with their stated intents. This measure to amend the uses allowed in the Napili Bay Civic District seeks to limit future uses, and prohibit short-term rental homes from this district. Now as the Planning Department has already pointed out, there are no short-term rental homes in the Napili Civic District because transient vacation rental is an outright permitted use in that district. And the planners were correct when they told the property owners you don't need a bed and breakfast permit, you don't need a short-term rental permit. Because transient vacation rental uses of all types are allowed in this district because this district is basically a quasi-hotel district.

In Napili Bay Civic Improvement District, a landholder may build a hotel, they may build an apartment house with dozens of short-term rental condos, and as already been pointed out, they can build a single-family home, and use that single-family home for transient vacation rental use. However, let's be clear, none of those, none of those is a short-term rental home. Because a short-term rental home carries with it a host of conditions; professional management, quiet hours, occupancy limits to two guests per bedroom. All of the uses that I just described are unmanaged, unregulated uses, and they are quite different than short-term rental homes. So there should be no discussion about short-term rental homes in this particular thing. Because what you're talking about here is taking away the, the rights, the land use rights from property owners in this district, in a very similar manner as the, as the Planning Director pointed out to what was done in the Apartment Districts some 30-years ago. And we all know where that kind of left us today, where we just unilaterally took away the short-term rental . . . (inaudible) . . . you making those uses and now we're still talking about how to manage that.

So I also took --. I'm not representing anyone in this district. But I took a look at the property taxes being paid in this district. And I noticed that some of the vacant lands in this district is paying hotel and short-term rental property tax which by the way is double the property tax that you would otherwise pay. So that would tell someone who owns this land you're allowed to make these uses. And we're now we're potentially pulling the rug out from under them and saying, you can't make these uses. As Jacky pointed out, there's only 59 properties in this district. I would like to recommend that the County go to each of those 59 property owners and see if they're okay with --

Ms. Takayama-Corden: Three minutes.

Mr. Croly: -- with giving up the short-term rental rights that they have in this district. Thank you, Chair.

Mr. Tackett: Thank you Mr. Croly. Does anybody have --? Thank you.

Mr. Croly: Okay.

Mr. Tackett: Director, may we have our next testifier?

Ms. McLean: Yes, Chair. The next testifier is Sam Small.

Mr. Sam Small: Good morning. Thank you for the opportunity. Thank you for everything that you do. I would ask that this Napili Bay issue be deferred. Please table this. There is, you know, this appears to be a knee jerk reaction to the problems that have been presented to the community by the Greg Brown construction, and the exemption that that property seems to have inappropriately received. And this appears to be a situation where we're trying to, you know, make the law after the law has been broken. And as this is a community district issue, it really need the opportunity -- the community really needs the opportunity to weigh in. And this legislation proposed appears to be knee jerk. It's not appropriate and we would ask you to defer this matter and give the community an opportunity to understand and give appropriate input into how this needs to be handled. The previous testifier is, is right, you know. With the issue is -- the short-term rental is not really the issue. It, it shouldn't be a part of this discussion. The height issues and the style of construction, that's what's at hand. The square footage used and, and how a single-family home gets to be turned into a hotel, you know, please explore that. Because that is an apparent abuse of our existing system. And the clarifications that can be made need to be vetted fully by the community and we really have not had the opportunity yet to do that. So we ask you to please defer this matter.

Mr. Tackett: Thank you, Sam.

Mr. Small: Thank you.

Mr. Tackett: Commissioners, does anybody have any questions for Sam? Go ahead PD.

Ms. La Costa: Thank you. First of all, Chair, we're getting a lot of feedback from you. I don't know if you're getting it from my side too.

Mr. Tackett: I believe it started when our last testifier came on. Unless somebody else has their stuff on because before it wasn't. So I'm hoping that it clears up when, when we move on to the next testifier.

Ms. La Costa: And my question is for clarification. If this was noticed on the County's website and therefore was noticed to the community? And if it was, then I don't see any need for deferral as the testifier has suggested. Thank you for the clarification whomever can do that.

Ms. McLean: Thank you Vice-Chair La Costa. The agenda was properly noticed. The public hearing notice was posted in the newspaper at least 30-days prior to today's meeting. Additionally, we did send the notice out to all 59 properties in the district to let them know, which wasn't a requirement but we chose to do that.

Ms. La Costa: Thank you, Chair. I appreciate your proactive response.

Mr. Tackett: Thank you. Any, any other questions for Sam? Thank you, Sam. Director, can we have our next testifier please?

Ms. McLean: Chair, no one else has indicated they wish to testify on this item.

Mr. Junya Nakoa: I like talk story.

Ms. McLean: Oh, Mr. Nakoa, it sounds like.

Mr. Nakoa: You guys can hear me? Hello?

Mr. Tackett: Yeah, go, go ahead Mr. Nakoa, you have three minutes.

Mr. Nakoa: Okay. Yeah, you know, I still educating myself about this. It's about the Greg Brown property. I've been telling you guys a couple times. But, you know, the change of the whole zoning thing, I don't know about that. But, if it's going to be 30-feet, and it's 30-feet from the top of --. Again, the Greg Brown property, I know you guys never look at 'em. The bugga get one trellis on top that look like one roof. He got one elevator on top that it can be counted as a story. So, if that, if that 30-feet accounts to the top of that to the bottom of the original grade of the property, then -- because I talking on behalf of, not the 59 people that live around there, that rich area that where all the rich people live. Okay, us guys no live over there. I live up the road, Napili Hau where the, you know, the kind, the local, locals live. Napili Bay was our back yard. I learned how to skateboard like that over there. But, the 30 -- if you talking about the 30-feet and stuff, I think we should stick with the two-stories and the, and the 30-feet, you know, and all that stuff because --. And the 30-feet is the top of the top. You know what I mean? Like, if you get one antenna on top that damn thing, that bugga got to go to that. The 30-feet better be counted in that. Not, oh, go 30-feet up and then put up one, one pool covering, you know, like one shade stuff and then make 'em look more high. You know what I mean?

So -- and you know the short-term rentals, you guys get so much fricken rules inside that damn thing. You get, yeah, all kind. And then now we trying to, the County Council trying to limit 'em, you know. So, again, maybe, like, yeah the Croly guy is correct. The short-term thing, I don't know. But you know what, I only like go short-term anyway, period. Not going get one in Napili Hau that for sure. And I know get couple more short-terms coming up and I going be against those too. But, this, this thing got be able to stop the loophole. If you guys gotta defer 'em, defer because I don't think you guys all know the whole thing about 'em. You don't know the whole -- what's really going on in this district. You know what I mean. You guys maybe gotta go talk to the, the couple that was on top earlier, you know, earlier grumbling. Or you guys gotta go talk to the kind, you know, so you guys need. Yeah, you might have had a public testimony

out there noticed, but Jesus, us guys talk about going to do, or going to the area like that, and you guys really listening to us. Because, hey, I've been working on this since February and it's getting frustrating is all this, all this thing is coming up because we brought it up. We when do the job of the Planning Commission, the Planning Department. We found out was too high. We found out the buga was all kind stuff. We did do the due diligence --

Ms. Takayama-Corden: Three minutes.

Mr. Nakoa: -- and we when bust our okole for go look at 'em. Okay, pau, my bad.

Mr. Tackett: Thank you Nakoa. Please, please stick around. We might have questions. Commissioners, anybody have questions?

Mr. Nakoa: I get plenty answers.

Mr. Tackett: Thank you for your testimony, Junya. Thank you. Director, do we have any other testifiers?

Ms. McLean: Yes, Tamara Paltin has indicated she wishes to testify.

Mr. Tackett: And I also have a guy, I believe, John Seebart that just said something. Do we have an idea of who was first?

Ms. McLean: Mr. Seebart hasn't indicated in the chat function. Council Member Paltin has, though. We can go to Mr. Seebart next.

Mr. Tackett: Okay. Go ahead Mr. Seebart.

Mr. John Seebart: Did you want me or Tamara?

Mr. Tackett: Yeah, we're going with you and then we're going to Tamara.

Mr. Seebart: Okay. You know what, I tried the chat room and I couldn't figure out how to do that. I clicked on it, but nothing happened. So anyway, I didn't come to testify on this particularly, but it raised an issue on the Brown house there, the Greg Brown structure. And I just thought I'd make a comment that I fully . . . (inaudible) . . . We shouldn't --. I don't believe we should be issuing any permits in the shoreline areas that will be underwater in the near future. And as we look at . . . (inaudible) . . . you can see rise that's predicted for the near future. But, we shouldn't be perceived into thinking that that is where it will stop. The science says that unless we stop global warming, it's going to be a rise of 220-plus feet. So my thinking is is we should be very careful about issuing permits in areas where we're going to be facing the same kinds of problems that we're now facing down in the Kahana condos. And that's all I have to say.

Mr. Tackett: Thank you Mr. Seebart. Commissioners, does anybody have any questions? Thank you for your testimony. Could we have Ms. Paltin please?

Council Member Tamara Paltin: Aloha and thank you. Can you hear me?

Mr. Tackett: Yes I can. You have three minutes. Thank you so much.

Council Member Paltin: Thank you. So I just wanted say that I proposed this bill because we were getting a lot of complaints about the Greg Brown house. And, you know, there's nothing that we can do retroactively. But moving forward one of the reasons that they said it was difficult to enforce two-stories was they didn't have a height limit in feet. And so I just chose 30-feet. You can say 30-feet and two-stories. You can say 20-feet and two-stories. You know, it was just a proposal I put out there as well as, you know, the proliferation of short-term rentals. My intent was not to negatively affect the condos around Napili Bay. So that was part of the reason why I said outside of the SLR-XA. I'm not sure if prohibiting short-term rental within the SLR-XA would negatively affect those condos, like, Napili Sunset or even Napili Kai Beach Resort, or those, those ones that have been along on the shoreline and proactively have a B&B, Napili Bay and Beach Foundation. So I didn't want to negatively affect those. It's just, you know, a starting point bill. Threw it out there to quickly address the situation that folks had been complaining about. If you guys can improve on it, please do. And that was basically my reason. It wasn't meant to be a comprehensive, be all end all for the Napili Bay Civic Improvement District. Obviously that thing has been around since, like, board of supervisor days. And it would take more than this to comprehensively address all of that. But this was just kind of a stop gap measure and I knew that you guys were going to review it further, so I just put, put out the basics, you know, like 30-feet, no short-term rental, outside of the sea level rise exposure area. My thinking too was if we're going make long-term housing for our residents, it's better to be outside of that sea level rise exposure area. Whereas, you know, tourists, they love being up front and center. So, that was just my -- I just wanted to give you a little bit reasoning behind why I proposed it. Nothing is set in stone. If you think that there's better words or numbers to be added in there, I'm open and that's about it.

Mr. Tackett: Thank you, Tamara. Commissioners, anybody have any questions? Go ahead Commissioner Thayer.

Ms. Thayer: Thank you Chair. So thank you for testifying Council Member. Just because I am not as familiar with this area as I would like to be for this purpose, but everybody's been mentioning this Greg Brown situation and that, you said this is in part a response to that situation. So can you enlighten us a little bit about what's going on there and why there's all this kind of public concerns?

Council Member Paltin: Sure, I guess. So, you know, a lot of folks that go around the Napili Bay area, there's this large empty lot for many years. And, you know, even myself as I've been going through, I've seen grading, I've seen the Greg Brown construction working on it. But I had no idea myself, and I think, a lot of folks as to how tall it would be. Right there on the corner, this huge, like, it's about 40-foot tall single-family home with, you know, basically 12 bedrooms, a pool on the bottom floor, a pool on the third, roof, third floor roof, maybe 14 bathrooms, a kitchen and an identical wet bar. And it basically, you know, Napili Bay Civic Improvement District is meant to maintain the character of the area, and it just, it kind of sticks out like a sore

thumb. You know, a lot of folks been complaining about the height. I'm not sure if they backfilled more than they were supposed to. But even so, I guess, there was some sort of a mistake where Napili Bay Civic Improvement District is not a widely known district. It's so old, and so they didn't --. I don't know. There may have been some mistakes made and it was given an SMA exemption which it would never would have qualified for if it was clear that it was going to be used for a short-term rental permit purposes. And so, I think, a lot of the community feels like they didn't get a chance to testify on the SMA permit because it was given an exemption. And then the next thing you know as we're walking by or driving by this tall building comes up on the corner of lower road. And I'm not sure if it's Hui Road or something like that. And you know, so many people use and love Napili Bay, this was like, how did this happen? And then I guess they found out that there wasn't any chance for any public input because it was given an exemption. So they were pretty upset. So a lot of people have been coming to me, and I'm like, I really had nothing to do with it. I promise. I didn't know.

Ms. Thayer: Thank you.

Mr. Tackett: Thank you Commissioner Thayer. Commissioner Pali has a question as well. Go ahead Commissioner Pali.

Ms. Pali: Hi. Thank you for your testimony. So I know that being on the Commission last year, we just went through the West Maui Community Plan. It just took us a long time, and now you're tasked with getting that through. Are you guys going to be addressing this specific thing in that community plan? And are you saying that today's measure is just kind of like, hey, let's make sure these mistakes don't happen right now until we get there? Is that what kind of your, your goal is and your purpose?

Council Member Paltin: So we, we did complete our committee review of the West Maui Community Plan, and we made some changes. But we didn't necessarily dial in on the Napili Bay Civic Improvement District. We spent a lot of time on things that were changed between CPAC and MPC, and policies and action items. There may be some few things in the policies and action items that could possibly address this situation. Like, you know, we made some policies, I think, about pool water and the discharge. So, I mean, there's two pools on this property. But we didn't take a deep dive into the Napili Bay Civic Improvement District. And, yeah, it never really came up. It would --. I think, too, you know, in the West Maui Community Plan process, it's looking at the entire district. We didn't --. I mean, except for I guess Plantation Estates Lot Owners Association, we didn't really do a really, really deep dive into any one particular area because it's the, the overall. And if we were to comprehensively address Napili Bay Civic Improvement District, I'd like to, you know, have town halls and outreach, and really go over the entirety of the district and what we would like to see going forward. And for the West Maui Community Plan, it was more of, I guess, you know, a 30,000 foot level or something like that. And we also didn't deal with zoning, which I think, Napili Bay --. I think neither the CPAC, little bit the Maui Planning, a little bit us, but we didn't dive deep into zoning so it would, I think, benefit from being taken up separately by itself if we're looking at the comprehensive overhaul.

Ms. Pali: Okay, thank you. And last question, so you do agree that we do need to look at this a little bit more in detail, and that you do agree that we should have community meetings so that way we can have more participation in this.

Council member Paltin: Oh, yeah, yeah for a complete overhaul of the Napili Bay Civic Improvement District. This was just a, you know, a knee jerk reaction to the numerous complaints that I was getting. Like, what can I do right now to give people this sense that this isn't going to continually happen?

Ms. Pali: Thank you.

Mr. Tackett: Thank you Kellie. Commissioners, anyone else got any questions for Councilperson Paltin? I have a question. So, it seems like, it seems like the majority of the, of the, of the confusion is around the short-term rental. It seems like there's a, a pretty, pretty. . . (inaudible) . . . agreement as to the 30-foot, the 30-foot level. And that, and that I believe, probably most of us didn't know that you could get away with anything you wanted in that district because of that was what it was. So are you saying that they should be looked at possibly separately or in possibly looked at maybe, maybe one looked longer at longer than the other, or is that, is that what I'm hearing you say?

Council Member Paltin: Oh, you know, regarding the short-term rental issue, it's, it's really not clear, I think, the way that the Department goes about short-term rentals in the Napili Bay Civic Improvement District. It's even a little bit confusing to me. And short-term rentals is an issue without adding the Napili Bay Civic Improvement District layer is confusing enough. But then adding that on to it makes it even more confusing. And I may be totally wrong, but my understanding of the way the Department implements it, in the Napili Bay Civic Improvement District is that if you have a house and you want to do short-term rental, you can, I think. But if you're building a new house and you got an SMA Exemption based on telling the Department that you're doing single-family home usage, like, it's going to be your home, you can't then automatically do a short-term rental on a newly built property. Or maybe even if you haven't lived there five years. I'm not sure. It's so confusing that I would just phase it out of there because, you know, already Napili, West Maui, we're, we're at over capacity in terms of tourist that I don't think we need more accommodations to bring in more tourists especially in that area. And, and that was part of my reason for not wanting to disrupt all those condos hotels on the bay. I figure they're working, they manage their tourists there, we've got that. We've got a couple of short-term rental homes really close to Napili Bay, we're good. Like, let's tap out, there's enough there. And, and with the, the Napili Bay Civic Improvement District overlay, it's super confusing. I, I would not profess to understand that all. Like, who can and who cannot do it so I leave . . . (inaudible) . . .

Mr. Tackett: I need, I need one more opinion from you on the phasing out and then as for me, though I've approved short-term rentals and I possibly will approve short-term rentals going forward as I have to, I have to weigh them with the options that they let me weigh. Do you know what I mean? So until somebody finds a mechanisms that lets me just deny them. If they come forward, they come forward, and if they meet the criteria you have to give it to them. And so like I said I am definitely not in favor of short-term rentals, but I will vote in favor of the ones that do it

the right way because that's the job that I'm tasked with. So we know it's the "What I want show", it's the "What is right show," I guess.

With that being said, the scary part for me is if you have people that bought purchased these lots a long time ago, and they've been paying an accelerated tax rate with the thought that maybe they could do something in the future and then you take that off the table for them and they have all those back revenues tied into it and they're not afforded the normal rights that everybody else in the County, it seems like they will end up getting stiffed for the cost. And then they don't even have the ability to do a short-term rental, which, like I said, I'm not necessarily in favor of, but as the rule, as the law reads, you're going to, you're going to take a district that has always been friendly towards that and make it a zero possibility. And then the other districts are going to continue to have their rights, and they didn't pay those kinds of taxes at all which kind of seems a little...unfair. What is your, what is your perception of that?

Council Member Paltin: Yeah, thank you for the question. So this is part where you should get clarification from the Department. I would imagine if they have hotel zoning they can do hotel usage. But not necessarily everyone in Napili Bay Civic Improvement District is paying hotel property taxes. And, you know, similarly how we don't pass bills retroactive -- to apply retroactively, we also don't pass bills to think of, like, whatever might happen in the future. You have ability to do short-term rental home. If you don't take advantage of it and the rules change, the rules change.

We recently passed the short-term rental home caps and most every area decided on caps that were what they currently are. So it's not necessary that other districts would have the right to do short-term rentals. We went the attrition model so, you know, as if there's an excess and above the caps as people no longer renew their short-term rentals. Once you get below the cap, more people can apply for them. But it's just, you know, the amount animosity that we're hearing from the public in terms of short-term rentals, and we understand that, you know, it's not necessarily the short-term rental home permits that are, are the number one. There's, like, you know, the possibility of like maybe 220 or so of permits. But, you know, it's a, it's a phase process. We're just trying to bring the balance back to something that gives our residents a little bit more quality of life. So, you know, while we heard folks saying, no short-term rental home permits whatsoever. And we heard people like the caps are just fine. We kind of took the middle road and said, you know, if you have one now, we're going to set these caps. And if there's attrition to below the caps then more people can apply to it. And then the next thing, I guess, you know, we'll be looking at the Minatoya list and, and doing something similar, not complete outright, no Minatoya list or whatever. But, you know, looking at areas where we can restore the balance a little bit.

Mr. Tackett: So what you're saying that as long as West Maui's under their cap people can continue to apply for those positions until that cap is hit. But nobody in that particular district can, just everybody else can. Is that, is that the intent of the bill that we have? Because that's kind of how I, I'm interpreting it.

Council Member Paltin: So West Maui is not under the cap. We're at the cap. But there's still are areas where people can have short-term rental homes without permits. I believe Historic District

in Lahaina Town you can do a short-term rental without permit. Planned Development like Puamano, Puamana, they are allowed to do short-term rental without permit. All the apartment based short-term rental usage I think like Napili Ridge and Hololani and all those ones, they can do short-term rental by zoning. So there's --

Mr. Tackett: I agree. I agree with what you're saying. I'm just saying what is, what is your opinion on like the people that came before us in 2020 and they were told they could, and now they can't? But if you're in Kahana you can, but if you're in Lahaina, you can, but if you're -- you know what I mean? As long as there's room in the cap. You know what I mean?

Council Member Paltin: Yeah, yeah.

Mr. Tackett: So that, that's what I'm -- that's all I'm saying.

Council Member Paltin: Yeah, I think, you know, to that point, we, on this Council right now are trying to be more responsive to the public views and these caps are just that for right now. In the future if people, like, clamoring and saying, we want more short-term rentals. And there's thousands of people saying we need more short-term rentals. Then we can adjust the caps.

Mr. Tackett: Yeah, but that's not the intention. I love the caps, you know. I think the caps should shrink, you know what I mean? But, what I'm saying is that or what I'm trying to understand is do these people in that district, do they forfeit just the standard allowances that the other districts on that side? You know what I mean? Like, does it turn out, if we approve this, does it turn out everybody can apply for one if there's room under the caps except for guys in, in Napili? Do you know what I mean? And that's what it reads like. It reads like, hey, we're, we're, we're going to, we're going to go this way and we're going to start with you. And it just so happens that that district is district where, like Croly said, people have vacant lots that they've been paying accelerated taxes the whole time when they purchased it that way. And then these other people, they purchased it that way. And we're not saying that they're going to get through or not get through. But they're wondering way they don't even have a process. Like, they can't even, they can't even try to get through because the place where they bought and they were told it was okay, is, has now been the number one place that has been stopped. Like I said, I'm, I'm completely for it.

Council Member Paltin: Yeah . . . (inaudible) . . . your point.

Mr. Tackett: I'm just saying . . . (inaudible) . . .

Council Member Paltin: My suggestion, my suggestion now that I'm -- sorry -- now that I understand, I would say, like, you know, maybe say within the Napili Bay Civic Improvement District, if you to do short-term rental usage, you need to have a permit as well. West Maui is currently over the cap, but if we go below the cap and people want to apply for that short-term rental home permit in Napili Bay Civic Improvement District, they're on the same footing as everyone else in West Maui except for the Historic District and Puamana. I mean that's totally a viable option as well so that it doesn't create that, oh now Napili Bay Civic Improvement District is not allowed to have short-term rental even with a permit. We could allow short-term rental

with a permit if that's what you're leaning towards. But, you know, it's, it's pretty saturated that area. But I -- if, if you, if that's your concern that Napili Bay Civic Improvement District is being hurt unnecessarily in comparison to the rest of West Maui, you could say, no short-term rental without a permit, you know, that might be one way to address your concern.

Mr. Tackett: I appreciate that. Yeah, so that was my concern, so I'm glad that, glad that, that you, you and me were at least talking about the same thing. You know what I mean? Because I think you understand completely what I was saying.

Council Member Paltin: Yeah, I didn't understand at first. Thanks for clarifying.

Mr. Tackett: Thank you so much. I appreciate it. I got one more question from you from Ashley. Go ahead Commissioner Lindsey.

Ms. Lindsey: Hi. So I see what you're trying to do with limiting the short-term rental. But my concern is like a little bit more mauka, still below the up road. Do you have any understanding of how many units . . . (inaudible) . . . would be under 60 property . . . (inaudible) . . . condominiumized? Do you have any idea how many . . . (inaudible) . . . mauka of the SLR-XA zone in the Napili Improvement District? Because those are the ones that will be affected, like --

Council Member Paltin: Yeah, I think there are quite a few. My -- so my intention is not to, like, make them to stop. But, you know, they would be like legacy propertyed in. But no new ones because, you know, everything is unique to the area of, of what's going on. And in that area what's going on is the quality of life of our local people is squished out because, you know, I mean, the pandemic over there was kind of great. Anytime I went to Napili Bay, front row parking, you know. Now, I won't even go to Napili Bay. And it's just, you know, at some point it gets too much when you allow everybody in this certain square mile footage to have the ability to do short-term rental. You're going to get to a point where it's just too much. And think we've hit that point for Napili. And, and you know, I'm sorry if you didn't get a chance to cash in and take advantage of the money that your property is worth. But we're at this point where it's too much right now. And so, you know, to be fair, I'm not saying people that are currently doing it needs to stop, but we have enough. And, you know, if down the road it attritions out so where there's only like a handful of short-term rentals, then we can reevaluate and, and maybe roll it out in a more managed comprehensive way where, you know, people can do it. But I guess, you know, a lot of the short-term rentals within Napili Bay Civic Improvement District are not the types that have permits. And so the permitted short-term rental homes are really well-managed. You know, if people make complaints, they jeopardize being able to renew or whatever. But that's not the case in Napili Bay Civic Improvement District. There's hardly any oversight. Nobody can say I don't want to live in this neighborhood with 20 short-term rentals because everybody has the ability to do just short-term rentals. And so it's icing out the local population and we're at that point right now. And, and, you know, ordinances don't always last forever if you have a responsive elected, elected officials and they say like hey, you know, that was then. In 2021, we were maxed out, but now it's 2030, we want more tourists, then we can adjust it, as the situation calls for.

Ms. Lindsey: Thank you.

Mr. Tackett: Anybody else have any questions? Thank you. Thank you. I appreciate it. That was super helpful.

Council Member Paltin: Thank you. Glad I could be helpful.

Mr. Tackett: Director, could we have our next testifier please?

Ms. McLean: Kai Nishiki is the next testifier, and she will be followed by Keani Rawlins-Fernandez.

Ms. Kai Nishiki: Good morning Chair. Good morning Chair. Good morning Commissioners. I'm very thankful for Council Member Tamara Paltin's response to community concerns, and fully support the height restriction, in addition to adding two-stories. But I think that the issue about short-term rentals is a valuable and important piece of this legislation. And I think that the Tatmans kind of illustrates the...how out of touch investors are with the true needs of the community. They're getting all upset and indignant about an investment and saying that they don't understand. So if they don't understand, then they probably aren't really members of our community, and hence probably why there should be even a longer time period than five-years before someone, you know, can even put in an application for a short-term home rental. And if these people think that they're going to do bed and breakfast, you know, I hope that we further curtail B&Bs and limit them to a single property and it has to be your primary residence, and you have to actually manage it, not have somebody else manage it. We need to do everything we can to prioritize the quality of life for our residents. And please support all things that limit short-term rentals. There's no shortage of it and . . . (inaudible) . . . rentals. So that's what I would support and I would urge this Planning Commission to please read the . . . (inaudible) . . . I'm pretty sure, like, you know, read the newspaper, we can see that our community is crying out to stop the proliferation of visitor accommodations. We have too many. Please, respond to the needs of the community and not to the needs of investors from outside who are just here to siphon money with a straw out of Hawaii and obviously don't care about our people. So, thank you very much.

Mr. Tackett: Thank you Kai. Does anybody have any questions for Kai? Thank you so much. Director, our next testifier please?

Ms. McLean: The next testifier is Keani Rawlins-Fernandez, Council Vice-Chair.

Council Vice-Chair Keani Rawlins-Fernandez: Aloha. Aloha Chair and Vice-Chair, member of the Commission. This is Keani Rawlins-Fernandez, Council Vice-Chair. Mahalo for this opportunity to testify in support of agenda Item C.1. I plan to make this real quick, and I wanted to echo everything that Council Member Paltin explained and just add a couple things. That this bill is about enforcement and the policies and specific project designs. And I'm sure the Director will speak a little more to this when this agenda item comes up.

In other parts of the zoning code and other special districts, we've amended the arbitrary two-stories to a specific number of feet. And it boils down to making the Code more black and white

for easier enforcement on our Department. And this bill will also make the height limit in Napili Bay Civic Improvement District consistent with other zoning districts.

And then Chair, I heard your concern, and the Council is working on better controls over vacation rentals, the vacation rental situation as Council Member Paltin spoke to we're decreasing the number of STR that will be allowed in this area.

I also heard your concern about variance, and I think it's important to remember that a permit is never a guarantee thing when someone purchases a property. A permit is not right. It's an option. And to clarify, the last thing I heard was about taxes. And so any property classified as an STR would pay an STR rate for real property tax. Mahalo for this opportunity to testify.

Mr. Tackett: Thank you. Commissioners, does anybody have any questions? Commissioner Lindsey, go ahead.

Ms. Lindsey: So -- hi -- so for the STR rate, this district doesn't have short-term rental permits. So, so where do they fall if they're operating B&Bs and things? I'm not sure if the question is for you -- but I don't know the answer.

Council Vice-Chair Rawlins-Fernandez: Mahalo Commissioner Lindsey for your question. So if...if a property --. So a property can operate as an STR without an STR permit as Council Member Paltin explained if they're in a couple of zonings that allow for that activity to occur. So if they're operating as STR regardless of whether they have an STR permit or not, then you classify it as an STR and would be taxed accordingly. Does that answer your question?

Ms. Lindsey: Yes. That verbiage is in the property tax, so we don't really need to worry about that right now.

Council Vice-Chair Rawlins-Fernandez: That's correct.

Ms. Lindsey: Okay. Thank you.

Council Vice-Chair Rawlins-Fernandez: You're welcome.

Ms. Lindsey: That's all Chair. Thank you.

Mr. Tackett: Thank you. Commissioners, anybody else have any questions? I got, I got just one clarification. So, so if I'm reading it right, what you, what you, what you're saying is that they can have it without permits now. They don't need a permit, they just go through the process. They don't even have to go through the process. They just make it happen. And, and what you're writing in is that they don't have a process after that. And so, like, I hope you write them all out. Like, you know, I'm, I'm totally okay with you writing it them all out. I mean, the hotel workers, they need a place to work. And, and guests have places to stay. And they're not at . . . (inaudible) . . . most times anyway. So I totally agree with what you're saying but I think, I think where we missed the boat is like, these people that were purchasing, even there's a loop hole, they did the research and put themselves in there, and so there is something already there

promised to them. Something I don't even agree with, you know. I mean, I don't agree it, you know. I don't like it all. But that's been there since 1960 which is, like, that's 12 years before I was born, you know, so. But I understand there's problems, but what I'm trying to figure out is, is the right thing to do, to, to -- say your cap is ten and there's ten already. Well, then nobody gets one. So one guy drops off and now you've got nine, and now you've got this one opening. Under the way that it's drawn up, it's my, it seems like everybody except for Napili can, can apply for it. Which seems kind of, kind of weird because they were the guys that had the easiest rules now and some of those guys were paying a higher rate on vacant lands taxes. And now, they don't even have the normal process. So I think if you were going to take something away from somebody you should take it away from everybody, not just, like, one guy. You know what I mean? Like, if short-term rentals are going go down and you're going to say a cap, and we're going to allow this many for the west side, then I believe Napili should be counted as part of the west side, not because I like it. You know what I mean? I'm not in favor of short-term rentals. I believe we've got enough tourist destinations. I, I got them in my neighborhood, right across the street, you know, so. And they were the first ones so they didn't even have to go in front of anybody, you know. They just did it because there's no one else. They were like the first ones. But anyway that's my question to you, like, do, do you really think that it's appropriate to, to take Napili out all the way, or do you feel like we should just make Napili conform to the same rules that everybody else has to conform to until such a time you guys decide to make it all encompassing? You know what I mean? As opposed to saying, hey, you guys had . . . (inaudible) . . . do whatever you want whenever for so long, and now we're going to take it all away even when you bought it like that, but these other guys can still do it. You know what -- do you see what I'm saying? Like do -- what is your feeling on that?

Council Vice-Chair Rawlins-Fernandez: Mahalo Chair for your question. I'm going to try to summarize and I repeat back to you what I think I understood your question to be. Okay, so -- and I want to say that I agree with your premise on consistency, consistency throughout the Code is really important to me as well.

So I, I understand your question to be...whether we start here with Napili in limiting the ability to do STRs or we wait until we do the entire island in limiting STRs in zoning that is permissible. Is that your question?

Mr. Tackett: Well, I'm --. In my opinion it's coming from . . . (inaudible) . . . So the west side people are saying, hey, we got enough. You know what I mean? We have...we have plenty, we have plenty over there. So I don't believe we have to wait for the entire island but I do kind of think that, that whatever, whatever you choose for the west side to be your choice for the west side and it shouldn't exclude anyone from, from Napilihau to, to Lahaina town. Do you know what I mean? Like it would be --. Like, if, if there's still a route for short-term rentals and there's a spot, then wherever you live you're still west side. Do you know what I mean? And if there is no spots, then there is no spot. But for those guys that purchased it thinking that they had a right with no rights, and then telling them that, that they have even less rights than the rest of the west side would be kind of...strange to me.

Council Vice-Chair Rawlins-Fernandez: Okay, so it kind of sounds like you may have answered your questions. And, you know, we're policy makers, right, so we're looking out for the best

interests of our County, of our community, of the people that live here, of the environment, and you know, the health and wellbeing of all of it. And so if we determine that something that was permissible at one point is too taxing and diminishing the quality of life for our residents is impacting our resources and our environment, then as policymakers that is our authority to amend the, the law, to protect the health and wellbeing of our County. So while you may characterize it as strange, that is, that is what we do and laws are meant to be changed and evolved with in time. You know, with time, with society, and as we learn from the impacts of laws we passed, you know, in one point in time, with the benefits of time passing, we can see whether that law, when we passed at the time, has had a positive or negative impact. And if it's been negative, then it's not only our ability or authority, but it's our duty to amend the law that's hurting our people. I hope that answers your question.

Mr. Tackett: No, not really, but I totally understand. You know, we'll go with it. I just think that, I just think that you --. Anyway, it doesn't matter I think. I appreciate your answer, you know. Thank you. Thank you Keani.

Council Vice-Chair Rawlins-Fernandez: You're welcome Chair.

Mr. Tackett: Commissioners, anybody else have any questions as to that? Thank you so much.

Council Vice-Chair Rawlins-Fernandez: Mahalo. Mahalo everyone. Aloha.

Mr. Tackett: Aloha. Director, do we have anymore testifiers?

Ms. McLean: No, Chair. No one else has indicated that they wish to testify.

Mr. Tackett: Commissioners, does anybody need a restroom break? You guys have been holding on there for a while, yeah.

Ms. McLean: Chair, you might want to make a last call for testimony, for example, for those who are calling in.

Mr. Tackett: Sure, last call, last call for testifiers. Do we have anymore? Going once, going twice...I believe we have Peter Savio. Go ahead Peter. Are you there Peter? Maybe that was a mistake. One more time, I'm going to close testimony. Going once, going twice, going three times, testimony is closed. Anybody have an idea as to how much time they need? Five minutes? Three minutes? I may go with the bigger of the two. Let's go with five minutes. It's -- just to make it easy we'll give it six minutes so we'll be back here at 11 o'clock if that's acceptable to all.

Ms. McLean: Chair, if I can just make a clarification for those on the call, you closed public testimony for the first item only.

Mr. Tackett: For the first item only, correct. Thank you for the clarification. See you guys in five minutes.

(The Maui Planning Commission recessed at 10:54 a.m., and reconvened at 11:00 a.m.).

Mr. Tackett: Alright, do we have all of our Commissioners back? I think we're still waiting for Jerry. I don't see Kellie, yet. Kellie, are you there? Director, do you see, do you see Kellie? Oh, there she is. Hi Kellie. I believe we have everyone. Do you see the same thing? Alright. Director, discussion, correct? So Commissioners, discussion on B.1. I got Kellie, followed by PD. Go ahead Kellie.

Ms. Pali: Yes, thank you Chair. I think I just -- my discussion on this topic is that I actually agree with your point you were attempting to make with a couple of the testifiers. And so my discussion would be instead of agreeing to just saying no permits available, that we at least allow the people in this area to be able apply for the STR permit like all of the other Maui County residences. I think that's what you were getting at, right? And I'm agreeing with you that it's one thing to say, hey, it's a free for all, and now saying, hey from now on no more. And now we're almost targeting them, where everyone else has a right that they don't have. So I was following you. And in the sake of time, I think that I agree with that theory. It sounds like we're at the cap anyway which would do what the bill intends which is to eliminate future new permits. But in the event one permit holder drops off, and like you said comes available, it makes sense that everyone on the west side no matter where you're at would have access to at least applying for that one permit. So I would like to make that amend in this especially since Council Paltin mentioned that she kind of attempted her best effort into kind of throwing something together temporarily, and I know that she'll tease this out later. So that would be my first recommendation for discussion.

And the other thing is I, I am learning patience and so bear with me. But we have all just suffered with really long, long agendas. And so I just want to just, as a friendly reminder, kind of go back to the trainings we've had a couple, the last couple of weeks. And just that when the testifiers testify we're asking for clarification on their testimony. But we're not asking them new questions because they're not doing the presentation. They're not the ones presenting. We're just clarifying what they said, and we don't need their opinions because they already gave their opinion in the three minute testimony. So really for the sake of time management here because I really can't be here for 12 hours today. And I just would respectfully remind everybody that we all get kind of caught in this curiosity, but if we can just kind of pull it back and just focus. And then what I do is when testimony people, testifiers, bring up items, I just write it down. And then we can go -- we should be going through the whole testifiers, let Christian Tackett, Chair, close testimony and then let's go back to these questions that they arose. And then we'll go to planner and ask those questions. So that would be the appropriate way to handle it. And that's really going to help us get through the agenda in an appropriate hour. So that's all I've got to say. Thank you.

Mr. Tackett: Thank you Kellie. PD, go ahead please.

Ms. La Costa: Thank you Chair. Can you hear me okay? I don't see the icon on. Okay. Thank you very much. Along the line of Commissioner Pali, I just put some verbiage together that -- I know this is probably Director McLean's kuleana, but along the lines that STR permits may be granted to residential homes if they meet the criteria set forth in the STR rules, and the permit

does not exceed currently allotted caps. If the number of permits drops below the current cap, then any applicant can apply for that position. So that's, that's the verbiage that I put in light of everyone's testimony today. Thank you Chair.

Mr. Tackett: Thank you PD. Director, do you have some input on that?

Ms. McLean: Yes, thank you Chair. In response to that, if you look at the memo and the Department's recommendation, it says the permitted uses shall be as provided in the residential and apartment districts as listed in Chapter 19.08, and 19.12. So that means they would be treated the same as the residential districts when you can apply for an STRH permit and you can apply for a B&B permit. And if you meet the criteria you can get them, including the caps and so forth. So by saying that the uses in the district are restricted down to districts where those permits can be granted, then I think it would achieve what you're, what you're recommending which is that yes, those properties would be eligible to obtain this permit. The same as anybody else in the residential district.

Mr. Tackett: So you're saying that if we, if we approve it as recommended with amendments, that they will be afforded the same rights to apply for a permit that anybody else has?

Ms. McLean: Correct. With the, with the Department's recommendation as listed on page-2 of the memo.

Mr. Tackett: So, so the Tatmans, they still have, they still have a direction they can go. They might necessarily get it, but they have the same rights as everybody else.

Ms. McLean: Anybody else in the residential district, yes.

Mr. Tackett: In the residential district. Okay, well sorry for wasting all of your guy's time. Because I read, I read that -- or I thought I read that, that there would be no more in that place, you know what I mean? So that, that's how I understood it, so sorry you guys.

Ms. La Costa: I don't think it's a waste of time of any of us. This is why we're here is to get clarification and get our thought on the table. So I appreciate what you bring up and everyone else because that's how we get clarification and we can go in a, the best direction for the County of Maui.

Mr. Tackett: Thank you. Commissioners, anybody else have any discussion? I believe I have Jerry followed by Commissioner Thayer. Go ahead Jerry.

Mr. Edlao: Okay. Tom Croly made a comment that these guys don't need the permits because transient rentals are allowable in this area. Can somebody clarify that's the difference of why? I mean, it's kind of weird.

Mr. Tackett: Director?

Ms. McLean: Thanks Commissioner Edlao. In the past the Department has treated single-family homes in the hotel zoning district and in the Napili Bay Civic Improvement District as being able to do vacation rentals because hotel use is allowed in the district. Because of the Greg Brown property and community concerns over it, we started looking into that really carefully, and it's a little bit problematic. But other than the past few months when we've been reexamining this use, it is true that in the past you could have a single-family home in this district or the hotel district and be able to do vacation rental without any kind of permit or any kind of review. And we're taking a new look at how we administer that. Because even though it says hotel use is allowed, these single-family homes operating as vacation rentals aren't typically what you think of when you think of a hotel. And so we are reevaluating how we administer that.

Mr. Edlao: Okay, thank you.

Mr. Tackett: Thank you Commissioner Edlao. Commissioner Thayer?

Ms. Thayer: Thank you sir. Director, I think I have -- I just want to further clarify what the implications are on this. So as the Code reads now, like, everything in this improvement district is looked at as under hotel zoning, right? Homes, apartments, condos, they're all according to the hotel. Okay, so then what the proposed change does is switch it from all being treated as hotel to all being treated as either apartment or residential, right? Okay, so then I'm wondering what the implications are then for if that change goes through everything in there, existing transient uses, would be existing non-conforming.

Ms. McLean: Correct.

Ms. Thayer: In which case so if --. So then I have two questions stemming from that. So one is if there are like existing single-family or, I guess, condo apartments that are currently operating rentals that don't need a permit, would they ever be prompted to get one?

Ms. McLean: No. It would be like you said existing non-conforming or grandfathered. And grandfathered uses there's a specific provision in the Code for non-conforming uses. They can continue. They can maintain and refurbish, but they cannot expand in a way that increases the non-conformity. There would have to be different language in bill to require them to someday get a permit. The way the bill is drafted now, whether the original language or our proposed language, any existing vacation rental operations would continue and would not have to get a permit.

Ms. Thayer: Okay, thank you. So then if -- like if somebody wanted to like add rooms to their existing rental that would be, like, other --. If they're renting out a home, if they wanted to add a room or ohana unit or something, they would have to come in for a permit in that case?

Ms. McLean: For that additional rental area, yes.

Ms. Thayer: Okay. And then for the existing, like, condo hotels that are there, if they want to add any rooms, they would have to come in for a permit?

Ms. McLean: If they wanted to use them for short-term rental, yes.

Ms. Thayer: Okay. That's all my question. Thank you.

Mr. Tackett: Thank you Commissioner Thayer. I believe Commissioner Lindsey has a question. Go ahead.

Ms. Lindsey: Expanding on what she's saying, why does the 3.2-foot SLR-XA area -- where does that apply to the, the existing nonconforming? Is that the, the two-point, the SLR-XA area stay in hotel zoning and then above that is existing nonconforming or am I understanding this correctly?

Ms. McLean: Right, the bill as proposed would say that if you are within the SLR-XA you can still conduct hotel uses. If you're outside the SLR-XA and --. Let me, let me expand from that. If you're within the SLR-XA, you can continue to do hotel uses and new hotel uses can start. Existing hotel or vacation rental uses can expand just like it is today. If you're outside the SLR-XA and you're doing vacation rental use, you can continue as, as grandfathered. If you have not started vacation rental use, you cannot start without getting some kind of permit.

Ms. Lindsey: Thank you.

Mr. Tackett: Thank you Commissioner Lindsey. Commissioners, any other discussions? Go ahead Commissioner Lindsey.

Ms. Lindsey: Do you have any idea how many properties that affects actually because it sounds like majority of it is within SLR-XA but they're -- do you have any idea like approximate numbers? That is doesn't have a permit, that is outside of SLR-XA, or doesn't have existing use?

Ms. McLean: No, we did not look at that because the Department isn't recommending that the SLR-XA play a part in the bill. So, yeah --. I mean, I can, I can look really quickly and give an estimate if you'd like to know. But that's why we didn't look into it because we're not recommending the SLR-XA be -- that there be any difference whether a property is inside or outside.

Mr. Tackett: Is that something that you want Commissioner Lindsey or not?

Ms. Lindsey: If it takes a few minutes that would be ideal. But if it take, if it takes us into an hour, I don't want it.

Ms. McLean: Okay Commissioners I can share my screen. Let's see if this works. Can you see that?

Mr. Tackett: Yes we can.

Ms. McLean: Okay, so this is the SLR-XA with 3.2-feet of sea level rise. And then if we, you

know, also look at the zoning map that's on your, that's in your packet, you can kind of go back and forth between the two. So there's some --. So the SLR-XA if you can see the cursor on my screen, the SLR-XA doesn't impact any properties mauka of Lower Honoapiilani Road. And then in most areas it looks like it's about halfway between the shoreline and the Lower Honoapiilani Road. When you get to the more southern area of the district, it's really only the coastal portion. So I would guess maybe a quarter of the properties in the district are within the SLR-XA. That's just a rough estimate. So about 15 or so.

Mr. Tackett: So does that answer your question Ashley?

Ms. Lindsey: Yes.

Ms. McLean: Okay, I'm going to stop sharing.

Mr. Tackett: Awesome. Thank you, thank you Director. Commissioners, any more discussion on this item? If not --. Okay, I believe Kellie was first and then Ashley has more questions after.

Ms. Pali: I don't have a question. I was just going to put something on the table. So if Ashley has got a question, I can kick it to her.

Mr. Tackett: Okay, go ahead Ashley.

Ms. Lindsey: I was just wanting . . . (inaudible) . . . in discussion that I would like both the height and the, the number of stories and the 30-feet to be both included on any . . . (inaudible) . . .

Mr. Tackett: Thank you. Thank you Commissioner. Any, any other discussions at this point? So we'll, we'll get the, we'll get the recommendation. And then after our recommendation, then we'll get any motions, seconds, and, and call a vote after that. Director?

Ms. McLean: Thank you Chair. Jacky, do you want to give the recommendation or it's, it's laid out in the memo, the provisions where it indicates the Department's recommendations?

Ms. Takakura: Thank you Director. The Department is recommending approval of the proposed bill with amendments. And just as a recap, the amendments are that the permitted --. Sorry, back up. That the building height -- I mean, structures must be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells, vent pipes and antennae. Also that the permitted uses shall be as provided for in the residential and apartment districts as listed in Chapters 19.08 and 19.12. And also that location of accessory uses must be to the rear or interior of the lot. Signs and advertisements shall not be gaudy or excessive in size, and must comply with Chapter 16.13 of this Code. And Special Use Permits may be granted pursuant to Section 19.510.070 of this Code for marginal uses that would conform with the intent of the civic improvement district as approved by the Maui Planning Commission.

Ms. McLean: Chair, if I can, based on what Commissioner Lindsey suggested and I saw Commissioner Thayer nodding in agreement, if you look at the Department's recommendation

on page-1 that could, that could read to say structures must be limited to two-stories with a maximum height of 30-feet including all appurtenances etcetera.

Mr. Tackett: I believe it looks like from . . . (inaudible) . . . everybody or a majority is kind of in agreement, so let's start with that. Kellie, did you have something to add?

Ms. Pali: Nothing to add. I just was going to make a motion, Chair.

Mr. Tackett: Okay. Well, the floor is open for, for motions and seconds at this point.

Ms. Pali: Thank you Chair. I would like to motion to adopt and recommend Resolution No. 21-66 in accordance to the Department's recommendations and changes on the memo, with the friendly amendment that the Director just gave us.

Mr. Tackett: Okay, we have a motion by Kellie, and we have a second by PD. Would either -- well, I'll let you start because it's your motion. Kellie, would you like to speak to the motion?

Ms. Pali: Yeah, I think a couple of things that I've been jotting down which resonated with me is firstly, I think that when people use the word "community" they toss it around like love. I love you. You tell a stranger, oh, I love you, and the love just has lost its true intent and value. So I just want to caution us when I hear people testify and they say the community this, the community that. We have 160,000 residents plus; that's the community. It's not five people. It's not ten people. It's not even 50 people. So, just be cautious when you hear the word "the community says." That frustrates me because we know we have families that are working two and three jobs and they can't here full-time and testify. So just be cautious of that.

But I believe that this bill, with the revisions, for now temporarily, will affect what would be beneficial to all. There are pieces I don't agree with it. There are pieces that I know if we say, hey, if we just eliminate the tourism or limit it, something else is going suffer because of it. So, moving forward with smart growth and making balance approaches, that's important. But this again could be temporarily in nature and we can evolve it with maybe these town hall meetings moving forward I think would be the best foot forward. So that's why I think it's a good start. That's it.

Mr. Tackett: Thank you Kellie. Would you like to speak to your second? I mean, PD, would you like to speak to your second? There's, there's no sound PD.

Ms. La Costa: Can you hear me? Can you hear me now?

Mr. Tackett: Yeah, we can hear you.

Ms. La Costa: Okay. I think that it has been said by those who testified and those who asked questions. I concur with Commissioner Pali. I think they reference to community and I'm -- this is my conjecture. I doesn't have anything to do with speaking Council Member Paltin. But community when you represent a specific area you are inclined to say community I think. And the west side is different from the central, and the east, and the north, and everything else. So,

I, I hear what you're saying about community and it does need further...further investigation, and town halls, I think, would be, would be very helpful. And also Council Member Tamara or perhaps Vice-Chair said, nothing is set in stone. But I think this a good place to start for all concerned. Thank you.

Mr. Tackett: Thank you PD. I believe Dale would also like to, to speak to this discussion. Go ahead Dale.

Mr. Thompson: Thank you very kindly Chair. And I am familiar with this project and what happened to it and why. And . . . (inaudible) . . . speaking he was trying to do the end around instead of getting the SMA to do it, and that's where it went all array. It's a big place. However I'm not firmly convinced that these knee jerk reactions are the right ones. And we didn't really hear from any of the community there. We didn't hear from, you know, Napili Beach or the Maui inns local owned and run. And none of those people were here speaking. We only heard from the --. Again, it's very easy to . . . (inaudible) . . . and I understand why especially with that one. But I would prefer actually a deferment then a town hall and hear the rest of the community that lives there. I'll go along with the crowd, but that's my take. Thanks guys.

Mr. Tackett: Thank you Dale. Commissioners, anybody else wish to speak on this motion before we bring it to a vote? Hearing none, Director, could we please have roll call vote?

Ms. McLean: Yes, Chair. Commissioner Edlao?

Mr. Edlao: Yes.

Ms. McLean: Commissioner Hipolito?

Mr. Hipolito: Yes.

Ms. McLean: Commissioner Lindsey?

Ms. Lindsey: Aye.

Ms. McLean: Commissioner Pali?

Ms. Pali: Aye.

Ms. McLean: Commissioner Thayer?

Ms. Thayer: Aye.

Ms. McLean: Commissioner Thompson?

Mr. Thompson: Aye.

Ms. McLean: Vice-Chair La Costa?

Ms. La Costa: Aye.

Ms. McLean: And Chair Tackett?

Mr. Tackett: Aye.

It was moved by Ms. Pali, seconded by Ms. La Costa, then

VOTED: To Adopt and Recommend Approval of Resolution No. 21-66 to the County Council as Recommended by the Department with the Additional Amendment.
(Assenting – K. Pali, P D. La Costa, J. Edlao, M. Hipolito, A. Lindsey, K. Thayer, D. Thompson, C. Tackett)
(Excused – K. Freitas)

Ms. McLean: Chair, that's eight ayes, no noes, and Commissioner Freitas is excused.

Mr. Tackett: Thank you Director. Could we start our next order of business please?

Respectfully Submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II
For CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Jerry Edlao
Ashley Lindsey
Mel Hipolito, Jr.
Kellie Pali
P Denise La Costa, Vice-Chair (excused @ 5:40 p.m.)
Christian Tackett, Chair
Kim Thayer
Dale Thompson

Excused

Kawika Freitas

Maui Planning Commission
Portion of Regular Minutes – Item B.1.
July 13, 2021
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Others

Michele McLean, Director, Department of Planning

Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

Jordan Molina, Deputy Director, Department of Public Works

NAPILI

Bay and Beach Foundation

P.O. Box 10823
Lahaina, HI 96761

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2021 JUL 22 AM 8:18

OFFICE OF THE
COUNTY CLERK

To: The Honorable Alice Lee, Chair, and Members, Maui County Council
Michele McLean, Department of Planning

From: Napili Bay and Beach Foundation, Inc., Board of Directors

Re: Proposed Changes to the Precise Terms for the Napili Bay Civic Improvement District
(Lahaina)

Napili Bay and Beach Foundation members are supportive of the changes in NBCID language proposed by the Planning Department and Planning Commission in terms of height of any structures within the district (CC 21-343): Structures are limited to a maximum of two stories and thirty feet in height, including all appurtenances such as elevator shafts, stairwells, vent pipes, and antennae.

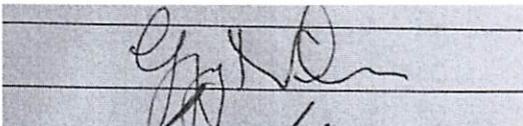
We are also supportive of the slight amendment suggested by Councilmember Paltin (CC 21-344, part E.) to further clarify uses now in effect and future uses in the district: "The permitted uses shall be as provided for in the hotel district and as listed in chapter 19.14 of this code, for any hotel or apartment-hotel use that was established by August 6, 2021...

... The permitted uses shall be as provided for in the residential and apartment districts as listed in chapters 19.08 and 19.12 of this title for any use established after August 6, 2021."

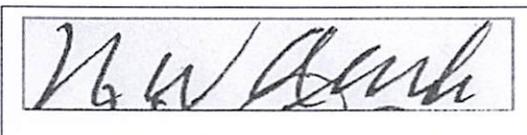
Respectfully submitted,



Pat B. Lindquist, President
Napili Bay and Beach Foundation, Inc.



Gregg Nelson, GM, Napili Kai Beach Resort
VP, Napili Bay and Beach Foundation



Nane Aluli, GM, The Mauian
Secretary, Napili Bay & Beach Foundation

Pat B. Lindquist, President

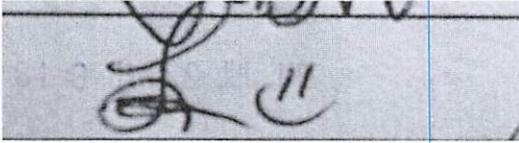
Gregg Nelson, Vice-President

Nane Aluli, Secretary

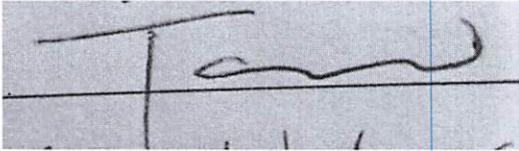
Norm Runyan, Director

Jamie Lung-Ke'o, Director

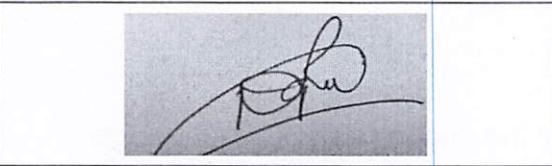
Tano Taitano, Director



Jamie Lung Ka'eo, GM, Hale Napili
Director, Napili Bay and Beach Foundation



Tano Taitano, GM, Napili Surf Beach Resort
Director, Napili Bay and Beach Foundation



Norm Runyan, GM, Napili Shores Resort
Director, Napili Bay and Beach Foundation

Pat B. Lindquist, President

Norm Runyan, Director

Gregg Nelson, Vice-President

Jamie Lung-Ke'o, Director

Nane Aluli, Secretary

Tano Taitano, Director

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2021 JUL 22 AM 8:18



OFFICE OF THE
COUNTY CLERK

County Communication No. 21-361

A BILL FOR AN ORDINANCE REQUIRING DEPARTMENT OF HAWAIIAN HOME
LANDS REPRESENTATION ON THE BOARD OF WATER SUPPLY

Maui County Council

July 23, 2021

9:00 a.m.

Hālawai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) **SUPPORTS** the bill contained in County Communication No. 21-361, which would require a member of the Department of Hawaiian Home Lands (DHHL) to be represented as part of the Maui County Board of Water Supply (Board) membership. Allowing DHHL a seat on the Board will provide needed representation for native Hawaiian beneficiaries in decision making that may substantially impact their legal rights and interests, and thereby facilitate the more timely implementation of the Hawaiian Homes Commission Act.

OHA notes that there are longstanding concerns involving the need to better facilitate the practical implementation of the Hawaiian Homes Commission Act, including in county decision-making processes. For example, while DHHL has priority rights to our public trust water resources, and despite the state’s legal and moral obligations to implement the Hawaiian Homes Commission Act, DHHL often struggles to receive an appropriate level of consideration in county decisions impacting its ability to access water. Ultimately, without being able to access water, DHHL cannot fulfill its mission of providing homesteading opportunities for its native Hawaiian beneficiaries. This bill will add needed safeguards to ensure DHHL’s water needs and rights are better understood and appropriately accommodated in Board decisionmaking, and thereby facilitate the expedient return of native Hawaiians to the land.

By adding DHHL beneficiary interest representation on the Board, the proposed bill will further facilitate a greater understanding of DHHL’s unique water rights and needs, and better ensure that Board decision-making properly considers DHHL’s historical and practical challenges and concerns relating to its ability to access water necessary for its mission.

Accordingly, OHA respectfully urges the Council’s **SUPPORT** for the bill contained in County Communication No. 21-361. Mahalo for the opportunity to testify.

County Clerk

From: candice tihada <kanake052474@gmail.com>
Sent: Friday, July 23, 2021 8:15 AM
To: County Clerk
Subject: NO 21-363 / Testimony - Supporting the Undivided Interest Awards Policy of the Department of Hawaiian Home Lands Homesteading Policy

Aloha,

My name is Grace Tihada and I'm writing today to support Council Member Tamara Paltin's Resolution supporting the undivided interest awards policy of the Department of Hawaiian Homelands Homesteading Program.

Firstly, I have been on the DHHL Maui Agriculture waitlist since July 30, 1986, that's 35 years! I'm 78 years old and don't know if I'll be here in 2028 to possibly receive an award. I remember going to the first site visit many, many years ago and today it's still the same. We have this land for our people and supporting this resolution would give all of us on the waitlist the opportunity to pass something on to our children, grandchildren and great grandchildren.

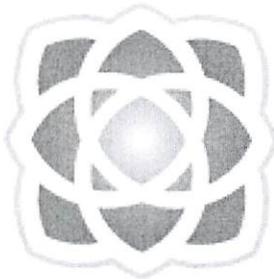
The people of Lahaina can't afford the sky high housing prices and are having to leave to try and succeed. Imagine all the possibilities this will give many families here....so please support this and give opportunities for us to stay in Lahaina, our home.

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COUNTY CLERK

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2021 JUL 23 AM 8:14

OFFICE OF THE
COUNTY CLERK



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

CR 21-54

Reducing the Number of Short-Term Rental Home Permits
Friday, July 23, 2021

Dear Chair Lee, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

We understand this bill is meant to address one area of managing tourism and we all agree that ways to better manage the visitor industry should be explored. Given this, we would like to share our thoughts and a few suggestions on this bill.

The Maui Planning Commission did not recommend changing the caps at the time. They suggested the County Council study the current demand in each community plan region and then set caps according to demand, which the Council is typically in favor of. With this recommendation and since the proposed numbers have consistently changed, we strongly suggest a public hearing on this matter be scheduled prior to the bill passing First Reading. This would give the communities a chance to vet the final numbers proposed and the Council to get community input.

A public hearing would also give those who purchased a home with the intent of getting a permit, who are still in the 5-year waiting period, a chance to ring in as well. We do not know how many homes have been purchased with this intent, some by local families, as there is not a waiting list for this purpose. We think it is important that the community understands that if these homeowners cannot obtain a short-term rental home (STRH) permit, these homes will likely not be affordable for local families and even if they are rented long-term, will likely not fall into affordable categories as they are primarily high-end properties with amenities that appeal to visitors.

That said, we appreciate the discussions had at the July 1st meeting on protecting those who are currently permitted and even when reducing the numbers in Hana and West Maui, guaranteeing that permits will not be taken away. However, we feel it is important to consider protecting local families who have an active permit and use their STRH as a business. We know some of these families plan to will their short-term rental house to their children or family members to continue the business. In these situations, we feel their permit should transfer to their heir and not jeopardize the permit.

Mahalo for the opportunity to provide testimony. We ask that you not pass this bill today, but instead schedule a public hearing to further engage the community in this discussion so they can review the new limits and rationale for why these are being proposed.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.