

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

July 1, 2022

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD ONLINE ONLY VIA BLUEJEANS, ON FRIDAY, JULY 1, 2022, BEGINNING AT 9:06 A.M., WITH CHAIR ALICE L. LEE PRESIDING.

COUNCIL CHAIR ALICE L. LEE: Will the Maui County Council regular council meeting of July 1, 2022, please come to order.

It is approximately 9:06 a.m. Good morning, everyone. The morning greeting is . . . from Africa.

Madam Clerk.

COUNTY CLERK KATHY KAOHU: Chair, proceeding with roll call. Members participating from non-public locations should state who if anyone is present with them as part of the roll call.

ROLL CALL

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: . . . Chair and aloha kakahiaka. And I'm glad to see everybody here in the, in the Council Chambers. Look forward to a great meeting today. Aloha.

CHAIR LEE: Thank you.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha and . . . Madam Chair and my fellow colleagues and everyone else joining us for our Council meeting here today.

For the record, I am transmitting from my residence here in Makawao and my wife is in the other room and there are no testifiers in the Paia District Office. Mahalo.

CHAIR LEE: Thank you.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: Aloha kakahiaka and . . . to all of the folks from Ghana watching.

Thank you for that morning greeting, Chair. And I am reporting from the, our District Office in South Maui that we have no testifiers today.

CHAIR LEE: Thank you.

COUNCILMEMBER KING: Good to be here.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: . . . Chair and Councilmembers. I'm home alone in my workspace on Lana'i and there are no testifiers at the Lana'i District Office. Mahalo.

CHAIR LEE: Thank you.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: . . . kakou and aloha kakahiaka. I'm broadcasting live and direct from Hilo town. In the house with me are my parents, my husband, and my kids. And at the table with me is my brother, David Paltin.

CHAIR LEE: Good to see you.

COUNCILMEMBER PALTIN: And there are no testifiers at the Lahaina District Office at this time. Thank you.

CHAIR LEE: Thank you.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: . . . everybody. And it's good to be here in the Council Chambers, but I really want to say is I'm glad to see so many people here to testify cause it's usually very lonely here in the chambers. So, welcome everybody that has made the effort to be with us. Appreciate you a lot. Thank you, Chair.

CHAIR LEE: Thank you.

COUNTY CLERK: Council Pro Temp Tasha Kama.

CHAIR LEE: Excused.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, my Maui Nui a Kama at the County Building. And I understand there are no testifiers at the Molokai District Office.

CHAIR LEE: Thank you.

COUNTY CLERK: Council Chair Alice L. Lee.

CHAIR LEE: . . . everyone. And welcome to all of our visitors today in the Chambers, it's so good to see you. Thank you for coming and we look forward to a great meeting this morning.

Madam Clerk.

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

EXCUSED: COUNCILMEMBER NATALIE A. KAMA.

COUNTY CLERK: Chair, there are eight Members present, no Members absent, and one Member excused. A quorum is present to conduct the business of the Council.

For the record, I am County Clerk Kathy Kaohu. And also present from the Office of the County Clerk, 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 and First Deputy Corporation Counsel Richelle Thomson.

CHAIR LEE: A little louder. Opening remarks this morning will be provided by Councilmember Gabe Johnson.

OPENING REMARKS

The opening remarks were offered by Councilmember Gabe Johnson.

CHAIR LEE: Thank you, Member Johnson.

Now everyone, please join me in reciting the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

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

CHAIR LEE: Before we proceed with today's agenda, may I please request that everyone keep their microphones muted unless of course, it is your time to speak. Decorum shall be maintained at all times.

SET THE CONSENT CALENDAR

CHAIR LEE: Members, at this time, we will set the Consent Calendar. As a reminder the calendar can still be adjusted even after it is set. Are there any requested changes to the Consent Calendar at this time? I see no hands. Okay.

Members can add or remove items to the Consent Calendar once done. Are there any objections to setting the Consent Calendar?

MEMBERS VOICED NO OBJECTIONS.

CHAIR LEE: No objections, so ordered. The Consent Calendar is set.

Ms. Clerk, please proceed with testimony.

COUNTY CLERK: Chair, proceeding with the presentation of testimony. Members of the public may testify in the Council Chambers, at courtesy testimony sites, or remotely through the information listed on the meeting agenda.

Individuals in the Chambers may sign up to testify with a staff member located at the desk in the 8th floor lobby. Individuals at courtesy testimony sites may sign up with staff at the site. Individuals participating remotely may sign up in the meeting chat. If you are connected to the meeting by phone, you will automatically be added to the testifier list.

Individuals connected by phone are currently on mute and will be unmuted when it is their time to testify. Individuals connected by video conference should keep both their video and microphone 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 up to three minutes, with one minute to conclude 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 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 Maui Community Media, Channel 53, or on mauicounty.legistar.com. Individuals may also be disconnected from the meeting at any time for breaking decorum.

Chair, your first person to testify is Sera Manjarrez and Chad Adolpho. To be followed by Sandy Baz.

PRESENTATION OF ORAL TESTIMONY

MS. SERA MANJARREZ (testifying on Committee Report No. 22-56):

Hello. Good morning. My name is Sera Manjarrez and I'm here on behalf of myself, my children and for our future generations. There's no reason why foreign corporations need to have ownership of our water, thirty plus years, actually, at all. So, I urge you to please leave it here, with us, the people and if you're for the people, you will ensure that it stays that way. Thank you.

CHAIR LEE: Thank you. Members, any questions?

Member Kelly King.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to clarify that you're speaking on 22-47 *[sic]*. The water authority?

MS. MANJARREZ: Oh, I'm sorry.

COUNCILMEMBER KING: That's okay. Just wanted to make that clear. In support. Alright, thank you.

CHAIR LEE: Anymore questions? If not, please proceed.

MR. CHAD ADOLPHO (testifying on Committee Report No. 22-56):

Aloha, my name is Chad Adolpho and I'm testifying on behalf of myself, my family, my kids, my ancestors, and for future generations. You know, we get one saying, "Ola I Ka Wai", "Water is Life" and it needs to stay with the people, for the people, yeah, not for these big corporations that continue to steal our resources for their financial gain. Mahalo.

CHAIR LEE: Thank you. Members, questions? No questions. Thank you. Thank you for coming. Next testifier.

COUNTY CLERK: The next testifier is Sandy Baz, to be followed by Chief John Pelletier.

CHAIR LEE: Mr. Baz is online. Good morning.

MANAGING DIRECTOR SANDY BAZ (testifying on County Communication Nos. 22-151 and 22-154; Committee Report Nos. 22-47, 22-55, 22-56, and 22-57; and Resolution Nos. 22-111, 22-115, 22-116, 22-121, and 22-122):

Good . . . yeah . . . and good morning, everyone. Aloha kakahiaka. So yes, Sandy Baz testifying on behalf of Mayor Victorino on a number of items related to today's agenda.

First, I'd like to, and I didn't put this down, but I'd like to offer our support for CR 22-55, which is related to the idea of being able to have a, in the Charter requirement, you know, the ability to telework and alternative work schedules. I think that it's a good way moving forward. So, thank you, Members for addressing that item.

Also, we're in support of all of the cost items and appreciate you taking these up in a timely manner for the collective bargaining agreements with, we want to be able to move forward and pay our employees these new rates based on those cost items. So, thank you for your support in that as well.

Now, I do want to offer opposition, and I apologize for the change here. I'm actually over at HGEA, and I'm in arbitration hearing but I wanted to make sure that we testify on these items.

So related to Committee Report 22-56, this is related to the water authority, and I understand there is a county communication to adjust that as well. The Mayor is in opposition to this for various reasons. One of the biggest ones is that believing that this item can be resolved with, he believes that this item can be resolved with the County Code changes, and not necessarily needing it to be on ballot with so many other items on the ballot as well.

The second item to provide opposition to is 22-57, and this is related to the planning commissions for every community plan area. We feel that this will create, our Mayor feels this will create a disconnect between our communities, because there won't be, especially on the island of Maui, you know, Molokai and Lanai already have their planning commissions, and you know, they do the authority related to their specific islands. But when it comes to Maui Island, having a Maui Planning Commission that oversees all of the County is a real benefit to our community. If there's separate planning commissions for each district, we feel that there might be disconnects between them. And also the Mayor's Office has challenges in general getting board and commission members, and adding five or six more commissions will create more challenges to that. I understand there's less commission members proposed, but still, that might be a challenge within those specific districts.

And then the last item, and you will hear a lot from the County departments is related to CC 22-154 and I believe there's a Bill 21 as well, related to the outdoor lighting. There are some concerns that our departments have, and they will share those with you. But really what we're asking for is some more time to work with the Chair of the Committee. So, if we could get that back to committee-level, and then we can work with the departments on the challenges that you will hear from them today. So, thank you, Chair, for the time. I appreciate the opportunity, and open for any questions at this moment, if you have?

CHAIR LEE: Thank you. Questions, Members?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Sandy, well, virtually. A question about the, 22-57. So basically what you're saying is the Mayor is okay with the Molokai district and Lanai district having their own planning commissions, but not the districts on the island of Maui, where we have, you know, seven districts, separate districts?

MANAGING DIRECTOR BAZ: Yeah, correct. Again, the idea of Molokai and Lanai being their own island, their own community and them having the sovereignty as far as land use at the planning commission levels, is I think, he thinks is a good thing. But when it comes to Maui Island, you know, and the communities and how integrated they are, and should be, and should remain, it's like, he feels like the planning commission at the Maui Island level should remain.

COUNCILMEMBER KING: Okay, and with basically nine people representing the bulk of the population. Okay, thank you.

MANAGING DIRECTOR BAZ: As it's set-up now. Thank you.

CHAIR LEE: Member Paltin and then Member Sinenci.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to clarify, I thought I had heard Director Baz say that the Maui Planning Commission oversees the County of Maui and I just wanted, that's the island of Maui you meant; right?

MANAGING DIRECTOR BAZ: Yeah, apologize if I misspoke. Yes, the Island of Maui.

COUNCILMEMBER PALTIN: Okay, okay. That's all. Thank you.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair and mahalo Director Baz for your testimony this morning. I was just checking, you mentioned about the water authority being created by Code. And so, I was just curious if, would the Mayor be open to submitting legislation?

MANAGING DIRECTOR BAZ: Ah. Sure, we could discuss with you the intentions, and Code. I mean, whether the Mayor submits it, or it's submitted by Council, by you as the Chair of the Committee, you know, we could work on the language of the Code with Corporation Counsel to make sure that it addresses the concerns that Corporation Counsel has had with it, as well as the Mayor so that we can resolve this and move forward in what your desires are.

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

CHAIR LEE: Any more questions? If not, thank you very much Mr. Baz. Good luck with the negotiations.

MANAGING DIRECTOR BAZ: Okay. Thank you, Chair. Thank you, Members.

COUNTY CLERK: Our next testifier is Chief John Pelletier, to be followed by Napua Hueu.

CHAIR LEE: Good morning, Chief.

CHIEF OF POLICE JOHN PELLETIER (testifying on County Communication No. 22-154 and Committee Report No. 22-47):

Good morning. Aloha. It is an absolute honor to be here. It's pretty exciting to actually do this in person, versus an Ipad or a screen, and it means more than you realize. And so I know I got three minutes and I probably just committed 30 seconds to it.

So, let me just very quickly say, I'm here to testify on item number 21, the temporary lighting, or the lighting issue. And what I'm asking for is that we place the public safety exemption back in. It's imperative as we move forward in a community, and we realize that for 12 of 24 hours we have low-light conditions, and crime and issues with public safety don't just stop for those 12 hours.

And what we need to do is make sure that officers and other first-responders have access to lights and equipment to facilitate and allow them to do their jobs. What am I talking about specifically? Emergency response to car accidents, DUI check points, attempts to locate suspects, barricades, or hostage rescues. Just think about this, if you have somebody that jumps a fence, breaks into a house and holds somebody hostage, we need to have our tactical teams and our first responders to light that situation up, and that needs to be bright. And we can't have public safety compromised for this. And so, we're not talking about a whole lot of situations, but we're talking about the specific ones that would be used for first responders.

We were not in the Committee on the beginning, or I myself wasn't. I would be more than happy to volunteer myself, or members of my staff, if we could get this to go back? We could get it recommitted, or however we choose to do that? But I want to make sure that that offer is there, and I'm humbly asking that we could have a public safety exemption added to this, should it move forward? That's it. Thank you.

CHAIR LEE: Thank you. Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Chief.

CHIEF OF POLICE PELLETIER: Thank you.

COUNCILMEMBER KING: We do have the public safety exemption added back in, in the, the summary, of the Amendment Summary Form, today. So that will go in. However, I just wanted to also ask you, because the blue wavelength, the lower blue wavelength does not necessarily affect brightness. You can still have bright lights. So, while we have that exemption maybe going forward, we could explore if there are lights that, that qualify, that fit your, your needs, you know, going forward? Because those lights are available now, but I do understand there are lights that you don't have in inventory. So, we did make that exemption.

CHIEF OF POLICE PELLETIER: Great.

COUNCILMEMBER KING: We put that back in.

CHIEF OF POLICE PELLETIER: I appreciate it. Thank you.

COUNCILMEMBER KING: Thank you.

CHIEF OF POLICE PELLETIER: Yes.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah. I would, I guess I'm surprised that you weren't asked to comment on this since you play a big role in our community and thank you for coming today to offer your, you know, your actual expertise because I think you have a special place in our community. So, appreciate that. And I really am, if there's an ASF, which is Amendment Summary Form, which is our format, when we have changes to a bill. But I really would like to have this discussed greater so that we make sure we get your public safety correct, you know, and what would that involve. Because your example of the impact is huge.

So, thank you very much, and I don't know if there's a, there's a universal way of, or definition of "public safety". But I think it goes deeper than two words. So, thank you very much for offering that. I would like to offer, take you up on your offer. Thank you.

CHIEF OF POLICE PELLETIER: No, thank you. And in any way to facilitate that, whether it's one-on-ones or breakout or however it goes in Committee, if we can build a more robust mechanism to get that information, more than happy to do that. Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHIEF OF POLICE PELLETIER: Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Chief Pelletier. Mahalo for being with us and for your testimony this morning. So, I'm not a voting member of the CARE Committee and I wasn't in attendance for this discussion. I can still attend, I'm still welcome to, I'm just not a voting member. And so, I'm wondering, I'm just learning about the amendment that was made. Do you know if anyone in the Police Department was consulted or had an opportunity to review the proposed amendment for the Amendment Summary Form that will be introduced later today?

CHIEF OF POLICE PELLETIER: My understanding was no on the beginning, but I'm hearing that there seems to be a desire to do so now. So I hope that answers that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so the answer is you didn't get an opportunity to view the language . . .

CHIEF OF POLICE PELLETIER: No opportunity at the beginning, but I think it appears that the comments are being heard now, so.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. And I guess I know you're, you know, out in the field, and busy being around. I'm just, I guess I'm like, concerned, like if I have questions when the Amendment Summary Form is, comes up later, like would someone from the department be able to serve as a resource if it doesn't, if the language doesn't do enough to address the concerns that you're sharing with us in testimony?

CHIEF OF POLICE PELLETIER: Absolutely. And it's important enough that I'm here today. And so I'll make sure that that takes place.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chief. Mahalo, Chair.

COUNCILMEMBER KING: Chair, just one last.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you. So, we did, I just got a note from Office of Council Services, because we did try to contact the Police Department. We sent a letter on February 24 to you, Chief, and understanding, understanding if we, if you didn't get it. But, you know, we've been working on this bill over several committee meetings, and we started early on contacting all the departments, so.

CHIEF OF POLICE PELLETIER: February 24--

COUNCILMEMBER KING: February 24.

CHIEF OF POLICE PELLETIER: --it's the day that Terry Jones died, so there's a lot of things that maybe we didn't get that would be normally processed through.

COUNCILMEMBER KING: But I just wanted you to know that we did.

CHIEF OF POLICE PELLETIER: I'm not going to use that as an excuse, but, but obviously--

COUNCILMEMBER KING: No, no, it's okay. I just wanted you to know that we reached out.

CHIEF OF POLICE PELLETIER: --some of our letters were a little backlogged. But I personally didn't get it. And so, again, it's not an excuse, but, which is why we're here today to, to see if we can't get this right.

COUNCILMEMBER KING: I appreciate that. Thank you.

CHIEF OF POLICE PELLETIER: Thank you.

CHAIR LEE: Any more questions? If not, thank you, Chief.

CHIEF OF POLICE PELLETIER: Mahalo. Thank you.

COUNTY CLERK: Chair, our next testifier is Napua Hueu, to be followed by Cullan Bell.

MS. NAPUA HUEU (testifying on Committee Report No. 22-56):

Aloha, Chair and to the County Councilmembers. My name is Napua Hueu, I am testifying on CR 56.

I am a seventh generation kalo farmer of East Maui and the Community Coordinator of the Honomanu Lo'i Restoration Project. This is my fourth time testifying on this matter, and my 34th year advocating for responsible water resource management through my life-long perpetration of taro farming and relentless frontline advocacy on the issue. My ancestor John Kalawaiianui Hueu was the first in my family to advocate for water justice in 1881, which speaks to how long we have been communicating the imminent harm to kalo farmers at the continued mismanagement of water resources.

The State of Hawaii continues to place corporate needs over the people, and we are 141 years overdue for resolution. I appreciate this resolution put forward by Mr. Sinenci that aims to provide a voice to the people of Maui County to present concerns and needs and data and information from their respective areas.

Prior to this measure the government has received most of their data from the corporation that diverts the water for their commercial farming needs, which has hampered the ability of our small and indigenous farmers to sustain their own food production needs and objectives. It is imperative that this proposed community water authority be formed, so that the community members can be heard.

Historically East Maui's concerns and negotiations have been represented by one nonprofit organization, which has on oftentimes muted the predicament and concerns coming from smaller taro farming ahupua'a; such as Honomanu and East Maka'iwa, otherwise known as the Waikamoi area. It is important to give a voice to the entire community, so we may hear the intricacies of effects posed on all of our farmers and not exclusively limit the conversation to those larger farming communities that have the capacity to form and maintain nonprofit organizations. Farmers should not be excluded from ecological accounting based on their lack of 501(c)(3) representation.

Many of our island residents come out to East Maui to forage for food and supplement their needs because East Maui has an abundance of wild food resources and quality food resources. East Maui already grows more nutritious food than Central Maui is producing, but the continued dewatering of our watershed without corporate accountability has already and will continue to kill off the vitality of our ability to continue producing water, wild food resources, and procured indigenous food resources such as kalo.

We need to empower East Maui that has the ability to feed our County without the need of diverting water from the source and harming other farmers in the process. East Maui was the breadbasket and largest food producing region of this island. The indigenous agriculture infrastructure to feed Hawai'i exists in East Maui. The only thing missing is the water and support of our potential. It is logical to stop diverting the majority of water out of East Maui to farm in the desertified Central Maui plain. There is more than enough water for Upcountry residential, commercial, and agricultural needs. We just need better management.

Please support CR 56 to help balance the water management on our island before it is too late. I wanted to note that Mayor Victorino is likely only in opposition to this due to his repeated campaign donations from Alexander & Baldwin, the corporation that has unrightfully controlled our water to date. Mahalo.

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

Madam Clerk.

COUNTY CLERK: Our next testifier is Cullan Bell, to be followed by Michael Kehano.

MR. CULLAN BELL (testifying on Committee Report No. 22-56):

Aloha, Council, Chair. Thank you for putting this on today. One thing I want to talk about is transparency or the lack thereof. I found out about this, a friend Kim, thank you for notifying us that this was going on. But I want to quote, Councilman Sinenci, "When a private for profit entity acquires the right to water, the water becomes an economic commodity. By acquiring these leases the County has the opportunity to manage the water resources as a public trust, assure equitable rates for all farmers, and further the County's and State's goals of food security and sustainability for our local agriculture". So, for over a century A&B and now A&B and Mahi Pono are trying to control our waters.

I am in favor of CR 56, and per Hawaii State Constitution, water needs to be managed in a public trust, not by a private foreign entity or a private corporation. We need to have a voice and its time that we start standing up and start showing up to more of these and voicing our opinions and we need to stand up for our people, for our kids, and for generations to come. Because we've seen what the largest land buy in Hawaii history has done, it turned our central valley into a giant dust storm every day and local farmers are struggling, paying, you know, 100% of what Mahi Pono is paying for the water right now, over that. So, it's time that more people stand up. Stand up for our children, like I said, and stand up for our local farmers. We were once food independent, we can be close to that again. We can start moving and you know, moving the wheels in motion for change, and being food independent, and securing futures for our children. Thank you.

CHAIR LEE: Could you wait, could you wait, please, Mr. Bell?

Vice-Chair Rawlins-Fernandez has a question.

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

MR. BELL: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for your testimony. I, I understand that you just recently learned about this. There are two proposals on today's agenda. CR 22-56, which you testified in support of, and that's the establishment of an East Maui Community Water Authority. Member Sinenci also proposed County Communication 22-151, which would establish a Maui County Community Water Authority and an East Maui Community Regional Board. Did you have an opportunity to review CC 22-151?

MR. BELL: I did not. I definitely will though.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I was going to ask your opinion of that.

MR. BELL: I'll review it and maybe we can talk story after.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo.

Mahalo, Chair.

CHAIR LEE: Anyone else? Members?

If not, Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Michael Kehano.

MR. MICHAEL KEHANO (testifying on Committee Report No. 22-47):

Good morning, Council Chair Lee and Councilmembers. My name is Michael Kehano, I'm the Solid Waste Division Chief for the County of Maui.

I'm testifying on Committee Report 22-47, regarding amendments to the outdoor lighting code. The proposed bill removes the exemption for temporary lighting. Since our County landfills begin operations before the sun rises and after the sun sets, we utilize temporary light trees to light the working area for our landfill when it's dark. Without the temporary light trees, there's only the lighting from the equipment or refuse trucks dumping in the working area, which makes it difficult to see when it's dark. We also have our landfill attendants on the ground, that have to direct the refuse trucks, proper dumping areas. And without temporary lighting, those employees are hard to see, unless they are directly in the light of the trucks or equipment.

While the Solid Waste Division does support the intent of the bill to protect seabirds, we are requesting that you consider amending the bill to allow for an exemption for temporary lighting. Thank you for your time.

CHAIR LEE: Any questions, Members?

If not, thank you, Mr. Kehano.

MR. KEHANO: Thank you.

CHAIR LEE: What's causing the feedback? Mr. Kehano's? Okay. Please call the next testifier, please.

COUNTY CLERK: Our next testifier is Dennis O'Shea, to be followed by Dick Mayer.

MR. DENNIS O'SHEA (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

Council. Chair. Thanks for having us this morning. I'm here this morning real quickly just to talk about something I learned about actually just yesterday.

I have had some conversations in the last few months with some local farmers, small farmers from Kula, Haiku, to Hana. Was out at Honomanu last Sunday, actually with Napua and I'm here to ask you to vote for the 22-56 mainly because what concerns me is, anytime you have a foreign entity or corporation in charge of public waters, it never seems to go well. I've read several other studies from other states. The farmers their main concern that I've talked to them about is that if Mahi Pono, the Canadian corporation is allowed to control the water for the next 20 to 50 years, small farms from like I said, Kula to Hana will be pinched out and non-existent in several years. And they are actually the ones who are providing us with healthy organic foods through businesses like the Food Hub in Kahului. So that gives me great concern.

Anytime a corporation is in charge of anything, especially a foreign corporation, it just isn't a good, good idea. And when I hear people that are for that, I, it just makes me wonder what the motivation is, especially with like Mayor Victorino. I just don't understand how your motivation could be to take something like that from the people and give it to a corporation, especially a corporation that is not from here and from what I've witnessed, not doing such great things.

And I remember, driving through Central Maui as a lifeguard coming from Paia side to this side to work and it was green, obviously because we had sugarcane but now we do not, it's turned into a desert and there are dust storms and dust devils daily. My house is dirtier than it's ever been. And I believe truly that this is because of some of the actions from the corporate farming entities, by fencing off areas, causing wild animals to up into the Upcountry areas and become nuisance and that's a whole other issue.

With regard to 22-151, what I would ask also is to have this board that's going to be created if we go this direction, have the board members be elected by the people, not selected by a government or any corporate entity because we all know how that goes, right? I mean, I've applied a couple of times for some committees and when the government selects those people instead of being elected, it tends to go a certain direction and that gives me concern as a citizen as well.

Anyhow, that's, that's all I got to say, I just hope that you guys will vote in the right direction for the people. And keep the water rights, or bring the water rights back to the people. Because I believe as a citizen the people know what's best for them, not a corporation. Corporations always do what's good for the corporation. I've never seen it any other way, so that's my concern. I appreciate your time.

CHAIR LEE: Thank you. Members, any questions?

Member King.

COUNCILMEMBER KING: Just real quick. Thank you, Chair. I just wanted to, if you could clarify what boards and commissions that you've applied for?

MR. O'SHEA: South Maui Planning Commission?

COUNCILMEMBER KING: Oh, Planning Commission. We don't have a Planning Commission yet. We're hoping to get one.

MR. O'SHEA: The CPAC.

COUNCILMEMBER KING: Oh, CPAC. That has not been appointed yet.

MR. O'SHEA: Correct.

COUNCILMEMBER KING: Just to let you know. So, yeah.

MR. O'SHEA: I've applied for it. I haven't heard back.

COUNCILMEMBER KING: Okay. Good to know. Nobody's heard back yet. So.

MR. O'SHEA: Will we hear back soon?

COUNCILMEMBER KING: Yesterday was the deadline and so this next week we're going to be sorting through all the applicants.

MR. O'SHEA: Okay, great. I appreciate it. Hopefully I'll hear back soon.

COUNCILMEMBER KING: Thank you.

MR. O'SHEA: Alright. Thank you.

CHAIR LEE: Oh, we have one more question.

Member Paltin.

COUNCILMEMBER PALTIN: Sorry, I missed, what was your name?

MR. O'SHEA: Dennis O'Shea.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. O'SHEA: Yes, ma'am.

CHAIR LEE: That's all? Anybody else? If not, thank you Mr. O'Shea.

MR. O'SHEA: Thank you. Have a good day.

COUNTY CLERK: Chair, our next testifier is Dick Mayer, to be followed by Raymond Jordan.

MR. DICK MAYER (testifying on County Communication No. 22-151 and Committee Report Nos. 22-56 and 22-57):

Good morning, Councilmembers. Can you hear me? Can you hear me?

CHAIR LEE: Yes.

MR. MAYER: I would like to speak on two items, the two Charter amendments that are possibly going to be added to our November ballot.

The first deals with the Planning Commissions. As you've heard from me before, I strongly support the idea of having each of our districts on Maui having its own planning commissions. One of the objections of the Administration, the Planning Director is that this is going to be difficult to get people to do this. What is happening is we're going from having one advisory committee in Hana, one in South Maui, and one in North Maui, with this membership and one Central planning commission. We'll be reducing that down now to seven members on each of these boards. We no longer will have the Central Maui planning commission and so I don't think the addition of Central Maui, Upcountry Maui, and West Maui will add many more people. It would not be much more of a burden to get the people to represent their area. But the decision-making will be greatly enhanced by having people knowledgeable about the issues coming up in their area and giving them the ability to, to make decisions. It will allow for meetings much more easily, I think to be held in the evenings so the citizenry, the community of Maui will be able to participate.

And so, I'm going to strongly urge that you put this on the ballot and allow the voters of Maui to decide. Lana'i and Moloka'i already has a planning commission, and both of them have much lower populations than West, Central, or Upcountry Maui. And I think it's time for each of the districts of the County to have a voice in their own communities' development and changes. So, please support that.

The second Charter amendment is the one dealing with the water authority. There are two items on the agenda, today. I'm going to urge you to support 22-151, the committee, the committee communication which would allow for a water authority for the County with a provision that East Maui would be able to establish its own advisory body initially. Subsequently, over the years, it may turn out that West Maui or Nā Wai 'Ehā area, or Moloka'i, or Lana'i for that matter, each of the other areas where there are watersheds could establish their own water commission. I think we're setting the basis for that at this time without making a permanent commitment, but that will be in the hands of the Council to set those bodies up when the time comes.

Um, 22-151, which several people have, in East Maui have spoken to is excellent. Only the 22-56, is the one they spoke up on. 22-151 is better because it includes the East Maui and it sets up a Central water authority. I'm sad to hear the Administration, Sandy Baz, the Mayor, opposing these things because I think these are progressive ideas that will move Maui forward and be able to take care of two major concerns that we have in the County, good planning and our water, administrating our water.

So please put these on the ballot and I'll be glad to answer any questions you have on why I would like to see that happen. Thank you and wish you well. And I just want to point out, today is the first time I've ever seen over 100 people were in the chat area for this meeting showing the strong interest of the general public in what you're doing today. Thank you.

CHAIR LEE: Thank you. Members, questions? No questions. Thank you, Dick.

MR. MAYER: Thank you.

COUNTY CLERK: Our next testifier is Raymond Jordan, to be followed by Leslee Matthews.

CHAIR LEE: Morning.

MR. RAYMOND JORDAN (testifying on Committee Report No. 22-56):

Thank you. Appreciate your time. I'm here on 22-56. I think many members here, attendance have voiced their support or opposition to this. In my one, and I'm not even sure how we got to this point, where this is actually being put up on ballot. A foreign entity controlling your water supply is, its madness. And I, and I hope the Members here understand that allowing that to go forward it's borderline treason. Do you understand this? So I would encourage everybody, and I appreciate the position about putting this to a legislative vote. But, you know, as a East Maui resident myself, you know, I'm for handing this to the people, where it always should have been along with a number of other things that I'm just seeing pop-up over, and over, and over where we're systematically having our rights and our inherited benefits stripped from us, through various means. So, I appreciate the Council's time. And any questions?

CHAIR LEE: Thank you.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Jordan. Mahalo for your testimony.

I just wanted to clarify the portion in your testimony where, it wasn't clear if you understood that right now the EMI is controlled, controlled by Mahi Pono? Currently.

MR. JORDAN. Currently.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay.

MR. JORDAN: This is, this is part of the problem.

VICE-CHAIR RAWLINS-FERNANDEZ: Hence the proposal.

MR. JORDAN: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

MR. JORDAN: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: I just wanted to clarify that. Okay, mahalo, Mr. Jordan. Mahalo, Chair.

MR. JORDAN: Thank you.

CHAIR LEE: Thank you. Any more questions? If not, thank you very much. Next.

COUNTY CLERK: Chair, our next testifier is Leslee Matthews, to be followed by Jay Penniman.

CHAIR LEE: Good morning, Leslee.

MS. LESLEE MATTHEWS (testifying on County Communication No. 22-151; Committee Report Nos. 22-56 & 22-47; and Resolution Nos. 22-166 & 22-168):

Oh, good morning. Sorry, I couldn't hear. Good morning, Councilmembers. My name is Leslee Matthew, I am an attorney and social worker, and I had a few items that I wanted to testify on.

The Resolution 22-168, in the wake of the devastating opinion by the Supreme Court overturning Roe vs. Wade, I'm in strong support of a women's right to choose and to have autonomy over their body. And I support, you know, the legislation that's been codified at the State level to support a women's right to choose, and birthing people's right to choose. I would just like to, you know, the Constitution was written by people that were engaged in international human trafficking, genocide, and by people that didn't look like me and thought people like me should be three-fifths of a person. And so, you know, we have to continue moving forward that people should have their right to bodily autonomy over their own bodies.

And for 22-168, I would just like to request that the people that the resolution is going to be expanded to the Speaker of the House, the President of the Senate, and also Senator Manchin, who is one of the only Democratic Senators that voted against codifying Roe into law. I think that they need to know that they have support from places like Maui County. It's just really devastating that somebody find a time clock to take us back in time, so that we woke up with less rights than when we went to sleep.

And I also, I also am very grateful that we put in how this disproportionately impacts Native Hawaiian women, Black, Latino women. Abortion will always happen, it will just happen less safely. People will find a way to get access. Those that are wealthy will have access to, it's a reproductive justice issue.

And then moving on to 22-166, the, about the camping, encouraging the Department of the Prosecuting Attorney to work with DLNR to enforce camping. A lot of what was mentioned in the resolution has to deal with the community of houseless friends, and it does not include any social service agency to work in collaboration with the Department of the Prosecuting Attorney or DLNR. And I think it's a bad resolution that's, it's just misplaced that we would have, the Prosecutor's Office is a law enforcement agency; DLNR is a law enforcement agency. We do not need law enforcement to help people that are in crisis.

The 80 people that were displaced from their homes, there's now a lawsuit that has been levied against the County for the horrible way that they treated people and their belongings and their things. And so, you know, whereas, we do have an issue with, perhaps, using camping and things like that for, you know, tourism, the issues that are specifically mentioned in the resolution has to deal with our homeless, our houseless friends. And so, we, this should at least involve some social service agency that's participating and certainly not law enforcement. We do not need more law enforcement terrorizing our friends that have fallen on hard times.

And then also moving on to 22-56, and 151. I'm in strong support of a, of, you know, we're talking about bodily autonomy and just control over your own resources. And so, looking at water, you know, water is life and this is the historic dates, returned the most precious of our resources to future generations, and to stop water theft by corporations like A&B, Mahi Pono. This has good implications on climate change, food security, and population growth. So, I support whether it is at a County-level with a designation for East Maui, but I definitely think that there should be a priority for East Maui. When I go with my aunties . . .

CHAIR LEE: Leslee, we can't hear you. Could you turn your video off, maybe that will help?

MS. MATTHEWS: Can you hear me?

CHAIR LEE: Yes, we can.

MS. MATTHEWS: Okay, thank you. So just, you know, from a personal place of watching my family, you know, on their farms here on Maui, and you know, seeing how the resource of water has been so mismanaged, and there's been a priority of a corporation over the people. It's really devastating, especially in a time where we know that Maui can grow enough food to feed our people. And so, you know, I wanted to speak about that and so whether that, like I said is in 56 or 22-151.

And I'm in support for protecting our seabirds with lighting. And I would just hope that, you know, the, the County departments that have concerns about these issues, us regular folks have to keep up with the agendas, and make sure that we're staying abreast of the issues and these things are so important that, you know, everybody has a voice in our government and to, you know, be involved and respond to requests from Councilmembers, so that we can move the legislation forward to help protect our wildlife. And so thank you for putting this forward.

So really, it's just a day of being able to control our bodies; to control our water, and to take back power from oppressive, oppressive things. So, thank you so much for the opportunity to testify.

CHAIR LEE: Thank you. Members, questions?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Matthews for your testimony.

I had a question regarding your concerns on 22-166. Is it, if it was more aimed at the folks who were renting camper vans to tourist, rather than the folks that were doing the camping, would that satisfy your concerns?

MS. MATTHEWS: Oh, yes. Thank you for the question. Yeah, if it's more geared towards, you know, unlawful tourist activities, which, you know, at places like Ukumehame that are designated as County parks and things, they don't, the law prohibits that type of activity from going on without a proper permit. So perhaps we need to be looking at that, and enforcing those things.

Because I'm just looking at the resolution again, and it's, it's talking about the issue, you know, that are happening like at Cut Mountain, what happened at Kanaha. And those are issues of folks that are houseless and us not being able to provide affordable, attainable housing, and a continuum of care to take care of those people, which is a completely separate issue from the unlawful tourist activities that are happening by those companies.

COUNCILMEMBER PALTIN: So just to clarify, if folks are enabling supposed unlawful activity for a profit, that's where you would like us to direct our efforts?

MS. MATTHEWS: Yes. I think that would be good. You know, I've prosecuted those crimes when I was at the Prosecutor's Office. I think that, you know, definitely curbing those activities, so that people can be in line with, you know, get the proper permits, be in the proper places. But I think it conflates the issue, and it also involves folks that are houseless without resources. There's nothing of mention of social service. Department of Housing and Human Concerns isn't mentioned in this. So, I think that there are two different issues. I certainly think that tourism has a bad impact on people that are houseless, and it drives up the prices and things like that. But I think they are two separate issues.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR LEE: Any more questions? If not, thank you very much, Leslee.

Madam Clerk.

COUNTY CLERK: Our next testifier is Jay Penniman, followed by Byron Brown.

MR. JAY PENNIMAN, MAUI NUI SEABIRD RECOVERY PROJECT (testifying on Committee Report No. 22-47):

Aloha kakahiaka. . . . Chair Lee, Vice-Chair Rawlins-Fernandez, Members of the Committee, the Council.

I think everybody knows here my support for the, what was Bill 21, and I don't really need to reiterate much of that. Seabirds are culturally and biologically extremely important, and this bill is one of the things that the Council can do, both the Council and the Administration have made excellent statements about resiliency and addressing climate change, and this is an actual action that will do that.

I want to emphasize, too, that exemptions addressed in the bill as it's presented for an ordinance under Section 20.35.070, address holiday decorations. These have been raised as saying you would not be able to have holiday decorations, that is not true. There's an exemption there. Safety and security for water features. Temporary road and emergency lighting. The chief spoke this morning about the need for emergency lighting that is addressed in these exemptions. The bill is ready for passage as it is written.

I'd also like to point out that the Maui Harbor Shops, Tapani Vuori at Maui Ocean Center has kind of lead the way there. They are installing compliant lighting in that parking lot as we speak. They are in the process, and within the next several months, there will be compliant lighting in that parking lot. A significant step forward for the Ma'alaea area, which is right there by the water.

These fixtures are available. I think you might hear later about an Amazon available bulb that was recently sent for testing. The specs on that, it is compliant. There is a Native Hawaiian woman owned and operated small business known as Solar Bollards. They have supplied compliant lighting across the State. There is LED Hawaii on the Big Island, Hawaii that supplies compliant lighting. They're, the outfit that's supplying the Maui Harbor Shops is First Light Technologies.

While these lights might not be immediately available to everybody right now, there are vendors that provide them and there will be more. And passing this into an ordinance will show entrepreneurs that there's a business opportunity here. These are, it is a technology that's rapidly developing, and it will bring us positive benefits. So, I really encourage you to pass it today and on second reading. Mahalo.

CHAIR LEE: Thank you. Questions?

Member King, then Member Sugimura.

COUNCILMEMBER KING: Thank you, Chair. Somebody turn-off their phone. Thank you.

CHAIR LEE: Runaway bell.

COUNCILMEMBER KING: Thank you so much for being here, Mr. Penniman. My only question was if, Chair, if there are no objections, if we could ask Mr. Penniman to be a resource when we get to that item. And, and if he would like to go home and do that virtually, I think that's fine. But you have so much expertise in this area and you, and you helped on the legislation as well.

MR. PENNIMAN: I'll be glad to do that.

CHAIR LEE: Members, any objections.

MEMBERS VOICED NO OBJECTIONS.

CHAIR LEE: If not, look forward to talking to you again later.

COUNCILMEMBER KING: Thank you.

MR. PENNIMAN: Mahalo.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR LEE: Member Paltin has a question for you, Mr. Penniman.

COUNCILMEMBER PALTIN: Oh, no, it's not a question. I can hold till the item comes up. I just want to be sure that I'll be able to ask him that question when the item comes up because in the past sometimes, we ask people to stay as resource and then we weren't able to ask them the question. So, I can hold my question if we can ensure that I'll get an opportunity to ask it to him when the item comes up.

CHAIR LEE: Why don't we ask the question now?

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Go ahead, Mister, I mean, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just, when you said the bill is ready to go right now, I had a question about that, because the bills' three year exemption only applies to fixtures installed prior to the enactment of the ordinance. So, the question is regarding new housing projects that haven't yet installed their outdoor lights and are in the obtaining permits phase of, and that the Public Works hasn't yet developed the criteria by which they would verify compliance with the ordinance, because it's not yet installed but they're, like going through their process right now. So, I just was wondering if you could speak to that in regards to your, clarifying your comment that the bill is ready to go?

MR. PENNIMAN: Surely. I do believe that any light that is purchased can be verified with an independent lighting institutes that do this, and these lights are available. So, there should be no issue whatsoever in being able to verify that the lights that would be installed after this is enacted are compliant.

COUNCILMEMBER PALTIN: So just to clarify, you're saying that the light bulb itself can go into any fixture?

MR. PENNIMAN: There are, it's not that, just any fixture. There's a number of different options for the way that lights are put up, and there are compliant light fixtures available for every kind of lighting application.

COUNCILMEMBER PALTIN: Yeah, but, if they are currently going through the building permit process and getting their fixtures approved, the, the ordinance takes effect upon approval for those ones, and then there's a three year delay for those that are going, that are already in. So, if there's no criteria developed at this time to approve the fixtures, then it could cause a delay in housing being built, or is that not how you see it?

MR. PENNIMAN: I do not see that it would be a delay in housing building. You know, I think that there are these fixtures available, these compliant lights available, and it would just be a matter of procuring those.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR LEE: Member Sugimura, then Member King, and then Vice-Chair.

COUNCILMEMBER SUGIMURA: Thank you. So, basically, can you name again the companies that are selling your light bulbs that you're advocating for?

MR. PENNIMAN: There's C&W Energy Solutions.

COUNCILMEMBER SUGIMURA: On what island?

MR. PENNIMAN: They are located in Arizona.

COUNCILMEMBER SUGIMURA: Arizona? The Big Island.

MR. PENNIMAN: They are the ones who supplied the lighting for the Big Island for the most part.

COUNCILMEMBER SUGIMURA: So they are not even in Hawaii, so they're shipping that?
Is this what . . .

CHAIR LEE: You want to ask a clarifying question? He's coming back.

COUNCILMEMBER SUGIMURA: Okay. Well, can, can you give us a list that you mentioned
in your testimony?

MR. PENNIMAN: Okay. And then, LED Hawaii, is located in Kapolei and Kailua-Kona.

CHAIR LEE: Okay. We can get that information when you come back.

Okay. Member King.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to mention for everybody's
edification that the ASF also delays the effective date. So, it will not be effective upon
passage.

CHAIR LEE: Okay. Then Vice-Chair Rawlins-Fernandez had a question.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Penniman. Mahalo for
your testimony this morning.

My question is regarding the exemptions that you listed. You mentioned holiday
lightings, emergency lightings, and I didn't hear, maybe I missed it, the lighting for the
landfill, I don't think it would be considered emergency.

MR. PENNIMAN: No, I think that would fall under the exemption that's, it states, I don't have
the wording here, but agricultural operations. And it seemed clear to me that the way
that, you could look at 20.35.070, and that's where it's listed out those and the way I
read it that the landfill would be covered under that.

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

CHAIR LEE: Okay. Anybody else? If not, we'll talk to you again later. Thank you.

Madam Clerk.

COUNTY CLERK: Our next testifier is Byron Brown, to be followed by Bob Adams.

MR. BYRON BROWN (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

Good morning, Council Chair. How are you? Thank you so much, Council for having us. This is in regards to 22-151 and 22-56. I'm a Makawao resident, Upcountry and this was brought to our attention at the Haiku Community Center the other evening with Councilmember Sinenci.

And it's amazing, because this vote just so everyone knows, and I know you are aware of this, just gets us to the July 15th vote. This is just a vote for a vote. We are asking for sure to get us through this one to the 15th. I think a lot of our Council need to know that you represent us. Upcountry, Mrs. Lei, you represent Upcountry. And the Kula Community Association, that represents our farmers and our ranchers want this, and we want a water association in place.

The idea that our water could be in the hands of a foreign entity for 50 years, we will all be dead. Keep that in mind, look around. Our children will still be alive, finally one day saying, they voted this and they could have had it in the County. We could have been in control. But they had it for this entire time.

Because if we remember in 2019, you're all aware that Mike Molina [*sic*], our Mayor got a letter from Kai Kahele, that letter explained how he had the opportunity because the one-year leases were coming to an end and they were going to allow for 30 to 50 year leases on water. This is all true. Mike Molina [*sic*] did not make this clear, I'm sorry, I'm using the wrong word. Mike Victorino. It landed on his desk. I apologize Mike Molina. I apologize sir. Mayor Victorino did not make this letter available to any of us. He did not make the community aware that he got this letter. In fact, he has never advocated for a community to get water back into the community's hands and have a water authority. In fact, he paraded Mahi Pono around to the other community centers to show them off.

I am asking that we pass this today, to get us at least to July 15th, because that's all this is. This just gets us to July 15th. And I appreciate so much the information that came forward. Some of you are not aware that this in the hands of the County can also make three million dollars for the County in fees and costs. It will not, if we sell the water to Mahi Pono and to our community at the rates it's at with minor upgrades, it is a profit, profitable business to have in the County. It is not a loss as some of our Councilmembers have said it will cost our community. It will cost our community if we give these rights away to a foreign corporation. And that long? Imagine the detriment to our children?

And so, I want to thank the Council for hearing me. Please get us through to the 15th, so we can look at this more and I ask our Upcountry Council to represent us Upcountry residents as we elected you to be that. Thank you.

CHAIR LEE: Members, any questions?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much for testifying today.

Do you have a copy of that letter?

MR. BROWN: I do.

COUNCILMEMBER SUGIMURA: That was never shared from Congressman Kahele.

MR. BROWN: Sure. I do.

COUNCILMEMBER SUGIMURA: Could you share it with us? I don't mean for you to read it. I mean, could you share with the Council?

MR. BROWN: Sure. You don't have it? Most have it. I can send you a copy, if you need a copy. I have it.

COUNCILMEMBER SUGIMURA: I'll have staff send it.

MR. BROWN: Okay, but I believe Kelly you have it as well.

COUNCILMEMBER SUGIMURA: So, in other words, Shane Sinenci has it?

MR. BROWN: Shane for sure has it.

COUNCILMEMBER SINENCI: Chair.

CHAIR LEE: Yes.

COUNCILMEMBER SINENCI: It was included in the Board of Water Supply TIG report.

CHAIR LEE: Okay.

COUNCILMEMBER SINENCI: Yep.

CHAIR LEE: Alright. Any more questions, Members?

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: If not, thank you very much.

MR. BROWN: Thank you very much.

COUNTY CLERK: Chair, our next testifier is Bob Adams, to be followed by Kimberly Brown.

CHAIR LEE: Mr. Adams. Scott Adams. Okay.

MR. BOB ADAMS (testifying on Committee Report No. 22-47):

Hello.

CHAIR LEE: Oh, maybe there is a Robert Adams.

MR. ADAMS: There is a Robert Adams. Yes.

CHAIR LEE: Okay. Alright. Mr. Adams, please proceed.

MR. ADAMS: I spoke up a week ago, and some questions have been put back to me that I, I'd like to comment.

There are issues that, concerning the, the safety of some of these lights, enough light for safe workplaces. I'd like to point out that on the Big Island, the harbor has had these lights up now for ten years. Obviously, they run 24/7, so the brightness at night is a critical factor for loading, unloading, reading manifests, and these lights provide more than adequate light for doing that.

We've installed lights on temporary standards where you have local, a local generator for people to use at a worksite. So, I think the concerns about, is this bright enough? I think those are well-answered. I think the confusion comes when people are looking at some of the standard white LEDS. The glare is so bright on them that you think it's brighter. But if you actually measure the light on the ground, we put the same amount of light on the ground, we just don't have the discomfort with the lights.

So, and we've mentioned before, how many of you have driven down the road and the halogen lights shine from the other car and your reaction is oh my god, get them off

the road? Well, it's that same glare that gives that bright appearance. So, I think that this issue of concern for intensity is something that is well-handled.

When I testified the last time, I commented about a light bulb. I supplied some information, I think Councilmember King, she's seen it or has the light bulb. But you could put up, it's an A-19, which is the universal, thank you ma'am. That light screws into any fixture in most homes that you have anywhere in the country. Amazon, there were others on Amazon. So, you could pick your choice.

The one other thing that I mentioned the last time, that I still feel is a really important factor is when you start looking at how these lights are supplied. I firmly believe you need to have an approved list so that the local people and the local vendors are not responsible for seeing that it meets an ordinance. I believe it's incumbent upon the people who supply these lights to provide a test report. And Councilmember King, she's seen some of the reports.

That report identifies families of products that pass the ordinance, will meet the spec. And now contact, in fact, the Big Island Public Works Department, you can go online, and they have a list of approved lights that you can use. Whether it's at the harbor, or whether it's at your backyard. So, I think that would really help people feel better about it.

So again, I appreciate your time. I, people feel free to contact me. As I've said, I got 20,000 lights up on the Big Island and we've been there for ten years. I think we have a good feel for it and I've been working with Jay for the last five years, pushing the idea of how we could make these night lights friendlier to the environment, the birds, and people. Thank you very much.

CHAIR LEE: Thank you. Members, questions?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. As I tried to get earlier, I think you came and testified, but what is the name of your company, sir?

MR. ADAMS: C&W Energy Solutions.

COUNCILMEMBER SUGIMURA: And you're on the Big Island, you said?

MR. ADAMS: I have lights on the Big Island. I manufacture the lights in Arizona. I'm a U.S. made lighting supplier. I don't import from China.

COUNCILMEMBER SUGIMURA: Okay. So, you're the Arizona company that's selling to the Big Island?

MR. ADAMS: Yes. That's correct.

COUNCILMEMBER SUGIMURA: And so, if you've done 22,000 lights on the Big Island, you stand to make a lot of money, if this bill passes. So, you're advocating for it?

MR. ADAMS: There are other people that sell the same type of lights, it will be competitive bids. I think the free market always wins at the end of the day. And I'm not one that supplies lights with the Amazon type. Mine are really . . . for roadways, parking lots, those kind of outdoor lights that have to have a lot of output efficiency. So again, it's a competitive market.

COUNCILMEMBER SUGIMURA: The Maui bill, as you know, is for residential and commercial. So, the business that you do for the Big Island is primarily for commercial?

MR. ADAMS: I do HOAs. I've done homeowners. I've done the county, airports, shopping centers.

COUNCILMEMBER SUGIMURA: Commercial.

MR. ADAMS: Yes.

COUNCILMEMBER SUGIMURA: HOAs, commercial and probably their public places. But thank you very much.

CHAIR LEE: Anymore questions, Members? If not, thank you very much. Next testifier. Just to let everybody know we'll take our first break at 10:30.

COUNTY CLERK: Our next testifier Kimberly Brown, to be followed by Nathan Strubhar.

MS. KIMBERLY BROWN (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

Good morning.

CHAIR LEE: Good morning.

MS. BROWN: Again, I want to thank Shane. Again, we stumbled upon this information at the, oh and I'm testifying on behalf of 22-56 and 151.

CHAIR LEE: And your name again, please?

MS. BROWN: Kimberly Brown.

CHAIR LEE: Kimberly Brown. Thank you.

MS. BROWN: And I'm representing the people of Maui and especially Upcountry. I did watch your June 15th testimony, discussion vote for this. And so, I know where you guys stand, but I'm asking you to give the people their voice and be able to vote on this. So, we all have a voice in this. And I thank you so much, Shane, for bringing this to our attention. Again, we happened to have stumbled upon it, and it was such a great informative meeting. I think everyone needs to hear it. But I just really, really thank you and I want to champion you as a member of the community representing us accurately. I just really value that.

So, I am in support, I'm asking all of you to vote yes today to give the people the opportunity to vote on the General Election, I believe. Yes. November. Awesome. And then, well July 15th first. So, thank you guys. I appreciate it. Any questions?

CHAIR LEE: Anyone with questions?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Ms. Brown for your testimony.

MS. BROWN: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha. Sorry. Same question I asked Mr. Bell. There are two proposals and I understand that, that meeting was yesterday.

MS. BROWN No, it was Wednesday.

VICE-CHAIR RAWLINS-FERNANDEZ: So, you just recently learned about it.

MS. BROWN: Correct.

VICE-CHAIR RAWLINS-FERNANDEZ: So, there are two proposals that are on the agenda and you watched the June 15th meeting to understand what we were trying to do so that there are two options.

MS. BROWN: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: There's one proposal which is the CR 22-56, that is the East Maui Community Water Authority.

MS. BROWN: Correct.

VICE-CHAIR RAWLINS-FERNANDEZ: And then there's County Communication 22-151.

MS. BROWN: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Which is the Maui County Community Water Authority and an East Maui Community Regional Board.

MS. BROWN: Correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Did you get an opportunity to read that one as well?

MS. BROWN: Not fully. I've seen it on here, but not fully through. But the way it was explained, I understand.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And which one do you support?

MS. BROWN: I, the water authority.

VICE-CHAIR RAWLINS-FERNANDEZ: CR 22-56, which is the East Maui Community Authority alone?

MS. BROWN: Both.

VICE-CHAIR RAWLINS-FERNANDEZ: Or the Maui County Community Water Authority and East Maui Community Regional Board?

MS. BROWN: For the people to have, the County to have the control over it, so that we would have authority. I don't want a private entity, a foreign entity; it needs to come back to the people. We've been waiting hundreds of years. So.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Brown. Mahalo, Chair.

MS. BROWN: Thank you.

CHAIR LEE: Thank you.

Madam Clerk.

COUNTY CLERK: Our next testifier is Nathan Strubhar, to be followed by Christopher Fishkin.

MR. NATHAN STRUBHAR (testifying on Committee Report No. 22-56):

Hi. Good morning.

CHAIR LEE: Morning.

MR. STRUBHAR: I'm amazed that you pronounced my last name correctly. So, thank you. I represent myself, my wife, and my two kids here, Paige and Carter. Sorry, I'm a little nervous . . . interesting. I've never, I've been a Maui resident for almost 14 years, and after the last few years of what's happened in our world, I've never really been concerned with how things are managed, and how things work in our County and on our island. But I am starting to realize that it is a huge deal. It's a really big deal, especially for my kids, and the next generation coming after them.

And so, for, I'm talking about CR 22-56, with the water. I'm actually, personally good friends with about five different farmers that are part of the Hawaii Farmers Union United, and I've had the opportunity to work with them doing videography for them and learning about their practices in farming for our island. And if you want to change our island, talk to those guys, they're the ones that can solve the problems. I've had multiple meetings about the Central Maui dust bowls, we all like to call it. I sat down and chatted with them and it's been incredible to hear how simple their solutions are to fix that and to be able to be, to have our entire island sustainable with food in a matter of maybe, just a few years?

And so, the fact that we're importing close to, I think the statistics was around 90% of our food? I may be wrong. To be able to grow all of that here would be incredible. And so that would, I just want to create a better future for our kids, for myself, for all the people that are represented here. And so, please, please, please get to vote yes, so that we can vote on it as people. You represent us. We really, really, really need to have this in our hands, just from, just from the pure idea of being able to grow our own food and have control over that. That would be absolutely huge.

And I'm honestly, honestly confused as to why our Mayor would want to partner with a foreign entity, a foreign corporation over representing our people here? I don't understand his slogan when he says he has a heart for the people of Maui and then would go off and do something like that? That doesn't align with his motives, his slogan. That makes no sense. And so, as a member of this, of Maui, I'm just appalled that that would, that this could be possible to not have control over our water. So, please vote yes. Thank you so much for your time. Much appreciated.

CHAIR LEE: Thank you. Members, questions? No questions.

Thank you very much. Who got a question, you do?

COUNCILMEMBER SUGIMURA: Yes. Just kind of quickly. Thank you very much for testifying. You're a videographer? Right? You were saying. So, thank you for that specialty and I just wondered with your passion about growing your own foods. So, are you also a farmer?

MR. STRUBHAR: I wish. Well, these kiddos are actually learning a lot about that with as much as we can do. We live in Waikapu, and we have, we turned our, we actually, sorry kids, we took out their, their above-ground pool and we put in gardens. Luckily, they were onboard with that and we've been able to grow a lot of our food in our backyard as much as we can and on the sides of our houses with garden beds. And so, yeah, that's as much gardening as we're able to do.

COUNCILMEMBER SUGIMURA: Okay. That's very good. So, so thank you, Chair, and I guess when we go into this item, then we can clarify some of the information that we're hearing, that testifiers are saying. So, thank you.

CHAIR LEE: Any more questions, Members? If not, thank you. We'll take one more. Go ahead. Thank you very much.

MR. STRUBHAR: Thank you.

CHAIR LEE: We'll take one more testifier before our recess.

COUNTY CLERK: Our next testifier is Christopher Fishkin. And when we resume after the morning break, Sheila Walker will be up for testimony.

CHAIR LEE: Who is?

COUNTY CLERK: Sheila Walker.

CHAIR LEE: Sheila Walker, okay.

COUNTY CLERK: But right now, Christopher Fishkin.

MR. CHRISTOPHER FISHKIN (testifying on Committee Report Nos. 22-47, 22-56 & 22-57;
and County Communication No. 22-154):

Good morning, Councilmembers. I'm testifying on the, the last item, 50, 22-56 and also on the, the water, sorry the bird bill, the lighting bill and, and the planning commission.

So, starting with the last one, I want to support the last testifier, Byron Brown. Very, very firmly, I used to be an Upcountry resident for many, many years in Makawao and in Kula. I do believe that the Councilmember that represents that area has an obligation to represent the people in that, in that area. And the people want control over their water. And so, I'm in very strong support and plan to support that strongly with both Byron Brown and the last testifier just testified to on 22-56, to support that fully. And unfortunately, taking away rights and giving them to developers and corporations has been historically a part of the islands, and like the last testifier said, in order to change that, we really do need to act on that. So I really support the Councilmembers that support that.

As far as the Planning Commission, I want to support what Dick Mayer said. But I also want to add that I've become very knowledgeable regarding some of the real issues with Planning, and I just want to bring to the Council's attention that you know, it's really important to determine who's going to write the rules for the planning commission? It should be you guys. It should be the County Councilmembers. Because there's, regardless of how many commissions there are, if you guys don't write the rules, the Planning Director has way too much discretion and authority over what's going on.

If you just read the rules yourself, you'll see what I mean. It's an inordinate amount of power for an unelected official to have. So, I would just encourage the Councilmembers while they're deciding about the planning commissions and the structure, to please somehow find a way to determine that it's going to be the Maui County Council that actually gets to write those rules, otherwise we're going to still have the same unlaying problems, many of them that we have now.

And then regarding the lighting. You know, I believe that this bill should be passed as it stands now. I think it responsibly addresses all the concerns of Hawaiian Electric, about the availability of fixtures. And as far as Jordan Molina's comment that was published as supported by Councilmember Sugimura just in this hearing, you know,

we should be growing our own food, but we don't grow our own light bulb. They're all outsourced. There're no light bulbs produced on the islands, that I'm aware of. And if you go to Amazon.com, which is how many people do a lot of their shopping, you can, you'll see that there's a ton of light bulbs and companies that actually provide that, the light bulbs that actually are in accord with the, with the bill's, you know, restrictions.

And I'm sure, you know, Jordan Molina said, if you go into an Ace Hardware or a Home Depot, you won't find a bulb like that. You know, if you pass the bill, they will bring in those bulbs, number one; and number two, you can get them, you can get them everywhere. So, I just want to say that I really believe that this bill how responsibly addresses the concerns that were raised.

And, you know, there was a paper written in 2017, Conservation Biology, that the seabird mortality induced by land-based artificial lights, you know, the, they reviewed the impacts across the globe. It impacts at least 56 species, 46% of which are listed as vulnerable endangered or critically endangered.

Hawaiian birds have a high number of reported events of fledglings, which are attracted to the light and end up dying through a process called fallout. It's really important. This is a global phenomenon now, and Maui really should take the lead and pass this bill. Similar things are being done in islands, Pacific Islands, and in the North Sea, and even in places like Minnesota. So, I really support the passage of the bill as it's written.

And thank you Councilmembers. I finally, I didn't get to say this, because my phone fell into a body of water before the last hearing. But I just want to just briefly, if you will allow, I just want to thank Councilmember Tamara Paltin and apologize for any, anything that I may have said at the last hearing that cast dispersions on her eminent domain bill. I'm in full support. Thank you so much.

CHAIR LEE: Thank you. Members, questions?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you. No hard feelings. My question is in regards to when you said that we should write the rules for Planning. I, I was wondering if you could clarify that? We write legislation, which is the Code, Title 19, or we, not always write it, but will be the ultimate authority in passing it. But can you clarify what you said? I'm not sure if that's what you meant or something else about writing the rules for planning?

MR. FISHKIN: Yes. Thank you, Councilmember. What I was referring to is that at some point the planning commission rules were taken away from the Maui County Council

and given to the planning commission to write in conjunction, I guess with the Planning Department. And that resulted in terrible, you know, inordinate amount of power, you know, given to the Planning Director for discretion over a lot of those rules.

COUNCILMEMBER PALTIN: Sorry to interrupt. Another clarification. I'm not sure if you're referring to the administrative rules or the SMA rules, but the SMA rules that is given to them by the State to have the sole oversight, the planning commission; where we as the Council don't have oversight of the SMA areas. Are you referring to the SMA rules?

MR. FISHKIN: Yeah. You know, the, actually the Federal zone management act gives the County the ability to implement the SMA laws, and the Hawaii State law. And, you know, so, it used to be, all of that used to be under the Council is my understandings. And, and, so when you say it was given to the planning commissions to do, there were rules written that used to be under the purview of the Council that are now under the purview of the planning commissions. And, and I think it's really important that those rules, which give that discretionary power to be in the hands of the County Council, the elected representatives, not in the hands of appointed government officials, like a planning director which has, you know, a very large influence over the planning commissioner, commission that basically made up of lay people. And so unfortunately the people that are not experts, that don't have the power to investigate don't get to learn about how the process works and you end up having a Planning Director, you know, basically calling the shots over the planning commissions.

COUNCILMEMBER PALTIN: Thank you for that clarification. I don't believe it was this body, or a previous body that gave that away. It was not our decision, but thank you for clarifying. Thank you, Chair.

CHAIR LEE: Any more questions, Members? If not, thank you, Mr. Fishkin.

MR. FISHKIN: Thank you.

CHAIR LEE: Members, it's time for our morning recess. This meeting will be in recess until 10:50.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:37 A.M., AND WAS RECONVENED AT 11:02 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBER KAMA, EXCUSED.)

CHAIR LEE: Will the Council Meeting of July 1, 2022 please reconvene.

Madam Clerk, may we have the next testifier, please.

COUNTY CLERK: Our next testifier is Sheila Walker, to be followed by Mike Moran.

MS. SHEILA WALKER (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

Aloha. Thank you, Chair. Thank you, Councilmembers. I appreciate the opportunity to be here today. I'm Sheila Walker. I'm here representing myself. And I'm here to support both CR 56 and 151.

I would look forward to having the people vote on our water rights as opposed to corporations making those decisions. And I would also support the people, commission for the East Maui, East Maui water. And I would be in support also of that being an elected board for that commission. Mahalo.

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

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And mahalo, Ms. Walker for your testimony this morning. Just to clarify, both of them would establish an East Maui Board.

MS. WALKER: Thank you.

COUNCILMEMBER SINENCI: And then 22-56 would just be expanding it countywide, if other regions would want to pursue the same path.

MS. WALKER: Thank you. Thank you for clarifying.

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

CHAIR LEE: Alright. Any more questions? Thank you.

MS. WALKER: Mahalo.

CHAIR LEE: Thank you. Okay Members, I just want to remind you, I know there's the tendency to clarify information you want to give to the testifier as opposed to clarification from the testifier. So, let's try, you know, even though they're giving wrong information that's, you know, we can't correct everybody. Okay, thank you.

COUNTY CLERK: Our next testifier is Mike Moran, to be followed by David Henkin.

MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION (testifying on County Communication Nos. 22-151 & 22-164 and Committee Report Nos. 22-47, 22-55, 22-57 & 22-58):

Good morning, Chair Lee and Councilmembers. Mike Moran for the Kihei Community Association. And we want to commend this body for the outstanding work you have continued to do in so many, so many facets. So, we are among the many, many testifiers today, so I think you guys are going to need a three-day weekend to recuperate from this meeting.

So, we're going to start with 22-151, KCA is in total support of it. Some of you may recall that when 56 came up, I did mention that I personally and many individuals in our community were in support of the association, because of our by-laws we were restricted. We didn't feel it applied to our district. So, we are very pleased that, not that this was the reason it was done. Member Sinenci has 22-151, which has expanded the coverage of it and being part of it addresses, you know, the rest of us so that we can fully support 22-151 for the reasons that have been stated by many where they are talking about the older one or the newer one. So we're in total support of that.

Moving on to 22-55, the climate change adaption [*sic*] total support. And you know, we all see how other government entities are going in the opposite direction, devastatingly seem to have finally agreed this is something real. Climate change is something real. But they're still trying to inhibit it, where this Council is stepping forward, and going in the right direction. So, we are in total support of that one too.

Number three, 22-58, looking at that land at Keawakapu. We understand the concept, and we just want to remind everyone that when we're looking at the overall situation, getting land that is probably going to turn into a parking lot, we have to do this judicially. Of course, number one, if it's going to be a parking lot, don't pave it. You know, we don't need any more paving, particularly near the shoreline. And so, if it's going to be a parking lot, at least, something like gravel or something.

But also, the concept of every time we put in a parking lot, we bring in more vehicles. Some will be inhibited, let's not go drive down there, can't find a place to park. Oh, now there's a parking lot, let's go. So, all those negative aspects of it, more cars on the road, more traffic. So, we have to judiciously look at this and say are there alternatives to putting in more parking lots for motor vehicles? And we know, we've talked about them for years, walking, you know, bicycle paths, mass transit, or at least carpooling, so everybody isn't going down in individual cars. So, we just bring that into the discussion, not saying that we shouldn't do this, get that land, but be cautious on how we proceed with it.

Our next one is 22-57, and we have long supported getting individual planning commissions for individual districts. And we did submit written testimony on this one because there had been many discussions in prior meetings about the attitude of advisory boards and we included a testimony from January of, I don't have the date here, a few years ago, I think it was 20, from a long-term, a triple member of the Hana Advisory that was advising us. He sent us an individual message to South Maui and to mister, um, I have to get the right Mike here, we don't want any more mistakes. Forget about getting these advisory boards, because you'll advise the planning commission, and they just disregard what you say. And he sent that in as testimony, that was John Blumer-Buell, and he did contact us.

So, now we see how this is proceeding two-and-a-half years later, since that happened. We have our first South Maui Advisory Committee has been scheduled for this month. So that took two-and-a-half years to get this started, and we're hoping that this will do what we thought it might do is then force to the next step of getting actual planning commissions for the individual districts, such as ours. We feel that we, we can speak better, and I have mentioned before challenges we had as a community association testifying to planning commission. Not the same as an official board, but you know, with some similarities where our testimony was just discounted and not because we were asking to violate rules or laws, just because of attitude and lack of knowledge of an area. So, we stand in support of this to get it on the, on the ballot, and let the public decide on that one.

And our next one is 22-164, I don't think anybody else has spoken to this and that's that senior affordable housing project in, in South Kihei that now is running into a potential time limit. And we all know that, that has happened so many times before where, you know, everything is done, they get all the approvals, and then they don't go ahead and build. And this is something that we certainly need, more affordable rentals and . . . particularly for seniors, but we feel this is taking the right action. You can't stretch this on forever. If you're ready to go, and they said they were ready to go, they told our association that, years ago. They told every, every government board, ready to go, so we hope they will, but we understand the need to put a time limit on them. If you're, if you're not going to proceed, you're not going to lead, you know, get out of the way.

And the last item is 22-47. And we are in total support of this. We've heard the discussions, and again, this brings back that expression that the Vice-Chair used on another matter, and also educating me on the origin of it, that justice delayed is justice denied. And we can't keep pushing this down the road, and telling these endangered species, wait a little bit longer until we can get this right bulb, right here, right now. Let's proceed with this. This discussion has been on. You've heard from professionals. The

technology is available. Let's get this done and protect our seabirds, so they can help protect us. We are part of nature . . . so thank you for the opportunity to give our input on all those items today. Mahalo.

CHAIR LEE: And mahalo for all of your work. Members, questions? No, questions.

Thank you very much, Mike.

MR. MORAN: A hui hou. . . . long weekend.

CHAIR LEE: You too.

COUNTY CLERK: Our next testifier is David Henkin, to be followed by Eric Miyasato.

MR. DAVID HENKIN, EARTHJUSTICE (testifying on Committee Report No. 22-47):

Aloha and . . . David Henkin, an attorney with Earthjustice. I am a registered lobbyist. I submitted written testimony from Conservation Council for Hawaii and Center for Biological Diversity, and together with Earthjustice, we've been advocating for many years to protect our, our native seabirds.

And so, testifying in strong support of Bill 21, which came out of the CARE Committee. And you know, as many have discussed, we are not breaking new ground here. On Hawaii Island, they have been using these lights. The lights exist. They don't pose any problems for public safety. You know, it can be done, it has been done. And one of the great innovations that came out of the CARE Committee's long deliberations about the bill, they did massage the bill, they made amendments to the bill. And one of the things was to adopt an amend, adopt a definition of the "blue light content," that would be identical to the one in the Hawaii Island ordinance. And so, there wouldn't be, you know, now there would be a uniform standard across two counties and hopefully throughout the State eventually to protect our native seabirds.

So, we urge the full Council to pass this on first reading, second reading and let's get it on the books. From the earlier conversation, we understand there's a proposed amendment to slightly delay the effective date so that some of the projects that maybe are in process now can, can have some additional time to adjust under the three-year grandfathering. That makes a lot of sense.

Addressing the Police Chief's concerns about some of the emergency lighting. I think that makes a lot of sense. I also heard the testimony from, of the landfill, and of course, this, this, this bill would not outlaw these portable lighting to make sure that there would

be adequate lighting to protect workers of landfill. It would just have to be the right spectrum of lighting, you've heard from experts that this is safe lighting. It can be done. It has been done. It's been going on, on the Big Island. So, we urge that.

And I saw some written testimony from the Department of Public Works, raising concerns about some streetlights that they purchased and wanted to install, and that they would not necessarily comply with this right now? I think it's really important for the Council to be aware that the Department of Public Works was taken to court and found to have violated the Hawaii Environmental Policy Act by doing no environmental review before spending taxpayer money on those streetlights. Had they done that environmental review, they would have had the opportunity to get feedback from experts and hopefully chosen more wisely.

That's the purpose of the law, to make informed decisions and purchase streetlights like the ones on the Big Island that would comply with this ordinance. So, I don't think we should allow the fact that some of these agencies went ahead and violated the law, be a justification for them now failing to come to compliance with a commonsense measure that's necessary to protect our native birds. So, we strongly support this and we urge you to pass it.

CHAIR LEE: Thank you. Questions, Members?

Member King.

COUNCILMEMBER KING: Chair. Thank you, Chair. Thank you for your testimony, Mr. Henkin. I just actually wanted to ask if there are no objections, if you would be available to be a resource at a later time today?

MR. HENKIN: I would be happy to do that. I have a conflict at 3:00 p.m., you have a long agenda, so I guess it all depends little bit, if I can, I would be happy to.

CHAIR LEE: Members, any objections?

MEMBERS VOICED NO OBJECTIONS.

CHAIR LEE: Okay, great. Thank you, yes, it's hard to predict what time that would be, but I'm sure Member King's office will be in touch with you.

MR. HENKIN: Thank you.

COUNCILMEMBER KING: We'll give you a call. It's at the end of the agenda, so we'll give you a call.

CHAIR LEE: Alright.

COUNCILMEMBER KING: Thank you.

MR. HENKIN: Thank you very much.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR LEE: Any other comments or questions?

COUNCILMEMBER SUGIMURA: Not for him. For you.

CHAIR LEE: Not for him. Okay. Thank you very much.

MR. HENKIN: Thank you.

CHAIR LEE: For your testimony.

COUNCILMEMBER SUGIMURA: Chair, how many more testifiers do we have? I'm just curious.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Over 30, over 35 right now.

COUNCILMEMBER SUGIMURA: Wow. Okay, thank you.

CHAIR LEE: I hope you're not catching a plane. Okay, let's see. We're going to take our next, our lunch break at 12:00. So, let's try and get as many in as possible.

COUNTY CLERK: Our next testifier is Eric Miyasato, to be followed by Kaatee Bailey.

MR. ERIC MIYASATO (testifying on County Communication No. 22-154 and Committee Report No. 22-47):

Aloha, Council. My name is Eric Miyasato. I was born and raised on Maui, graduated from Baldwin. I currently live on Oahu. I represent myself. Currently, I'm in COVID protocol quarantine, I caught it at a lighting conference last week, but I wanted to testify.

I submitted to the County Clerk two documents. One is the Chapter 14 of the Big Island lighting ordinance. In that document, I specifically go over the exemptions that the Big Island lighting ordinance has. One is for private residences, which are fully shielded, or have a total lumen output less than 8,100 lumens per acre. The other exemption is for outdoor advertising signs, and it falls under Class one. In the Big Island ordinance Class one means outdoor lighting used for, but not limited to, outdoor sales, eating areas, assembly or repair areas, advertising and building signs, recreational facilities, and other similar applications in which color rendition is important.

The last exemption I would like to talk about is in the Big Island ordinance they have Section 14-53, which exempts all existing fixtures, under their ordinance until the fixture becomes inoperable. I'm keeping it short because of the COVID. The current Maui bill doesn't allow these exemptions. They actually took out the exemptions for safety and temporary lighting and a couple other sections and rewrote it into two subsections.

The other document that I submitted was a study done and submitted scientifically this year in 2022. It was done by Hawaii Pacific University and the U.S. Fish and Wildlife study. It was an 8-year study done from Waimanalo to Hawaii Kai. It was comparing high-pressure sodium, the existing old lights versus the full-cutoff LED in 3,000 and 4,000K. It's a full technical report available online and I would like to just take one statement out of that document, quote "there's no evidence suggesting that the shielded LED streetlights impacted the number of birds affected by fallout overall." I wish the Committee to take a look at that document, and to take a look at the Big Island ordinance, and try to adopt the Maui Bill 21, CD, to follow that examples.

There was mention of buying bulbs on Amazon. Those bulbs if purchased would probably be amber type, which is monochromatic, they would still have to provide the proper documentation in order to comply with the blue light content. There is very limited blue light content bulbs that are not monochromatic. On the fixture side, there are only a few manufacturers that can produce that blue light content, specific for the Big Island. The Big Island is having a hard time finding fixtures. There are--

CHAIR LEE: Eric. Eric.

MR. MIYASATO: Yes.

CHAIR LEE: Could you please conclude your testimony?

MR. MIYASATO: I conclude my testimony. Thank you.

CHAIR LEE: You can have a minute, you can have a minute to conclude.

MR. MIYASATO: I'm fine. The COVID is getting to me. So, I've been waiting this long to testify, and if there are any questions?

CHAIR LEE: Any questions, Members? If not, thank you very much. I hope you feel better.

MR. MIYASATO: Okay. Thank you. Bye.

CHAIR LEE: Bye-bye.

Madam Clerk.

COUNTY CLERK: Our next testifier is Kaatee Bailey, followed by Vicky Corbett.

MS. KAATEE BAILEY (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

Good morning, Council. Good morning, Chair.

CHAIR LEE: Hi.

MS. BAILEY: I am honored to be here today to express my voice on behalf of the people concerning the water rights. I am a 30-year resident of Maui, and I am a Maui pastor for the last 10 years, and I am here to testify in favor of 22-151 and 22-56.

Water authority is vital to the people and to the land, and it should never be in the hands of a foreign corporation nor any other authority except in the hands of we the people. It is a water injustice to give the water rights to a foreign entity, and I am sad to hear that our Mayor supports giving the people's water rights to a foreign corporation. The voice of a corporation should never dominate the voice of we, the people. When God created the heavens and the earth, he gave the rights of the water and the land to the people. And I am finished. Thank you.

CHAIR LEE: Thank you. Members, questions? If not, thank you very much.

COUNTY CLERK: Chair, our next testifier is Vicky Corbett, to be followed by Toni Easton *[sic]*.

MS. VICKY CORBETT (testifying on County Communication No. 22-151 and Committee Report No. 22-56):

My name is Vicky Corbett and I thank you very much for letting me be here. I'm newly a resident and I've lived here on Maui for about nine years, but I have family that are Native Hawaiians. And I'm here to encourage all of the Council to vote yes on 22-56 and 22-151.

I'm kind of going to read it, because I have a lot to say. I'm very passionate about the land and food. Eating good food pretty much has saved my life because of a health condition. And so, I honor and respect the local farmers that grow healthy food. And . . . Hawaiians have successfully farmed these islands for hundreds of years without exploiting the land, they remain tropical islands. Since corporations have been controlling the water in the islands, the land is no longer a tropical paradise, but more reminiscent of Oklahoma in the thirties during the dust bowl, which you can see the red dust everywhere, and it's affected my lungs.

I challenge all of you to go to any local farmer, go to their land, pick up a cup, pick up a bucket of soil, real soil that has a life in it. And you have that with holes in the bucket. Then go down to the, down the valley, pick up the dirt, it's not soil of these corporate farmers with holes in the bucket. You pour water in the Native Hawaiian, who knows how to grow on the land, . . . it's real soil, it holds the water. You pour the water in the bucket of dirt from corporate farming, sieves right through.

So my thing is, the thing is conserving water, proper water management, why would you give control of water to someone who doesn't know how to use it? Their soil doesn't hold the water. The plants need water to grow. The way our native farmers, our local farmers farm the land, they understand that. They know the soil, so they produce, they, they feed the soil. They produce, the soil is a product itself. It's not to be exploited. They don't have to use chemical fertilizers for the food to grow because the soil feeds the plant. Commercial farming doesn't have any nutrients in their dirt.

So, that's, I'm very passionate about the exploiting of the water. And, and many studies have been done that monoculture, and the way they do this corporate farming uses much more water than the way our local farmers farm the land. So that's why I say this is about water security, about water conservation, so I pray that you vote that the water is turned back to people of Maui. To me, it's immoral for our local government to continue allowing corporations, especially foreign corporations to not only exploit the Hawaiian's water, but their land.

When Pono first came, pono's a beautiful word. I have nephews that are part-Hawaiian and when I told my sister about the corporations taking over, she said they have no right to use the name "Pono." Because I've researched the corporation. They have been doing a lot of farming throughout the world. In Southern California they have almond groves and do your research? How is the water in central California? What has happened to the farms there, because so much water is being used for the monoculture thing.

So, it's water conservation, it's the future of the island. And my point is this, the corporations are in the business of making money. They're growing a few crops that cannot feed the Hawaiian people. This island for hundreds of years fed their people with nobody shipping food here. They can do it again. They can grow all the food that's needed for all the people. I'm blessed. I live Upcountry. I go to the farmers' market. I'm privileged to eat real food that's nutritious.

There was Dr. Bush that did a research project of Oahu. Hawaiian children, many that were pre-diabetic, because they were just eating grocery store food that was void of nutrients. They're pre-diabetic, they were overweight. For one year, they grew their food organically at their school. They lost weight; they're no longer pre-diabetic because what we need for our health is in our food and commercially grown food the way they grow it, it's not nutritious for ourselves, for our children, and it exploits the land. It depletes the soil, I mean seriously when you, when I, every time I come down country, I see the red dust in the air. And it's reminiscent, it's, I go, what, they're turning a tropical paradise into the dust bowl.

And it's because they don't know the island. The Hawaiian people, this is their home, they respect it. They farm out of love, not only for the land based on how their ancestors farmed the land, but for the future of their children. And so, I'm a mom, I'm a grandma, I'm very passionate about it and I truly, truly pray that the vote is in favor of the Hawaiian people. Because it's their land, it's not Canada's corporate land. Thank you very much.

CHAIR LEE: Thank you. Members, questions? If not, thank you and may we have the next testifier.

COUNTY CLERK: Our next testifier is Toni Easton *[sic]*, to be followed by Scott Adam.

MS. TONI EATON (testifying on County Communication Nos. 22-151 & 22-155 and Committee Report No. 22-56):

Aloha. Can you hear me? Aloha. Can you hear me?

CHAIR LEE: Yes.

MS. EATON: Okay, my name is Toni Eaton, and I'm on the Board of Water Supply, but I'm here to testify on my own behalf. So at the June 15 meeting, I was listening to you guys' meeting and I was so disappointed. There was so much misrepresentation, misconceptions about the, the East Maui Water Authority. I'm going to talk about three, 22-56, 22-151 and 22-155.

But you know, about the East Maui Water Authority, some of the Councilmembers were under the impression that we had to buy the whole system. We don't have to buy the whole system. The system on the State license area is already with the State. That's their property. It says it from the 1800s. It says it in the last 1973 MOU with the, with the Board of Water Supply, Maui County Board of Water Supply. So, you know, that, you guys gotta get that out of your heads. It sounds like you're more interested in protecting the foreign entities than you are protecting the people of Maui.

. . . another misrepresentation is that, you know, some of you said that you heard from your constituents. I don't know what constituents you're listening to, because everybody that I've heard testify is in favor. The only people not in favor of having a East Maui Water Authority is the County of Maui and their department heads. So, you know, this, getting this measure on the ballot is very important. You guys are hemming and hawing and, and oh I don't know about this, the cost and everything. But it's not about you guys, it's about letting the people speak.

So, I want to get into this, the Upcountry water shortage right now. The Upcountry water, the people of Upcountry they are solely independent on surface water coming from EMI's ditches. If this doesn't get on the ballot, they're going to be in a constant state of water conservation. On the water meter list, there's currently 1400 people on the list. And it's posted on the Department of Water Supply Engineering site. The oldest applicant is from January 2003 and the last one on that is from December 2012. So, I don't know how updated it is? It says it was updated in January of 2022, but I don't think that that's possible.

So, if we don't, if we don't get this measure on the ballot, let the Maui people vote on this measure, it's going to be detrimental. Don't you find it ironic that the Upcountry domestic water users are always asked to conserve water, but it's one of the wettest places on Maui? The Upcountry water, people water needs have been put on the back burner for the last 30 years.

So, another misrepresentation is that, you know, one of you said you, the kanaka maoli, they cannot come to these meetings either in person or virtually. Are you speaking of

the kanaka maoli who have been fighting for their seat at the table for generations? The ones that had faith in their fellow kanaka maoli to do the right thing and let their voices be heard. The same kanaka maoli that voted for you on that very platform. Don't you think that these lineal descendants time to have a say is now. You know, my whole purpose, like I stated before, I'm on the Board of Water Supply, but my whole purpose of joining the Board of Water Supply was to see that our waters get returned to the streams. That our ohana farming kalo get sufficient water for the perpetuation of our culture and for our people to finally take control of our water and take it out of the hands and pockets of this corporation with the fake name.

So, I mahalo Members Sinenci, Rawlins-Fernandez, Paltin, Molina, and King, for realizing that this is the time to take control of our public trust resources. This is for our kupuna, our ohana. And for a few Members on this Council to deny them the right to finally get the water they deserve, you're doing a disservice to the people of Maui. So, that's for 56.

For the 151, totally support that. Also, you know, the, Maui needs to take control of their water, just like Oahu, they have the Honolulu Board of Water Supply, you know, it's a semi-autonomous agency and Maui can follow their footsteps. Our water is so important and nobody has even done any studies, well nobody in the County has done any studies. But now the County is saying that oh, you know, we can work this out. 144 years these guys had control of our water. They had 144 years for figure this out. If they not going figure 'em out, leave it to the people of Maui. We can figure this out.

And then the last thing I want to talk to you about is 155. Director Kau or Deputy Director Agawa will come over here and report on the CWRM water use reports for all registered well reporters in the County of Maui. What for? We can see that. It's on CWRM. We can see all of the County water systems in the division reports that come out every month to the Board of Water Supply. I would be more interested in the surface water reporting. Can any of you guys find the surface water reporting? Even on CWRM. I cannot find that. Wouldn't you be more interested in, in figuring out how much water is diverted from every stream and know where it's going? Cause that's what this, this report is. But this is on groundwater, on well sources. But that's all I have to say. Thank you. Mahalo.

CHAIR LEE: Members, questions? If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Our next testifier is Scott Adam, to be followed by Jordan Hocker.

MR. SCOTT ADAM (testifying on Committee Report No. 22-56):

Hello, Council. Scott Adam, I'm a Haiku resident and concerned citizen. And as we know, you know, for a long time the, the, the rally call across the country for many, many cultures has been water is life. And you know, water is an essential part of our existence, and it's a building block and a human right. And you know, I really believe that it's important for our elected officials to really, truly serve their constituents and serve the people that put them into place and to have in mind the future generations.

And by giving the rights of our water over to a corporation, that's a foreign corporation, that has potential agendas or potential, I guess incentives that don't actually serve the people, or the future of the people. It's something that we need to consider incredibly, like, need to make that a very important part of when we're looking forward about making these decisions.

And in addition to that, I really feel that we have taken the rights away from the people to actually speak up. And the level of transparency with the government and the communication with the people is really lacking. And I really call for . . . in the future, in going forward, to have, when we have essential decisions that are going to affect the future of our communities that it will be held in the public town halls where we can actually hear public discussions and decisions and have this completely transparent, including the language within the bills that the majority of people can't even truly grasp the, the manipulation that happens through legalese through these bills. And this needs to become completely transparent through real language and, and fully aired publicly, so that we can, and the people on all levels can air their understandings of what these bills truly are putting forward as we, as we move forward to make decisions about our future generations.

So, that's really all I want to say. I want to say that we need to bring the power of the water back to the people, and secure that for future generations. And so thank you, Shane, for putting, doing all the work that you did on this bill and I hope that we really analyze that, the language in there to make sure that we are truly serving the people with this, with this bill. Thank you. Any questions?

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

MR. ADAM: Thank you so much.

CHAIR LEE: No questions.

COUNTY CLERK: Our next testifier is Jordan Hocker, to be followed by Blaine Banks.

MS. JORDAN HOCKER (testifying on County Communication Nos. 22-151, 22-154, & 22-155; Committee Report Nos. 22-47, 22-55, 22-56 & 22-59; and Resolution Nos. 22-162, 22-166, & 22-168):

Aloha, Councilmembers. Man, you have quite the agenda in front you and I have quite a few to testify on. So, I'll try to, I'll try to keep it brief.

So, I would like to testify my support of allowing, you know, measure 22-151 onto the ballot as a Charter amendment. I think that maybe the hesitancy on behalf of the department and some of the entities who are not in support of a Maui Community Water Authority and an Advisory Board from East Maui, is probably due to all of the voices that we've heard today, which are very strongly in favor of that water being managed, and actually considered for the public instead of as we've heard, a private corporation.

So I think that regardless of where, you know, anyone sitting on this body, where your loyalties lie, the reality is that the people are asking you to let us vote on that, in the upcoming Charter amendments. So, you know hearing the Mayor's Administration say well there's just too much going on. I think that we all know that water is most important and as a Upcountry resident who is currently on restriction, that I've got a lot of food growing around me, you know we all feel the burden of water mismanagement. And I'm not in any place that I'm worried about an East Maui Water Authority somehow taking away my water Upcountry because we are dependent completely Upcountry on the EMI system. And so I want to thank Councilmember Shane Sinenci for bringing that forward and urge you folds to simply vote yes so that we can vote on it coming up.

I'll move on Bill 21, CC 22-154, or CC 47 *[sic]*, in regards to seabird lighting. We've heard a lot of really good testimony. I think that this body is more than capable of hearing where exemptions are needed. But yeah, I think in the same way with water gets overlooked, our biodiversity and our endemic species get overlooked as well. And if no one's going to step forward, then that is what this body should be doing, preserving the health of certain species and our biodiversity going forward, so that our children can experience what, what that's like. Biodiversity makes Maui County a better place to be. It makes it healthier. So that's why I support this initiative.

I'll move onto CC 22-55 *[sic]*, in regards to, you know, the County exploring telework options. It does seem like a no-brainer. You know, our transportation infrastructure is so heavily bombarded by, you know, our visitor traffic, as well as our resident traffic. And so we're in a situation that if people can work from home you are mitigating our use of fossil fuels. You're allowing people a little more freedom, and possibly an alternative in the case that, you know, COVID is still here. People are still getting sick. I'm getting over a chest cold over here and so having alternative methods of being able

to work and being able to access and still show up within Maui County is exceptionally important especially considering how, at least on my end, it's been a lot easier to even participate in local government because there are these, these options, these . . . options.

So, I'll move into Bill 92, which is scheduled for it's first reading regarding residency requirements for commissions. I did speak on this at Committee, and I still support it. I still think that if, you know, I was made aware of an exemption for people who are moving or other things, and I think that, I think a residency requirement for commissions is not too much to ask. So, I am in support of this and hope that you folks will vote yes on this today.

I'll move to Resolution 22-162 regarding the purchasing of the Lahaina Crossroads building. We've heard a lot about corporations, we've heard a lot about entities that are sort of undermining the way that we're living. And the eviction of an entire group of people from one building who have been there forever, puts us in a really unique situation. Because this has been happening to individuals in single ohanas or in one location all throughout the pandemic. You know, people have been pushed out. People had their rents doubled. This is a trend and that's undeniable.

So, when you're looking at the purchasing of an entire building, what makes this unique is that the residents actually were able to come together and say this isn't fair. And it was multiple voices that were able to be amplified instead of one single family being pushed out by raising rents or an individual. And so, I think in purchasing this building it is a proper use of you know, at least what I feel my taxpayer resources to keep kupuna housed and to, to set a precedent that Maui County is willing to step in on behalf of our most vulnerable residents to, to fight this trend.

Because the market is booming, and the people who have the money to invest here in our buildings aren't really, I think, in a more . . . position that they're thinking about how that is affecting our families, their children, and our kupuna. And it begs, when we talk about how important our kupuna is, are, that how much is that lip service? Like where is the follow through? And so, I think that the County acquiring this building is a step in the right direction at the very least for these residents. So, I hope that you'll support that.

And then I'm going to move onto 22-166, regarding the resolution urging the Police Department and the Prosecuting Attorney to, or the Prosecutor's Office to work with DLNR in terms of illegal camping on unencumbered public lands. So there's two things in this resolution that don't belong together and are not at all in the same vein. I fully support there being enforcement for people who are camping illegally who come here on vacation. Not only are they trying to look for the cheapest option ever, and if I can

find the study, the reality is we have more visitors than ever, but due to inflation, they are spending about the same amount of money as in the 1980's; right? So we have this unfettered situation that's going on that absolutely needs to be addressed.

However, folks coming here and choosing to rent a camper van is not the same thing as unhoused kanaka having to camp, set-up a fishing pole, or do whatever. And the reality is that a resolution like this, who do you think is going to be most affected in terms of criminalization by both the Police Department and the Prosecutor's Office? Who do you think they're going to go after; right? Because the reality right now is in the State of Hawaii it is illegal to sleep in your car between the hours of like 6:00 p.m. and 6:00 a.m., and if I'm wrong on that, I do apologize. But frequently it's unhoused individuals who are harassed by police for sleeping in their cars. Because we already know right now that if people who are illegally camping in these camper vans were being harassed by the police, there would be a heck of a lot less of it going on.

So, I would urge you to not adopt this resolution as it is by any means to fully pull the, the paragraph about unsheltered residents down at Kanaha out of it entirely and instead choose the focus to be on this illegal camping for profit because it's just completely separate. And when I read it, my heart sank, because the last thing we need to do is criminalize homelessness further in Maui County.

And then I'll move onto the last part that I have to say which is Resolution 22-168. I appreciate this being brought forward in the wake of the Supreme Court overturning Roe vs. Wade. The reality is it's a highly contentious issue and my opinions may not be the opinions shared by other people within Maui County. However, if you want to lower the rate of abortion, it is not through banning it. It's through affordable housing. It's through paid maternity leave. It's through a living wage.

There are ways to encourage people to have the babies that they are carrying, but until our maternal mortality rates against Native Hawaiian women, which are at the same standard, okay, as black women in the United States. So, you're looking at women dying at a rate of 300% more giving birth. It's not safe to give birth in our hospitals right now, and those inequities have not been addressed. And so, if you really care about this issue from a data perspective; right? There are things that can be done that actually have an affect and bans are not one of them. And so, I appreciate this going forward, I mean appreciate this being brought forward. Because it really is a part of family planning, and it really isn't anyone else's business. But the reality is the reason that Roe vs. Wade had to, have gone all the way to the Supreme Court is because women were dying and that's the bottom line.

So, I'll end there. Thank you so much for allowing me to speak on all of these issues and it's nice to see you all back in the chambers for those of you who are there. Thank you.

CHAIR LEE: Thank you. Members, questions? No questions. Thank you very much.

COUNTY CLERK: Chair, our next testifier is Blaine Banks to be followed by Dan Johnson.

MR. BLAINE BANKS, JOHNSON CONTROLS (testifying on Committee Report No. 22-47):

Good morning, and thank you, Council, for this opportunity to speak about the proposed Bill 21, CD1, changes to the Maui County's outdoor lighting ordinance.

My name is Blaine Banks, and I am the Hawaii Engineering Manager of Johnson Controls' Sustainable Infrastructure Division. Johnson Controls has offices on Maui and Oahu and my company's expertise might be best summarized as being customer-driven to deliver exceptional customer experiences and solutions for safer, more comfortable, more efficient, and ultimately more sustainable buildings and infrastructure.

As it relates to Bill 21, which is an ordinance to make significant changes to the requirements for outdoor, in the specifications for outdoor lighting in the County. First, I would like to apologize that we didn't come to the table, come forward soon enough when this was in Committee to provide some industry input to the bill at that time. Because we do have experience with the installation of LED street lights and other outdoor lights, specifically LED street lights for multiple government agencies in Hawaii, including the City and County of Honolulu, and the State of Hawaii Department of Transportation.

And we are very aware of the sensitivity of outdoor lighting related to the surrounding natural environment. And that any specification for outdoor LED lighting would consider many items including color temperature, shielding, etc., in order to be mindful of those impacts to the environment.

Further, this, that was going to be repetitive, but there's also an independent study published on March 24, 2022, by Hawaii Pacific University and the U.S. Fish and Wildlife Service which studied seabird fallout around outdoor lights on the highway on Oahu between Hawaii Kai and Waimanalu for a period of eight years. With the first four years being the older high pressure sodium lights, those are the ones with low to no blue light. The second four years being the new shielded LED streetlights that have some blue light, more than the low pressure sodium, but importantly they did have a

fully shielded full cut-off design of the fixture itself. And I'll reiterate, the one line that sticks out in this, in this study's conclusion being that there's no evidence suggesting that the shielded LED street lights impacted the number of birds affected by fallout.

So, that being said thank you very much for your time and we appreciate the opportunity to provide feedback. Because first and foremost, we want to, we commend the County in taking steps to looking at the existing code, existing laws, existing bills and to tweaking and strengthening the County's own ordinance to be as responsive as possible. And further, I want to take this opportunity to say thank you, that we can provide some input from the industry's perspective and the experience that myself and my company have had around this exact same issue from other Hawaiian islands in the State. Thank you very much.

CHAIR LEE: Members, questions?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. Banks. Thanks for being here. I was working with your company back in the 90's to, on performance contracting when I was on the Board of Education. So, I know about Johnson Controls has been around a long time. Have you done any work on the Big Island on their replacements? Because they've been doing this for ten years, and we're using the same standards in this bill.

MR. BANKS: Yeah, um, I can't speak of direct experience with contracting work, installing work on the Big Island. I can say that my company has, was contracted to do it. We are aware pretty extensively around some of the origination of the fixture compliance and the needs dating back to when the observatories were, you know, Mauna Kea were very particular about having light pollution and ambient light in the, on the island and in the community filtered out to reduce the blue light content because the telescopes were not tuned to handle a lot of ambient blue lights. That was during the time from the transition from the low-pressure sodium, the really orange yellow lights--

COUNCILMEMBER KING: Okay. No, I just wanted to know if you had any direct experience, because I know you mentioned Honolulu but--

MR. BARNES: Yeah.

COUNCILMEMBER KING: Okay. Alright, thank you.

MR. BANKS: Yeah. That's my experience, I'm aware. Yeah, thank you.

CHAIR LEE: Any more questions?

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good afternoon, Mr. Banks.

I, I was trying to find your statement on if you were for the bill or against the bill? Can you clarify that?

MR. BANKS: Let me, let me clarify by saying there's more information, and I hope some of these things, like the independent study from U.S. Fish and Wildlife and some of the experience from the neighbor islands and other agencies, public agencies in the State can be considered in helping to shape the final outcome, because, you know, my company is interested in being in compliance; right? And, you know, as a design, build, engineering, and construction firm, we really want to make sure we can, we can deliver.

COUNCILMEMBER JOHNSON: Okay.

MR. BANKS: And we want to make sure . . . Thanks.

COUNCILMEMBER JOHNSON: Let me rephrase my question a little bit. On JohnsonControls.com, no relation? Do you, do you have the sustainability website, or web page and it says at Johnson Controls we've been dedicated to protect the environment since our invention of the electric thermostat in 1985, which provided fundamental shift in energy-efficiency buildings. Now all over the world, our products and services empower customers and communities to consume less energy and conserve resources. Does that statement help, how do you justify your stance on this bill with the statement that you, you guys are making about how you're trying to conserve resources and being more, you have a commitment to the environment?

MR. BANKS: Yeah, you know, everything from the amount of energy that a lighting fixture consumes, which has to be taken into consideration, the . . . I look at it, I suppose. And calculating what a payback might be or what the operational cost might be, kind of long term? Councilmember Johnson, I guess, if I may summarize, it's complex, sir. A lot of inputs that need to be considered, that's really all I'm saying, sir.

COUNCILMEMBER JOHNSON: Okay. . . . my final question is then to clarify, so is it financially, is it in your financial interest for this bill to pass?

MR. BANKS: So, Johnson Controls, just to be clear, we're not a manufacturer of lighting fixture. We do not have a financial interest at all in manufacturers.

COUNCILMEMBER JOHNSON: Okay.

MR. BANKS: Yeah. So, we don't.

COUNCILMEMBER JOHNSON: Alright. Thank you so much.

Thank you, Chair. No further questions.

COUNCILMEMBER KING: Chair, can I follow-up?

CHAIR LEE: We have one more question.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much for your testimony.

If I recall, so your company as Member Johnson is asking you about, and the work that you are doing with us for Maui County, if this bill passes, what impact do you see then? Because you are doing inventory, inventory for us.

MR. BANKS: Yeah. Yeah. So, right now we're undertaking a process of a, of a study of a physical site survey of the County buildings and County facilities and infrastructure. But . . . lighting and other things, lighting being one of them and we're in the middle of that right now. And as of next week, we will have inventory on a line-by-line spreadsheet for every single lighting fixture, interior and exterior that the County, the County infrastructure.

The update as of this morning, our team is telling me that we have over 250 different types of exterior lighting fixtures identified for County assets. So, anything that would be recommended for an installation project or an energy savings project or an infrastructure upgrade project, you know, we're very, you know, involved, you need to be in code compliance. So, you know, we're going to be very attentive to things that are happening as this bill develops. That's a lot of different fixture types to find.

CHAIR LEE: Member Sugimura, you need more clarification?

COUNCILMEMBER SUGIMURA: I really am, because he's bringing in costs, I just wondered if he knows what the cost is going to be to the County if he's doing inventory, so? That is what I'm trying to get to.

CHAIR LEE: I know, but he gives kind of long answers. So you have to keep--

COUNCILMEMBER SUGIMURA: Do you have a short answer for that question, Mr. Banks?

MR. BANKS: The cost?

COUNCILMEMBER SUGIMURA: How much is it going to cost?

MR. BANKS: I don't have an answer to that right now. I don't have the answer. We're still doing the analysis. But we will, we could.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I think your, your part is more doing the inventory, not replacements. But I just wanted to clarify something you said earlier on that study you were referring to because my information is that, that study was only one species of seabird, and that it actually did conclude urging the reduction of blue light. Can you confirm those two points?

MR. BANKS: I didn't participate. I'm reading the study as well. I'm not sure about the bird species. I don't have it in front of me.

COUNCILMEMBER KING: Okay. So, well that was, that was one of the studies that Mr. Henkin looked at and it was confirmed there was only one species that that study was covered and that the actual study did urge the reduction of blue light. So maybe check on that study again, Mr. Banks.

MR. BANKS: Yeah. It's publicly available.

CHAIR LEE: Okay, any more questions, Members?

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Aloha, Mr. Banks. So, just following up on the portions for you so, are you basically without being direct telling us that maybe we should hold off on a decision today until your study comes out? Is that something you would prefer? I mean, at least from the industry's perspective to be in compliance with whatever is produced from the Council?

MR. BANKS: We will, you know, anything that anyone is proposing; design engineering and contracting is going to have to get permits or whatever needs to be in compliance; right? And it would be, it would be kind of tough right now, you know, that's what I'm saying. So, if we could, you know, some of the exemptions that I'm hearing about, you know, our project encompasses the public safety, the parks and rec, there's a lot of different departments, Councilmember. So, um--

COUNCILMEMBER MOLINA: Okay.

MR. BANKS: --each of them . . . other individual needs.

COUNCILMEMBER MOLINA: I'm asking, just as an FYI to you, I was the original author of the first outdoor lighting bill back 2005 – 2006. We had a subcommittee formed and so we took our time a little bit with this to make sure we heard from all sides before we passed the bill out. So, I personally feel it's important we hear all perspectives before we put something out that, you know, is a cost to taxpayers, while at the same time protects, addresses the environmental needs in our community. So, okay, I appreciate your input, Mr. Banks. Thank you, Madam Chair.

CHAIR LEE: Anymore questions? I don't see any. Thank you, Mr. Banks.

Okay, our last testifier before we take our lunch break. Madam Clerk.

COUNTY CLERK: That would be Mr. Dan Johnson.

MR. DAN JOHNSON (testifying on Committee Report No. 22-56):

Aloha, Councilmembers and staff. Thank you for the opportunity to speak on the issue, specifically, I'm here for 22-56.

Yeah, I just wanted to share one thing on my heart from State Legislature. So, we have a Statute 174C, it's recognized that the waters of the State are held for the benefit of the citizens of the State. It's declared that the people of the State are beneficiaries and have the right where the waters protected for their use. The State Water Code shall be liberally interpreted to obtain a maximum beneficial use of the waters for the State purposes such as domestic uses, aquaculture uses, irrigation, agriculture, power development, commercial, and other industrial uses. However, the adequate provision shall be made for the protection of traditional and customary Hawaiian rights, and protections and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and preservation and enhancement of the waters of the

State municipal uses, public recreation. And these things declared to be in the public interest.

So that, that being said, on the 22-56 that we're looking at right now, I would encourage that we continue to move forward with the first reading, but with the sentiment that the people should always have the right of the water. However, I think there should be further amendments added to it eventually to require the County to pursue the lease, at least apply for the lease from DLNR so that the County has the headship over the water rights, and at least the management of those, those benefits coming especially for East Maui and Upcountry. I'm an Upcountry resident and I've seen a lot of the issues that, that are having with the water distribution and the effective management of that.

So, I think that we should move forward with a reading on this and also require the, the Council to apply for the lease, at a minimum. Thank you.

CHAIR LEE: Members, questions? I see none. Thank you very much for your testimony. Madam Clerk, how many more testifiers do we have?

COUNTY CLERK: Thirty-two testifiers signed up.

CHAIR LEE: So, testifiers if you could come back after lunch. Lunch will be, Members you want it to be 1:15? 1:15? Any comments? 1:30? 1:30? Sold, okay, alright.

We do have our former Mayor Alan Arakawa in the audience. Want to acknowledge him. Thank you for being so patient. I understand you have signed up to testify, and if you don't mind coming back. Are you coming back? Oh, okay, very good. Thank you. Thank you for your patience, appreciate it.

Okay, Members at this time we will take our lunch break until 1:15, meeting, I'm sorry 1:30, 1:30. Meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:08 P.M., AND WAS RECONVENED AT 1:39 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBER KAMA AND VICE-CHAIR RAWLINS FERNANDEZ, EXCUSED.)

CHAIR LEE: Will the Maui County Council Regular Council Meeting of July 1, 2022, please reconvene. It is approximately 1:39.

Madam Clerk let's resume testimony.

COUNTY CLERK: Chair, our next testifier is Paul Delauriers, to be followed by Lucienne de Naie.

CHAIR LEE: I think they're online. Okay, we can always come back to them.

COUNTY CLERK: Okay. Next would be Mr. Bill Greenleaf, to be followed by Robin Knox.

MR. BILL GREENLEAF (testifying on Committee Report Nos. 22-56 and 22-57):

Hi, I'm here. Can you hear me?

CHAIR LEE: Hi, Bill. Yes.

MR. GREENLEAF: I think the turnout on this testimony is a credit to this Council and the agendas that you're putting forward. And I love this Council. This is so exciting.

CHAIR LEE: Bill, could you state your name for the record, please?

MR. GREENLEAF: My name is Bill Greenleaf and we've been farming on Maui for sixteen years. When I started farming, I saw the annual posting that we were going to have a drought restriction and after a couple of years, I started asking myself, why aren't we building more reservoirs? Why aren't we fixing the watershed? Why aren't we, and I got together with a group of farmers and ranchers about ten years ago, this is a very important topic, Dave Taylor was the Water Director.

And I just want to give you a little history on what it's like to be a citizen dealing with problems and why I appreciate what you're doing so much. When we talked to Mr. Taylor, about reservoirs, he advised us that the way the Water Department could make improvements was out of ordinary income and the people weren't, didn't have an appetite for raising rates. So, we researched it and found out the general obligation and general fund bonds could in fact be used for infrastructure and we advised him of it and never got much feedback. And one day I found myself coming out of Council testifying, riding down the elevator alone with David and I asked him, you know, what are you doing about this, what . . . and he actually turned his back on me and faced the corner in the elevator as we rode down and didn't say another word to me. And I was polite. I didn't feel polite after he turned his back on me.

Well, we've had another Water Director that didn't do anything. We've had multiple Mayors that said they were going to do something. We've got a Mayor now that said he was going to do something. We've got a Mayor's spokesperson who said today that they want to have some conversations about it now that they know it's important. And

I think every citizen on Maui is tired of conversations about things that don't go anywhere.

I really appreciate that this is a second vote and we're on our way to a full vote and then we're on our way to a Charter amendment. And I think the people should be deciding this and I applaud all of you that have put this forward and taken it so far and really grateful that Maui County can finally have a plan. I know it's difficult. Everything we ever heard about taking over a water operation was going to have a lot of critics and what if's; and how much is? And I can see by the work that you've put into this resolution, this bill, that you've looked at all of that and you've come up with a comprehensive plan that will work and it will be good for the people and it will be fair to the corporations. I applaud you. Thank you.

And the other thing I wanted to mention was the, is the planning commissions. I really liked what Dick Mayer said. Um, I know in my 22 years here I've been involved in agriculture and activism, and I've gotten to know people in all parts of the island, they are all very different. And I strongly support that we realign the planning process and make it more local, more responsive to the communities that are affected directly. And that's about it. I yield--

CHAIR LEE: Members, questions?

MR. GREENLEAF: --whoever's next.

CHAIR LEE: Well, let's see if they, if we have questions for you.

MR. GREENLEAF: Okie doke.

CHAIR LEE: Anybody? Any Member? Looks like no questions.

Thank you, Bill. Good seeing you.

MR. GREENLEAF: Okay, thank you, Council Chair. Aloha, Councilmembers.

COUNTY CLERK: Madam Chair, our next testifier is Robin Knox.

CHAIR LEE: And then I believe I saw Paul Delauriers on the call, so if you could call him afterwards. Paul, can you wait till Robin is done? Okay? I think it's okay. Just call on Robin, please.

COUNTY CLERK: Our next testifier is Robin--

MS. ROBIN KNOX (testifying on County Communication Nos. 22-151 & 22-154; Committee Report Nos. 22-47, 22-55, 22-56, 22-57 & 22-59; and Resolution No. 22-168):

Are you ready for me?

COUNTY CLERK: Yes, we're ready for you, Robin.

MS. KNOX: Thank you. Mahalo, Councilmembers for allowing us to testify on all these important items before you today.

I want to go on record as supporting 22-55, 22-154, 22-59, and 22-168. Also want to comment on 22-151. I strongly support this. I think that historically, you know, there's been conflict about water and water shortages that perhaps don't have to be occurring due to the management of both the resource and by private parties as well as the County could probably do better with infrastructure. But I think that the County could have more control over our water resources and take better care of them if we had the water authority and that we would not be dependent on the private for profit off-island entity for our water supply. So, I strongly support. If for some reason, 151 would not pass out of the Council onto the ballot, I would support 22-56, to have only the East Maui Water Authority.

With regard to 22-57, the planning commission. Our current planning commission has representatives, two from Lahaina, one from Kula, two from Makawao, and three from Wailuku, and there are zero from South Maui, where I live. The Maui Planning Commission has been making a lot of decisions for South Maui that have been strongly objected to by South Maui residents, particular building affordable housing, waterways and gulches. And there are several projects proposed and there are real estate agents who are advertising wetlands for sale, and they even say in the ads, hey the County Council will approve this if you say you're building affordable housing.

So, you know, I think the people who live in South Maui deserve representation in the planning commission decisions given the profound impacts such as flooding, loss of habitat, an increased discharge of mud to the ocean. The people who are living in, you know, Makawao and Kula and Lahaina and Wailuku don't have to deal with the impacts of these decisions like the people who live in South Maui do. And so, you know, I strongly support that each residency area would have a planning commission so that we can protect the quality and the character of our communities because right now, things are being decided by people who don't even live in our community. Thank you very much.

CHAIR LEE: Thank you, Robin. Members, questions? No questions. Thank you again.

MS. KNOX: You're welcome. Aloha.

COUNTY CLERK: Chair, our next testifier is Paul Delauriers, to be followed by Lucienne de Naie.

CHAIR LEE: Paul are you there?

COUNTY CLERK: Lucienne de Naie.

MS. LUCIENNE DE NAIE [testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-55, 22-56, 22-57 & 22-59; Resolution No. 22-162; and Bill No. 111 (2022)]:

Aloha, I am here. Good to see you all again. I'll be testifying on a bit of a laundry list today, but I will try to be brief with each one because it has been a long day. First of all, on behalf of the Sierra Club Maui Group, I would like to testify in support of Bill 21, CD1 also known as 22-47 the outdoor lighting ordinance. I think the main decision that folks need to make and I know that there's, you know, been testimony pro and con, is what the actual facts are. You know, are there appropriate exemptions for our outdoor bon dances? Are there appropriate exemptions for public safety? Are there appropriate standards for actually doing something that will benefit our very, very important native bird life that, that is like a crucial part of the eco-system. These birds aren't just nice to look at when they fly, but they have a role in the eco-system and they're having difficulties because of things that humans have done over the years. So, I applaud the hard work of the CARE Committee, but Sierra Club supports going with their work. It does appear that there is a rational basis to take this step and that it is not going to cause the many harms that are proposed. Especially if there is somewhat of an extension to give folks more time to locate the better products.

So, moving on also behalf of the Sierra Club on Charter amendment 22-56. This is the East Maui Water Authority. We are in strong support of this. We have been in and out of court for years and years. In fact, just to let you guys know, your land board the other day decided that even though their chief officer, their case, recommended that new revocable permits come with an additional fee for watershed maintenance. Your land board in their wisdom said, nah, we don't have to do that. Those watersheds, you know, maybe in another year or two years, we could think about giving them some extra money. Oh, really, like, I don't think anybody on Maui would say that. Not any of us that are watching the alien species take over our water sheds that we all depend

upon. So, we really do need, you know, a local voice here. We need people who know this land and can speak to it, and can speak to practical solutions for it. So, thank you for your support of that.

And then testifying as a private individual. I am testifying in support of the other Charter amendments, 22-55. You know, we gotta go with the times and telecommuting does make sense. Especially since Wailuku is a long way away from some of the places where our folks live.

Also, 22-57, I particularly just have a personal preference for this Charter amendment. The time has come to look at Maui as a place where we have, you know, different things going on in different regions of our island. I mean, for all practical purposes, you know, West Maui is another island from Central Maui. And they used to have an advisory committee. There used to be more say from West Maui people to the planning commission. They really deserve to have their own planning commission. South Maui really deserves to have its own planning commission. Hana really deserves to have its own planning commission and on and on.

This idea that there will not be any central oversight, I believe the bill addresses that by having representatives from the Maui Island Planning Commission form a overall body that deals with islandwide policies. You, you get a lot of expertise there. You have experts from every single region, garans, we do it that way. So, I am in very strong support of that.

And then the Charter Amendment 22-59, clarifying the residency requirements for boards and commissions, is in general a very, very good idea but as I did testify before, I believe there is languages in there that does make an exception if there is a person who's a part-time resident who has extraordinary skills and is willing to donate them. There can be an exception made on a case-by-case basis. Which is how it should be rather than it's the norm.

Going on to the last couple of items. I'm in strong support and I'm sure everyone in this room is as well, of finding a resolution, this is item 22-162, for the Lahaina Crossroads residents. We interviewed three or four residents at our Stand-Up Maui meeting the other night. It's just heartbreaking the story where, you know, these are hardworking people that pay their rent and don't have a lot of other options cause they've had affordable rent, relatively affordable rent for, for Maui, and all of a sudden, you know, they're going to be out on their ears. Hopefully, there can be an extension of any, you know, evictions being done for remodeling and there can also be a solution to purchase the property and try to keep it affordable cause the easiest affordable housing to have, is the ones we already have that are working and so we don't have to displace people.

And then to end, wrap things up, item 111, second and final reading. This is about the revolving funds for the cesspool conversions, and this is something that really affects folks in the Haiku area or, and Huelo area, where I live and certainly all the way Upcountry. Many people are going to be required to upgrade their cesspools to septic systems of some sort and it would be great for the families that are, you know, legacy families that have land but not a lot of money to have a helping hand to do that. So, mahalo for your consideration for all those things and I hope you guys get to vote today.

CHAIR LEE: Questions?

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. No question for Ms. de Naie, but I did want to ask if there are no objections, if she could stay on as a resource?

CHAIR LEE: Members, any objections?

MEMBERS VOICED NO OBJECTIONS.

CHAIR LEE: Lucienne, can you stay on as a resource person?

MS. DE NAIE: If someone can kinda text me when it comes up. Cause it's a good planting day and I've gotta get out on the farm a little bit. Sorry.

CHAIR LEE: Okay. Shane volunteered to call you or text you.

MS. DE NAIE: Thank you. Thank you very much. Alright.

CHAIR LEE: Thank you. Madam Clerk.

COUNTY CLERK: Our next testifier is Alex de Roode, and Mr. de Roode will be followed by the testifier calling in on the last four digits of the telephone number 9071.

MR. ALEX DE ROODE (testifying on County Communication No. 22-154 and Committee Report No. 22-47):

Aloha, Chair Lee. Aloha, Councilmembers. Can you hear me, okay?

CHAIR LEE: Yes, Aloha.

MR. DE ROODE: Thank you for the opportunity to provide testimony today. I'm here to provide testimony in opposition to item CR 22-47, CC-22-154, otherwise known as the proposed amendments to Bill 21.

Our office and, of Climate Change, Resiliency, and Sustainability in the Office of the Mayor, we are clearly in support of protecting native birds, protecting nesting sea turtle population, other wildlife, minimizing impacts of dark skies for nighttime viewing. These are all things that the, that the intent of this bill or the amendments to this bill we fully support.

Our concern is the commercial availability of lighting that meets the specifications across a wide range of applications. And so, you heard testimony today from Johnson Controls, in their investment grade audit of our County facilities, they have come across over 250 different types of lighting applications, exterior lighting applications throughout our County facilities. From their research, there are not adequate options that meet the spec for those, for that full range.

If you look at the Hawaii County bill that helped to form this bill, my understanding is that their bill, or code is limited to parking lot lighting and street lighting. Which, if it was more limited in scope as opposed to all exterior lighting across both residential and commercial, which the amendments to Bill 21 are proposing, that might be easier to come across in terms of commercially available options.

Our recommendation or request is that this get referred back to committee for further deliberation, more input from industry would be helpful as well as engineers, entities like American Institute of Architects, Maui Chapter. Getting some more input just so that we don't have unintended consequences that this bill may have in terms of putting people in a bind and not having them be able to pursue projects like our energy savings performance contracting project that we're looking to implement to save energy, reduce our dependence on fossil fuels. And those savings that we would get from exterior lighting are able to then go and fund other projects like electrification of transportation, renewable energy projects for the County.

I think if there were just some slight tweaks to the current proposed bill, it could be a very strong and, and a bill that would be widely supported. Particularly identifying where exemptions make sense, and one suggestion might be to look at something called the hardship exemption where if there is not a commercially available lighting that meets the spec, that there could be an exemption made. And, and when we look at commercially available, it also has to be warrantable; right? That we have to be able to have an adequate warranty on these products to make sure that should they fail, they are covered under a standard, you know, industry standard warranty. These are

the types of fixtures we would want to select for County projects so that in case something goes wrong, we're covered. So, I appreciate the opportunity to testify and happy to answer any questions.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. de Roode.

MR. DE ROODE: Aloha.

COUNCILMEMBER KING: Have you read the bill?

MR. DE ROODE: I have read the bill, yes.

COUNCILMEMBER KING: Okay. Cause there is a section that says, "lighting for sports and athletic fields on State of Hawaii Department of Education properties, private school properties, and County parks and facilities may remain exempt beyond the three-year period if, and for only as long as, there are no compliant lighting fixtures available that meet industry standards". So, that exception is in there. I also wanted to ask you if you had contacted anyone at the County of Hawaii.

MR. DE ROODE: I have not been in touch with anyone at the County of Hawaii. I have been, information has been shared with me about the warranty issues that County of Hawaii has faced in some of their baseyards using chip and wafer technology and that in--

COUNCILMEMBER KING: Okay. But I just, I just wanted to know because you're presupposing about their bill and we had asked Public Works to contact the County of Hawaii to find out directly, you know, that's why we're hearing a lot of presupposing things from, about the County of Hawaii's bill. So, we, you know, when we were creating this bill, we actually did talk to them. Okay. That's all. Thank you. Thank you, Chair.

CHAIR LEE: Other Members with questions? If not, thank you, Alex.

MR. DE ROODE: You're welcome.

COUNTY CLERK: Chair, our next testifier is calling in on the telephone with the last four digits of 4068. 4068 to be followed by Scott Rollins. Okay, moving forward with Scott Rollins, to be followed by Ke'eaumoku Kapu.

MR. SCOTT ROLLINS (testifying on Committee Report No. 22-47):

Aloha. Good afternoon, Chair Lee and Councilmembers. I'm Scott Rollins, I'm from the County Wastewater Reclamation Division. I would like to testify on Bill 21, the proposed outdoor lighting ordinance.

We are in support of limiting light pollution, the affects on the environment and wildlife, types of lighting and the intent of this bill. Nonetheless, there are a few points I'd like to make that would affect our operations and that of others. I have provided some written testimony but wanted to make sure you take a few issues into account.

One, allow for a clear exemption for temporary lighting for wastewater and other utility roadway projects that require the use of light trees and other temporary lighting for wastewater and other CIP projects. We see there's an exemption for roadwork, but it does not explicitly include utility type CIP projects that are sometimes scheduled at night to avoid daytime traffic congestion but are not, or not within roadways. Or for critical connections in work that requires low nighttime wastewater flows to avoid potential spills. The lighting is critical to do the work and to keep our workers and commuters safe.

Similarly, line breakages, blockages and emergency repairs are not limited to daytime hours or to help assure everyone's safety and timely response, and tree lighting is sometimes necessary to perform work. Perhaps changing the wording in Section 20.35.70(C) from "roadway construction or emergency" to "roadway and utility construction or emergency repair" gives this and removes the need for a broader interpretation of the existing language.

And the second point I'd like to make is, I think we should consider deleting the requirement for wall surfaces hit by light to be non-reflective surfaces or require a matte paint. . . . surfaces or surfaces help minimize the number of lights required and the energy consumption for security and operations. Had a number of nighttime break-ins and theft from our County baseyards that cost us tens of thousands of dollars. Recently, we've had convertors stolen, vehicles broken into, vehicles stolen, equipment stolen, supplies, gas tanks drained. Good all around lighting is necessary as a deterrent to prevent further loss of . . . footage identification. Also, non-reflective light is absorbed, thus during the day when buildings are in sunlight it will absorb more heat which will result in increased energy use, carbon footprint increase and the associated expense to keep equipment or occupants cool.

A third point, . . . short wavelength content to be more than two percent of blue light should be eliminated. While we're not experts in lighting, we found it curious that the State Department of Land and Natural Resources, Division of Forestry and Wildlife,

what we would consider an authority on wildlife management in the State does not recommend this change among its many other suggestions. Also having this added restriction limits our lighting option.

Lastly, I'd ask you to consider including our County wastewater facilities that exempt, much like other seven day a week, 24 hour facilities like the airports and the harbors that are included. These facilities are fairly large in nature and require perimeter lighting and lighting of treatment basins/ponds/channels for monitoring the treatment process, safety and security. We have several nighttime callouts where staff has to enter plants, the other facilities and we've come across intruders, spills and other things, and without lighting it would be difficult and would be hazardous for our employees.

And we, we all agree that lighting should be limited to the task area, and fixture shielding . . . that we should embrace. Those are my comments, I appreciate the time to testify, and thanks for your consideration.

CHAIR LEE: Thank you, Scott. Questions.

Member King.

COUNCILMEMBER KING: Thank you, Chair. I'll defer to Member Paltin, she had her hand up first.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Rollins. Thank you, Mr. Rollins. I just was wondering, I'm sorry we, we did receive plenty of written testimony in several tranches and I just was wondering if I, I can't recall every testimony that we read, but I was wondering if you had sent yours in in writing.

MR. ROLLINS: Yes, the question, I sent it in in writing, I sent it to County Clerk last night.

COUNCILMEMBER PALTIN: Okay, okay. Thank you, I'll check that out more in detail.

CHAIR LEE: Member King, and then Member Sugimura.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here Mr. Rollins. And we did hear from somebody else in DEM earlier too in support of the bill, intent of the bill. We did have support from Mr. Jeff Bagshaw from DLNR, so I'm, I'm not sure if you're, why, I hadn't seen any testimony against this bill from DLNR. But, I wanted to find out if you

were able to contact anyone in Hawaii County to see how they comply with their, their bill, or their law.

MR. ROLLINS: No, we did not have an opportunity.

COUNCILMEMBER KING: You didn't have the opportunity?

MR. ROLLINS: Well, we're experts in wastewater, not lighting. We didn't contact the County of Hawaii.

COUNCILMEMBER KING: Okay. No, I agree, you're not experts in lighting, that's fine. Thank you. Thank you, Chair.

CHAIR LEE: Anyone else? Okay, seems like nobody else.

Thank you, Scott. Next testifier.

COUNTY CLERK: Our next testifier is Ke'eaumoku Kapu, to be followed by Samuel Marvel.

MR. KE'EAUMOKU KAPU (testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-56 & 22-57; and Resolution No. 22-166):

Aloha. Can you hear me?

CHAIR LEE: Hi. Yes, we can.

MR. KAPU: Hi. Aloha. Welina mai nei, Chair Lee, Vice-Chair Keani Rawlins and the Members of the Maui County Council. My name is Ke'eaumoku Kapu and I'm testifying on a few items: 22-57, 22-166, 22-47, 22-56, and 22-151.

And I'd like start, I'd like to start off with 22-47, the lighting bill. I think, you know, for the longevity and the sake of our indigenous species out there, especially the birds. And I've, I've come across a few of them in the past especially where we're located here in Lahaina. And my only concern to this is that, you know, in the Historic District 1 where we are, we have not lighting in this area so it detrimental that, you know, in the area that we operate, especially for Mokuula, there is no lighting; I think it's a good opportunity for the birds. But then it's a very bad opportunity for like a lot of the tourist that going back to their car that can't even find their car because of lighting. So I hope that in the exemption there be some kind of clause where they can put some kind of lighting that wouldn't affect the environment or the atmosphere.

Now for the Planning Commission, the 22-57. I strongly support the Planning Commissions within each community because for like Hana, its very complicated to talk about issues and we're kind of well aware, especially for us that have family that live in Hana, are basically left out many times when it comes to those points of future planning. So I really strong, strongly support the Planning Commissions to be placed in those designated communities as well.

For 22-166, on the homeless, all I can say is yeah, you know, we've been always trying to figure out ways on how we can provide affordable homes, but I want to kind of caution this committee, or the Council that, you know, if you allow these homeless, and there's a definition between houseless and homeless. Our people, our kanaka are houseless, they're not homeless, this will always be their home. Versus the people that live here, that find an easier way to live in Hawaii and benefit of all the resources just because they claim to be kamaaina rated.

So, I'd just like to caution this Council to make sure that if we don't address the homeless population, there's a law in Hawaii called adverse possession, that if you allow these people to commandeer so-called areas for over 20 years, they might be able to just claim those properties on an adverse possession rule. So, I hope you guys can expedite something really, really quickly to make sure we can address that issue and also try to figure out what do we do with the tourist that want to come here that don't want to go to hotels and don't want to go to bed and breakfasts and all those kind of things.

I mean you guys have a hard task and we'd like to also strongly be involved, our council's, and getting back, I mean getting to the last two items. 22-56 and 22-151, I think this is strongly related. So I submit this testimony on behalf of the water committee of 'Aha Moku O Maui Inc., which is a moku, an 'Aha Moku Island Council which includes all 12 moku of Maui who collectively elect Maui representatives from their active members as well as the Chair, I'm the Chair. Island councils provide consultation regarding moku specific generational knowledge and traditional ahupua'a resource management. Each moku holds regular meeting with their members on a monthly, or as needed basis. The Chairperson and 12 moku representatives meet quarterly as a Council. The 'Aha Moku O Maui has separate meeting of its committees for aina (land), air, ocean, water, shoreline, and iwi kupuna or burial.

'Aha Moku O Maui supports adding a ballot item for amending the County Charter to establish a countywide community water authority, just as we previously supported the creation of an East Maui Community Water, Water Board. We believe the voters should be allowed to evaluate this proposed change to the County Charter and emphasize that as a lāhui, we must seek opportunities to codify input and

representation from cultural practitioners and those with generational knowledge of water resources.

And here is a testimony I would like to read from Kyle Nakanelua who use to be, and now no longer the 'Aha Moku Advisory Committee under Act 288. And he goes to say:

"Through [*sic*] this resolution is well intended and a good idea in theory, my concern is that normally when these critical items go to the ballots, the political hand takes control and the original intent seems to be lost in the making. In doing so, often times, Kanaka Maoli are shut out of the process and dismissed from having a seat at the decision-making table."

"We are grateful that our laws are steeped in Hawaii unique public trust doctrine that is rooted in Kanaka Maoli custom and tradition. We pray that it be acknowledged and applied whenever policy is formed and that the voices of ancestral knowledge of the mo'o from Maui Hikina, be sought after, heard, listened to, and used to implement restorative justice on the grounds and in our communities."

Mahalo, Council for this very opportunity for me to testify before you. We support all the bills that is before you, especially the resolutions that are before you. And I mahalo you for this opportunity and be glad to answer any of your questions. Thank you.

CHAIR LEE: Thank you. Members, questions? If not, thank you very much.

MR. KAPU: Thank you.

COUNTY CLERK: Our next testifier is Samuel Marvel. To be followed by Barbara Barry.

MR. SAMUEL MARVEL, DEPUTY DIRECTOR OF PARKS AND RECREATION (testifying on Committee Report No. 22-47):

Good afternoon, Chair. Good afternoon, Councilmembers. My name is Sam Marvel, I'm the Deputy Director for the Department of Parks and Recreation. I'm here testifying today on behalf of our department regarding agenda item 22-47, Bill 21 amendments to the Maui County Outdoor Lighting ordinance. Our department opposes Bill 21 as written due to its impacts on the safety, health and financial resources of our community.

First, the financial impacts. Our department has spent nearly \$4 million in the last five years to comply with the current outdoor lighting ordinance. This involves converting a

majority of our lighting fixtures to energy efficient LED. This bill would make all of those fixtures non-compliant.

Second, safety and health. This bill would require all outdoor lighting to be fully shielded. This includes sports lighting for our outdoor playing fields and courts. The fully shielded requirement is going to create unsafe playing conditions for our sports such as baseball, football, and softball. Fully shielded means no upward pointing light which players need to see and track a ball in the air. For example in a baseball game, the outfielder will lose sight of a pop-fly in the air. They won't be able to see and track the ball until it's too late. This is simply not safe. Our department is concerned that Bill 21 may eliminate all night sports on Maui.

This bill also requires a maximum of two percent blue light content. In order to meet this criteria, color of the fixture will be like the low-pressure sodium light. The light would be similar to the dark yellow glow of a streetlight. This is not appropriate or safe for sports lighting. Not only will this cause poor color rendering, we're not aware of any commercially available sports lighting that meets this criteria.

Our Department has reached out to industry leaders in sports lighting and they have no timeline on the manufacturing of a lighting system that would comply with the bill as currently written. So although the Parks Department supports the intent of this bill, we believe it is too broad and has too many unintended consequences as written. Therefore we'd like to respectfully request that the bill be brought back to Committee for further review and discussion. Thank you, Councilmembers for your time and I'm happy to answer any questions you have.

CHAIR LEE: Members.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here Mr. Marvel. I don't, I don't know if you were around back then when we started on this bill, we've been working on it since early this year. Did send a letter to Parks and Rec and got nothing back. So, you know, there seemed to be no concerns. I'm curious that you are saying that the shielding of lights, which I know to be way above the sports, how the shielding would affect, would keep people from being able to see on the ground for a baseball or a football. And, and by the way, those, those sports arena applications are also, I'm sorry, also exempted until you get the, until the technology is available. But I was just curious to say, to find out why you think shielding them, because I don't, I've never been to an arena where the lights are lower than, you know, the activity on the ground. So why would that keep folks from being able to see each other.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Thanks, thank you, Councilmember King. Yes, that's, that's a good question and so what we're, I want to clarify a little bit there so the issue is the players not being able to see a ball that's above the plane of the lights. So a pop fly, you know, a baseball that's hit above where the lights are, when they go above that plane, the outfielder loses sight of that ball while it's up there. And then it comes back into their vision at the last second when it goes below that plane and they might have, you know, a second or two to react to that ball coming down. You know, we currently have our ball trackers which are upward facing lights, with some light . . .

COUNCILMEMBER KING: Okay, and, and you did, you do realize that beyond the three years to get compliant that parks and facility, County parks and facilities are, can remain exempt as, until the compliant lighting fixtures are available, your industry standards. That's in the bill.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Yeah, we're, we're aware.

COUNCILMEMBER KING: And I apologize because that is the one part that you did respond to, the other things you brought up I, we didn't, we didn't hear them so. You know, they, they, and again, if you maybe had, did you try to contact the County of Hawaii to see how they are able to comply with their lighting bills.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: No, no we haven't, Councilmember King.

COUNCILMEMBER KING: Okay, but anyway I just want you to know that that, you know, we talked to also schools, you know private and public schools and that was their main concern. So we did put that exemption in there. Thank you. Thank you, Chair.

CHAIR LEE: Any other questions?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, so, I think in, oh, Mr. Molina had his hand up first.

CHAIR LEE: Oh, okay, Mr.; Molina.

COUNCILMEMBER MOLINA: No, no go ahead, Member Sugimura, I can wait for, I can wait till you're done.

COUNCILMEMBER SUGIMURA: Such a gentleman. So, during committee Mr. Marvel, Karla did send a letter, Parks did send a letter because I was looking for what your response would be because the MIL had opposition to this. And I, and I basic, I think what she, I don't know the exact words, but she said she wanted this to be exempt, the lighting to, parks lighting to be exempt for sports.

But, so there was something that was shared from the Parks Department and when you say, I want to just clarify for the \$4 million energy efficient, you know, what you've done. What was that that you did? And was that a complete overhaul I guess, or I don't know what the right word is, but of, of the parks lighting system.

(Vice-Chair Rawlins-Fernandez returned to the meeting at 2:23 p.m.)

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Yes, so that, that money was spent mostly to convert lighting to, to LED's, efficiency and be compliant with the current outdoor lighting ordinance. So to make the lights fully shielded in a lot of areas, and--

COUNCILMEMBER SUGIMURA: Okay, so it was for, this was for parks, you did that for all the different applicable parks lighting to make us compliant.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Correct.

COUNCILMEMBER SUGIMURA: Okay, and this would change, this would change what Parks is doing, or what Parks just did. This would just--

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Yeah, so all the lights, the \$4 million worth of fixtures that were installed, those would no longer be compliant due to the blue light. Those would all have to be changed out again.

COUNCILMEMBER SUGIMURA: Okay, thank you.

CHAIR LEE: Other questions, Members?

Oh, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Chair Lee. I'm glad you finally saw me. Aloha, Mr. Marvel and thank you for this revelation if you will, I never thought I'd ever hear, you know, shielding lights could potentially affect, you know, baseball or what have you. So, the MIL expressed opposition or concern about the shielding of lights. And have you, I know it was asked of you about networking with the big, fellow Big Island

officials. Are, are you aware of any of their lighting in the parks, on their ballfields, do they have shielding.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: We, we haven't been in contact with, with the Big Island's on what their, what they are doing over there. . . . not aware.

COUNCILMEMBER MOLINA: Okay, and when you mention your testimony that it could stop any night activities. I mean is that what the Administration potentially is thinking that if they're a liability concern so to speak, that you could stop all night activities. Cause if that happens, I tell you this community is going to be in uproar. But, then again too, if its because of the lighting and it could cause a potential problem, has that discussion, that, that subject matter been discussed about, you know, curtailing any night ball games, football, baseball, etc.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Oh, yeah, that's, thank you Councilmember Molina, yes, that's, it's a concern, it's definitely a big concern that we have. Obviously safety is number one, we can't, we can't have, we can't be putting users in danger so that's a, that's a possibility that, that, you know, night baseball games would have to, would have to be stopped.

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

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Marvel. I had a question about the fixture upgrades. Do you ever envision a time when it's, the fixture is still okay but you just change the bulb.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Thank you, Councilmember Paltin. I believe most of the fixtures would have to be completely changed out from, and I'm not, like I said I'm not an expert on the matter, I'd have to look into it further but from, from my preliminary knowledge, most of the fixtures would need to be completely replaced.

COUNCILMEMBER PALTIN: And then, the current fixtures that we have, when the bulbs burn out, you change the bulb, or are these lifetime bulbs.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: So our current, our current fixtures are LED's, they don't, they don't have bulbs. So the LED fixture itself would need to be changed out to comply with, with this bill.

COUNCILMEMBER PALTIN: I, I understand that, I just was wondering are, will the, the current fixtures that we have, do they last forever or, I mean.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Yeah, I, thanks, thank you, Councilmember Paltin. Yeah, I believe they last quite a long time, I mean, I, I think the, the lifespan is around ten years for those fixtures.

COUNCILMEMBER PALTIN: Okay, thank you,

CHAIR LEE: Any more questions: If not, thank you, Mr. Marvel.

DEPUTY DIRECTOR OF PARKS AND RECREATION MARVEL: Thank you.

CHAIR LEE: Madam Clerk, I think Mr. Delauriers has returned.

COUNTY CLERK: Yes, let me call up Barbara Barry. And that Barbara will be followed by Paul Deslauriers.

CHAIR LEE: You're muted Paul. Can't hear you.

MS. BARBARA BARRY [testifying on County Communication Nos. 22-151 & 22-154; Committee Report Nos. 22-47, 22-55, 22-56, 22-57, & 22-59; Resolution No. 22-168; and Bill No. 111 (2022)]:

Oh, hi, is it Paul or is it Barbara.

CHAIR LEE: Oh, I'm sorry, I saw Paul pop up and start talking. So, no it's your turn, Ms. Barry.

MS. BARRY: Oh, great. Aloha everyone. It's been really fascinating to listen to everyone's testimony and the comments today on all these important issues. So, I have several things I want to comment on today so I'll just get right on it. So first of all I want to mahalo Chair Lee, Vice-Chair Keani Rawlins-Fernandez, and all of our Councilmembers for working so hard on all of these of issues. My name is Barbara Barry, I'm a resident of Haiku and I'm a kupuna, a farmer, and an environmental protector. I am speaking for myself today. Thank you for the opportunity to share my testimony on the following items.

I'm here to ask for your support on County Communication 22-151 and Committee Report 22-56. I appreciate the testifiers that have gone before me today, especially testifier number four, Napua Hueu, I hope I'm not totally messing up her last name; testifier number 24, Toni Eaton; and testifier 18, David Henkin from Earthjustice as they

all stated the careful management of our water are matters that affect the quality of life for our current residents, our Hawaiian practitioners, our future generations, and specifically securing abundant freshwater for drinking, farming, livestock, cultural, wild food, and herb foraging. Our water should not be a commodity that is controlled by a major corporation, and especially by a Canadian pension fund that is beholden to their shareholders only. We can watch in real time how this has played out across the world when corporate interests control water, it's never a good thing.

With climate change affecting us, this has become even more critical to manage our precious wai resource, especially as we strive to have more food security by growing food locally in our County. As a Kula Ag Park commissioner and as a farmer, I must say if you don't have the water, you don't have the food. It's really very simple. So 144 years to reclaim the people's control over our most basic human and food supply resource need is far too long.

You've heard from countless testifiers why this is an important Charter amendment for the Maui County Water Authority and East Maui Community Regional Board, and why it needs to be put on the ballot for the citizens to vote on. This is all very important.

To hear this morning that our current Mayor and Administration is opposed to allowing the people to weigh in on this critical decision is actually astounding to me. He should trust the taxpayers who pay his salary to make good choices. I, I believe he does work for the people and not the corporate interests of, of our County.

So please pass these measures today and formally apply for the East Maui water lease from the DLNR. Our current Mayor has had ample time to do this. and hasn't moved forward on it. It needs to happen as soon as possible. Much gratitude to Councilmember Sinenci, Vice-Chair Johnson, and their staff for giving this Charter amendment the attention it deserves to move forward with Maui County managing its most precious resource. Let the voters decide. Mahalo

My second comment is on County Communication 22-154, 21, and 22-47, protecting our seabirds from outdoor light pollution. I strongly support this important amendment to protect not only our native but our migratory seabirds. We have at least one species that I'm aware of, the little plover bird that comes in from Alaska every year. And I'm just confident that all the concerns for law enforcement, waste management, sports teams' needs have been addressed, or will be addressed so this can be passed today.

If we cannot protect our native seabirds from light pollution, who, who will? The unintended consequences of not protecting our sea birds is extinction. So mahalo to Councilmember King, Vice-Chair Sinenci, and staff and Councilmember Molina also

for all your past work to deal with light pollution and all of its implications . So please try and vote this through today. That would be really excellent.

Let's see. My next comment is on the 22-55. I completely support establishing a policy for telecommuting and alternative work schedules for some County workers. Not only will this save the County money by not needing as much office space and resources, but it will reduce the carbon footprint of those workers as well as reduce pressure on our roads. With the cost of gas, it will make it more affordable for the employee to survive by not paying all that extra money for gas for their commuting as well as parking.

These workers with children can also benefit by being at home when the kids get dropped off from school. Having a parent at home is super important for our keiki. We've seen through this pandemic that working from home is indeed less stressful and as productive and more affordable than traveling into the office daily. Mahalo to Chair Molina, Vice-Chair Keani Rawlins-Fernandez, and staff for introducing this Charter amendment.

My next comment is on 22-57. I'm asking for your support for allowing the Planning Commission to represent all communities of Maui County, and these are commissions that are County based, I mean not County based, but community based, not just Lanai and Molokai. The island of Maui is so diverse with climate, tourism, country, and other factors that the individuals who live in these different areas are best to know how to represent their needs and issues. I support Dick Mayer's testimony as well. Please support this Revised Charter amendment by dissolving the Maui Planning Commission and let the voters decide.

Okay, I'm onto 22-59. I support the County requiring board commissioners and committee members to be residents of Maui County. I also agree with the earlier testifier that encourages the Council to be a larger voice in the choice of these committee members, committee and board members, not a decision made by the current Mayor and then passed on to the County Council for approval. A more diverse cross-section of citizens will get elected to the many boards that need members. I know a lot of people who have applied for positions to volunteer for commissions and boards who are never contacted because those people are known not to be in agreement with the current Administration.

So the last couple things here, I'm almost done. 22-168, the hardships of R v. Wade reversal. I applaud, I applaud Maui County for formally supporting not only our wahine, . . . and ohana, but also I'd like to see included in this, our kane who are a crucial part and so important in the health of a family. I appreciate the earlier testifier Leslee Matthews, her testimony was thoughtful and super important. Mahalo for your support.

My last one is Bill 111, set for final reading. I support the County to enter into an intergovernmental agreement with the Department of Health concerning cesspool conversion. Like Ms. De Naie mentioned earlier, this is important issue as untreated waste is potentially affecting our freshwater source. Today during lunch I noticed in the Maui Now article that there is a seminar or a Zoom teaching coming up on July 6, that is talking about nature based solutions to cesspools. So I signed up for that, I thought it was pretty interesting and may be a resource for the Councilmembers to also consider. Thank you so much and I hope you all have a great weekend.

CHAIR LEE: Thank you. Members, questions. No questions. Thank you.

MS. BARRY: Bye.

COUNTY CLERK: Our next testifier is Paul Delauriers, to be followed by Chief Ventura, under Maui Fire .

CHAIR LEE: So Paul, I think you're muted, can't hear you. He's muted on his end. Try again, I heard you. No, now we don't hear you.

COUNCILMEMBER KING: Maybe if you take off your head, your--

CHAIR LEE: We can't hear you again. You want to read one of your ear buds? No, I guess not. Yeah, maybe we can call them. Staff. What's that? Okay, well how, we call somebody else in the meantime. Okay, we only have about 40 more right.

COUNTY CLERK: Next up while we're trying to get Mr. Delauriers online will be Brad Ventura, Maui Fire.

MR. BRAD VENTURA, FIRE CHIEF (testifying on County Communication No. 22-154; and Committee Report No. 22-47):

Well, good afternoon, everybody. Can you hear me?

CHAIR LEE: Yes, hi, Brad.

FIRE CHIEF VENTURA: Aloha. Ho you guys have a marathon meeting today so I'll make this quick. My name is Brad Ventura, Fire Chief for the Department of Fire and Public Safety, and today I'm with you all to testify regarding Bill 21, the regulations for outdoor lighting. Through listening to the testifiers today I understand that there is a, an exemption that has been put back in for public safety so that is very reassuring.

I'd just like to add why I support that exemption. Basically, our firefighters are often first responders in emergencies during the evenings. These take place and are often requiring additional lighting while we're on scene. We use portable floodlights and other bright lights in certain emergencies. At vehicle collisions, firefighters would use the lights, not only to perform their duties, but also to light the roadways so that passer byers can see what's happening on the highway.

Annually in, 700 people are injured or fatally wounded on highways doing work per year in the United States. And so one of the main safety factors we have is using lighting. So we support that exemption. We also use lighting for our search and rescue operations in the evening, whether it's in neighborhoods or in the wilderness area. So that's another area we would not be able to use lighting if this exemption were not given.

Since this bill would affect portable light, emergency lights, we request that temporary lighting used for public safety is added back in as an exemption, which this morning I heard it is, so thank you . Without this exemption it would be difficult for us as a department to adequately respond to emergencies and serve our community and keep everybody safe

Being that I've heard other testifiers talk about this this morning, I will say mahalo to all of you for all your hard work and dedication. Happy Fourth of July and use your fireworks safely this weekend.

CHAIR LEE: Yes, our pets will thank you. Let's see, questions.

Member Sugimura.

COUNCILMEMBER SUGIMURA: So, thank you. Thank you, Chief. For clarification on if we just say public safety, you're fine. Is there any more to it or, or is there like a legal County Code definition that we need to plug in so people understand the depth of what public safety means to fire and police?

FIRE CHIEF VENTURA: Well, public safety is very broad, so it would probably need additional explanation. But if we, if something was written in there directly and specific to our department, like to perform the duties, the necessary duties that are tasked to the Department of Fire and Public Safety, portable lighting could be used, that'd be specific to us. If we talk about public safety that could cover, you know, Sheriff's, DLNR, DOCARE, Fire, Medics, Police, that could cover all of those entities.

COUNCILMEMBER SUGIMURA: Would we need to list them or it's, it's fine? It's clear enough.

FIRE CHIEF VENTURA: It's clear enough to us. It just depends how critical people get.

COUNCILMEMBER SUGIMURA: Okay, and I agree with you no fireworks. I mean, it's so dangerous, not no fireworks, but be careful. Thank you.

CHAIR LEE: Members, other questions?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here Brad, I really appreciate it. And just wanted to just re, just read the, the statement, the exemptions so that you're comfortable with it. It says, except that temporary portable lighting used for emergency services, including public safety, road construction, emergency repair, road crossing. And then it goes into sports and athletics and things like that. So, you know, we didn't, we wanted it to cover emergency services for police and for other departments as well.

FIRE CHIEF VENTURA: Great, I think that statement works for our Department.

COUNCILMEMBER KING: Okay, great. Thank you so much.

FIRE CHIEF VENTURA: Thank you.

CHAIR LEE: Any more questions? Any more questions. If not, thank you Brad.

FIRE CHIEF VENTURA: Mahalo, guys. Have a safe weekend.

CHAIR LEE: You too.

COUNTY CLERK: Chair, our next testifier is Maya Hara. To be followed by Nick Nikhilananda.

MS. MAYA HARA, LAHAINA JODO MISSION (testifying on Committee Report No. 22-47):

Hi, thank you so much. I'm calling from Lahaina Jodo Mission, and we were wondering is the exemption going to cover Bon Dances as well? The Bon Dance is a religious observance that's been held, you know, in Hawaii for over a 100 years. And each

temple on Maui organizes a Bon Dance on one or two nights every weekend during, during a two and a half period, you know, half period month in the summer. Basically, it runs from 6:30 p.m. to 10:00 p.m. and a lot of our lighting actually is already covered with paper lanterns or plastic lanterns. So there is already a filter over the, the light.

And we were just hoping that we do care about the protecting the endangered species, but we're wondering if, how much of an impact the Bon Dance has and if the Bon Dance can be exempted as, because it's just a temporary lighting. If it's also covered by the exemption. Thank you.

CHAIR LEE: Members, questions.

Member King.

COUNCILMEMBER KING: Chair, thank you. And I know you didn't want us to explain this, but I do want to just ask the, the testifier, thank you for your testimony, by the way, I really appreciate it and I love Bon Dances too. But the Amendment Summary Form will say all outdoor lighting fixtures installed or used as portable lighting prior to the enactment of the ordinance. So yours is just portable, just comes out for the activities.

MS. HARA: So just the portable part is the problem. The, the--

COUNCILMEMBER KING: No, no, that's, that's exempted, so you're okay.

MS. HARA: Okay.

COUNCILMEMBER KING: Because you don't have them up--

MS. HARA: --for Bon Dances--

COUNCILMEMBER KING: --every day right.

MS. HARA: No, we just have them for a few hours.

COUNCILMEMBER KING: Right, so you're, you're good.

MS. HARA: Okay, thank you so much.

COUNCILMEMBER KING: And you're also shielded, as you said. So that's even, that's a double, that's doubly good.

MS. HARA: Yeah.

CHAIR LEE: Anyone else? If not, thank you.

COUNTY CLERK: Our next testifier is Nick Nikhilananda. To be followed by Sky Kalalau.

MR. NICK NIKHILANANDA (testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-55, 22-56, & 22-57; and Resolution Nos. 22-166 & 22-168):

Aloha, Maui County Council. Mahalo for the opportunity to testify. I am Nikhilananda, living in Huelo for 25 years and as of this Sunday on Maui for 36 years. I first want to speak in support of CR 22-55 on climate change, CR 22-57 on the Charter amendment for Planning Commissions throughout Maui County, and CR 22-47 on lighting, and R 22-168 on the recent Supreme Court decision. I also want to strongly urge that on R 22-166 on unauthorized camping, to remove anything relating to actions against our houseless unsheltered citizens.

However, what drew me to this Maui County Council meeting today are CC 22-151 and CR 22-56. I recently had two letters printed in both the Lahaina News and the Maui News, highly critical of the poor performance of our recent Charter Commission, where I testified on numerous times on various proposals. They refused to adopt many beneficial proposals for our citizens to vote on in November. It is sad that voters do not have an opportunity to vote on district voting, leaving in place our current absurd, unsatisfactory, discriminatory and undemocratic system of electing our County Councilmembers.

Yet here is another opportunity to adopt something I have spoken about for 25 years. For the residents of Maui to control both our surface and groundwater. I recently attended a nine hour Native Hawaiian training course. The knowledge and information was enlightening. Learning how much that Maui County and the State of Hawaii have not been in compliance of our State Constitution and Hawaii Revised Statutes. It is disgraceful that private, for profit multinational corporations control our water. Please place this amendment on the ballot for us to decide and vote on this November.

On a related side note, why are Upcountry and West Maui required to cut back their water usage, while South Maui, basically a desert, does not. And of course, out here in Huelo, as per usual, it is raining. Mahalo and aloha.

CHAIR LEE: Members, questions. If not, thank you very much. May we have the next testifier.

COUNTY CLERK: Our next testifier is--

MR. NIKHILANANDA: Mahalo and aloha.

CHAIR LEE: Aloha.

COUNTY CLERK: And Sky will be followed by Shay Chan Hodges.

MS. SKY KALALAU (testifying on Committee Report No. 22-56):

Hello, can you hear me?

CHAIR LEE: Yes.

MS. KALALAU: Yes, okay. My name is Sky Kalalau and I'm testifying on behalf of my family that live down Waikoloa in Hana, Maui, that suffered the effects of lack of waterflow from mountain to sea that is also accompanied by the landfill that's down there too. And so because of all these things that are happening, disease is rampant down there. And my kids, my parents all got infections because of these two different situations down there. And the lack of water creates stagnation, thus breeding disease that just causes horrific problems to the natural ecosystem. And so I highly support some kind of committee created to protect these water rights because we need our water in order to be healthy. So that's my testimony on that. Hello.

CHAIR LEE: Are you done?

MS. KALALAU: Yeah.

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

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And aloha, Ms. Kalalau for your testimony this afternoon. Just one quick question you, are you supportive of, of this going to the, to the electorate to decide?

MS. KALALAU: Definitely.

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

MS. KALALAU: Thank you.

CHAIR LEE: Any more questions, Members? If not, thank you. Next testifier.

COUNTY CLERK: Our next testifier is Shay Chan Hodges. To be followed by Madge Schaefer.

MS. SHAY CHAN HODGES (testifying on County Communication No. 22-151 and Committee Report Nos. 22-55 and 22-56):

Aloha, Councilmembers. My name is Shay Chan Hodges and I'm testifying on 22-56 and 22-151.

But before I do, I wanted to give a shout out to the Charter amendment on telecommunications because before I was a water person, I was a family center design advocate for working families person and I've been talking about this I feel like forever. So I'm so glad that you guys are looking at it. In addition to the obvious climate change impacts, there's all of the caregiving and family center design impacts that have to do with people being able to care for their kids, being able to care for their kupuna, being able to, you know, have flex time with their work that if you do this, you are going to have better workers because you will have better retention, productivity, market competitiveness. You will have to be able to have time of use at your house. And so you will have lower electric rates. There's all these great things, so thank you, thank you, thank you, I, that made me so happy I didn't even know it was on there. So good work, whoever put it on there.

But as far as 56 and 151 go, I just want to take a minute to thank all the Councilmembers who are doing the hard work right now to protect the future of these islands. Without water, we don't have food, we don't have housing. Without the protection and stewardship of the streams themselves, every aspect of human and non-human life that they affect, I mean, I don't even know what our lives in this County would look like without stream water. It doesn't, it doesn't make any sense not to do everything we can to protect it.

So what's happening today at this Council meeting is hugely important, and all the testimony of the last two months in favor of community management of our water resources demonstrates just how important it is to our Maui County residents. It's very clear that the Councilmembers in favor of a Charter amendment are fully aware of how important this is to the community. After more than a hundred years of ongoing outside exploitation and extraction of so many of our resources, proactive community based

management of our water is really just the first step in taking back our future, and it takes work. But it's infrastructure building, enduring work that will protect the future of our children, our grandchildren, their grandchildren, and so on.

Given the global and national issues that we are facing, which are feeling more and more dire every day, taking the steps necessary today to make sure that we can protect and steward our quality of life here in Maui County is crucial. I appreciate every one of you who recognizes how important your job is and who's willing to do the hard work that it requires. And I appreciate all the community members who have been speaking up here, not just at the Council meetings, but at community association meetings on social meeting, social media, etc. So we have huge challenges to overcome, but with such a strong community and courageous and proactive leaders, I believe we can do it because we have to. Thank you. Mahalo.

CHAIR LEE: Members, questions.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. No questions for Ms. Chan Hodges, just if consideration, she could stay on as a resource, just--

CHAIR LEE: Members, any objections.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER SINENCI: Thank you,

CHAIR LEE: So ordered. Could you stay on as a resource person?

MS. CHAN HODGES: Sure.

CHAIR LEE: Okay, thank you. Next testifier.

COUNTY CLERK: Our next testifier is Madge Schaefer. To be followed by Junior Tupai.

CHAIR LEE: Ms. Schaefer. Followed by whom, followed by whom. We're having technical problems.

COUNTY CLERK: Sorry, sorry, Junior Tupai.

CHAIR LEE: Thank you for waiting.

MR. JUNIOR TUPAI (testifying on County Communication No. 22-151; and Committee Report No. 22-56):

Alright. Aloha. My name is Junior Tupai, candidate for Lieutenant Governor, but currently just coming as one of the people. Mahalo, Madam Chair and the Maui County Council for the opportunity to testify in strong support of CR 22-56 and 22-151.

Just very briefly, I'll go from Article 16, Section 4 of Hawaii State Constitution that public servants have sworn oath to support and defend the United States Constitution and the Hawaii State Constitution, therefore not only as public servants, but also as trustees, trustees are people appointed and required by law to execute the Hawaii State Constitution and the United States Constitution.

Therefore, I'll pull from Article I, Section 1 and Article I, Section 2 of Hawaii State Constitution. Article I, Section 1, "All political power of this State is inherent in the people and the responsibility for the exercise thereof rests with the people." It does not rest in these chambers. It does not rest with Mayor Victorino. It rests with the people who testified earlier today and also the people who are testifying on the stream as well. All authority rests with the people.

And so, you know, just seeing that moving on, you know, where does that come from, the authority or the permission or the consent from the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal, that they have been endowed by their creator with certain unalienable rights, among these rights are Life, Liberty, and the Pursuit of Happiness." And that to secure those rights, governments, these chambers were instituted among men, deriving their not just powers, but just powers from the consent, from the permission or from the authority of we the government, which segways right into my last one.

Article I, Section 2 of our State Constitution, all persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are life, liberty, the pursuit of happiness, and the acquiring and possessing of property, the wai, the water. But it goes on to say that these rights cannot endure unless we, the people, recognize our corresponding obligations and responsibilities or obligations and responsibility to teach and to instruct our servants. And for the past, ever since I've been here since 9:00, just hearing overwhelmingly that people are in support of 22-56 and also 22-151.

To segway into that regarding 22-151, I do agree with the testimony earlier of Mr. O'Shea stating that I do agree with a board being assembled, but however not being appointed by a committee but being elected by the people. That in the end our State motto "Ua Mau ke Ea o ka Aina i ka Pono", "The life of the land is perpetuated in

righteousness" in right standing with the people that it's beholden to the people. The allegiances go, allegiances go first to the people. So with that said, mahalo again for the opportunity. I yield.

CHAIR LEE: Thank you. Members, questions. No questions. Thank you very much.

COUNTY CLERK: Our next testifier is Kaniloa Kamaunu. To be followed by Junya Nakoa.

CHAIR LEE: Maybe we should go to Madge Schaefer first.

COUNTY CLERK: Okay, we'll call up Madge Schaefer.

MS. MADGE SCHAEFER (testifying on Committee Report No. 22-47):

I'm here.

CHAIR LEE: Okay, alright, Madge, could you just state your name for the record.

MS. SCHAEFER: My name is Madge Schaefer, testifying for myself. I am expressing my opposition to the proposed outdoor lighting bill as currently written. While the stated purpose to protect maiden flights of seabird chicks from their nesting burrows on Haleakala is a good one, it goes way beyond what is reasonable, safe, and affordable for the humans on Maui.

I was curious, so I gathered information about seabirds. I learned that the early, in the early part of June 2022, well after this bill was introduced, a new radar tracking truck started monitoring seabird activity on Maui to determine bird population. That data is not yet available. What is known is that the valleys on the Hana side of Haleakala are hotspots for seabird activity as they make their way to the sea.

Related to the tracking, chicks do not have tracking bands nor do every pair produce an egg every year. What is known is that many factors contribute, what is known is many factors contribute to unsuccessful fledgling flights or fallout. Health of the chick, the amount of down on the chick, wind, weather conditions, even the phase of the moon. Power lines also create bird hazards and have caused major fallout on Kauai.

Peak seasons for fledgling flights is September 15 to December 15 each year. As I understand, the birds are most active within the first two hours of darkness. Seabird fallout is estimated on Maui to be about 60 to a 100, but the percentage of those from light disorientation is unknown. I would like to thank Martin Frye of the Maui Nui Seabird Project who spent a lot of time with me answering my questions and educating me. I'm

grateful for his willingness to spend time with me. They have an excellent website, by the way.

As currently written, this bill would impact private property security lights in commercial, hotel, and residential areas. Grocery stores and other commercial activities would have to turn lights off after 11 p.m. Bars close at 1:00 a.m. and will send patrons into unlit parking lots. Home security lights would have to be on timers limited to five minutes. Water features without lights create a safety hazard. Many restaurants now have tables outside to comply with COVID restriction, they use string lights to illuminate these areas. They would no longer be allowed. The rodeo, the County Fair, Friday Night block parties could not comply. Even the ever popular drunk driving enforcement check points would be unlit, but that was cleared up earlier in the testimony earlier.

Holiday nights would be restricted for those of us that have neighbors that leave their Christmas lights up all year. That might be a blessing. The safety of people after dark would be jeopardized. Many work night shifts and would be returning to their vehicles in the dark. Millions of dollars worth of street lighting fixtures will have to be junked for Public Works. The new lightbulbs are not readily available and will be expensive. If the entire island was taken to black, the impact of full spectrum headlights of motor vehicles would still create a hazard to seabirds. Will my driving be restricted to protect the birds.

I've read previous testimony from many groups that have expressed concern, including the County's Department of Public Works with Corporation Counsel. Many others have submitted compelling information about the adverse effects of this bill. Begs the question who wrote this bill? But based on the testimony this morning, it appears that it was written by David Henkin, I certainly hope it wasn't done at \$850 an hour.

This bill should be sent back to Committee. All affected parties should be brought to the table and a compatible lighting ordinance should be designed. The bill needs to be mindful of impacts to people on Maui and offer reasonable solutions. I urge, I urge you to send this back for more study and revisions. We can protect the birds and the people of Maui equally. Thank you.

CHAIR LEE: Members, any questions.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, thank you. Thank you, Madge Schaefer for, sounds like you did a lot of research and, on the birds you're saying that according to the research that you received, their peak time, I guess, is September to December, is that what you said.

MS. SCHAEFER: That is according to the DLNR website. They are saying that that is the peak times, September 15 through December 15. And actually the chicks, the gestation period for the eggs is two months and then six months in the burrow, and then, then they make the, those virgin flights in the next two months.

COUNCILMEMBER SUGIMURA: So these are the birds that we are protecting for this period.

MS. SCHAEFER: Didn't hear you.

CHAIR LEE: Madge, did you hear the question?

MS. SCHAEFER: No, I did not. I'm sorry, I guess I--

CHAIR LEE: Yuki, you want to.

COUNCILMEMBER SUGIMURA: Oh, so, so Madge I just wanted to know that from your research, then these are the birds, or the birds that we're trying to protect are in flight or their peak time is September 15 to December 15.

MS. SCHAEFER: That's correct. And that information is from the DLNR website.

COUNCILMEMBER SUGIMURA: Okay, thank you. Thank you.

CHAIR LEE: Any more questions, Members? If not, thank you, Madge. Thank you very much.

MS. SCHAEFER: Thank you.

CHAIR LEE: Next testifier.

COUNTY CLERK: Our next testify is Kaniloa Kamaunu. To be followed by Junya Nakoia,

MR. KANILOA KAMAUNU (testifying on County Communication No. 22-151; and Committee Report No. 22-56):

Aloha mai kakou, Council, Council Chair.

CHAIR LEE: Aloha.

MR. KAMAUNU: Kaniloa Kamaunu from Waihee. So I'm not sure what the, what the areas are, but I'm talking about the water as far as with the East Maui and I believe the governance that they're going on. So, you know, today I've heard a lot, a lot of testimonies and, saying in favor of, of that putting it on the ballot. I don't have a problem with that. I do have a problem with certain, certain, you know, reservations. A lot of it is to deal with actually kanaka rights. I've been dealing with water rights for over the last 13 or 14 years. I've been involved as far as protecting kuleana rights in Waihee.

And so, you know, my concern is and it still hasn't been addressed by the State or the County as far as, as far as our contingency being, being a group that is recognized as different from the rest of the public. You call it a public trust, but really it's not a public trust. It's more of an obligation that the County has been given through the State by the Federal government. If you look at your Admissions Act of 1959, Subsection 19, it states clearly that the nationality of kanaka maoli will never change. The United States claim that they can, they couldn't change it, they couldn't restore it, they didn't have the power to do so. So we remain the same as back then. We still kanaka.

What has happened is the verbiage, the use of Native Hawaiian. Native Hawaiian has taken over the verbiage of kanaka maoli. These are two different entities. Kanaka maoli is a real people, that is the people of this country. And we, according to the United States and their Federal documents, are still those people. According to them, it is a political relationship that we have with the United States. With that being said, to change us is going against your 1959 Admissions Act and then throwing us in with the rest of the public. Cause when you read the U.S. Codes under Native Hawaiian 1) they call us United States citizens; 2) they also combine us with kamaaina, and their definition of kamaaina is any resident of Hawaii. So this gets convoluted when it comes to our natural rights.

We gained our rights in 1839, through our constitutional rights came then, the Bill of Rights. 1840 we became a constitutional government which recognized three groups of people, the mō'i, the al'i, and the maka'āinana. And they also gave rights to all lands, as well as resources to those three groups called vested rights. 1859, we know that Mahele Act gave us the authority or the governance over our private lands. And with that came the water. This, we got our lands through the use of water. And so we have water rights that was given to us.

In 1989, 1998, the Kū'ē Petition was sent to Congress, solidifying who we were. And what we didn't want to happen was to become Americans. Again, in 1959 they solidified that and agreed that we are still those people. And with that being said, all rights are vested into water. So when you create these entities, these entities that you create is not for the public trust. You guys have the obligation for the public trust. But

your biggest obligation is your trust obligation to the people that actually own it, which is the kanaka maoli, not Native Hawaiians. That's your terminology, kanaka maoli, I'm kuleana seven generation Waihee. So when we talk about these things, it concerns me that we are not being dealt with properly. We are being put as a side, like side salad, we're on the side, extra, you know. But then they come to us in your guys own water bills we're in Appendix 10.

You know, I thank Shane and his, his Committee for the work that they've done, but there needs to be more clarification on who you're dealing with. So I come with reservations on these two areas because you have to address us, which is according to your Federal Acts that we still the same people. And if we are, then the rights are ours. And people benefit because of the kanaka maoli, they get their rights because we still have our rights.

If wasn't so, according to your government, everything is economics, everything is commerce. They took Hawaii in commerce. That means that obligation, the governing body's obligation, is to commerce. That is foremost and that means people like Hui Pono, I mean, excuse me, Mahi Pono, who everybody's . . . is a foreigner is going to come and . . . for the next 50 years under their thumb while looking at it from our perspective. We've been under this for 129 years, 129 years we've been under this governance. For 129 years we have not been addressed. We have been taken advantage of and our stuff is all destroyed. When you look upon us, do you see what the changes are and the devastation?

So when we talk about these things, I take it serious because for me, I uphold the constitution of the Kingdom of Hawaii. I uphold my constitutional rights. I uphold what my kupuna said that we are still sovereign, which is what the Federal government says. That being said, when you guys look at what you guys are doing and all these things, we need to come first. Kala mai that people feel upset. But the thing is, what is right is right. What is true is true.

You guys are taking, you guys took the classes from Keanu Sai. He told you about the land rights. We have those rights. We are the kanaka maoli. We are the keiki o ka 'aina. We are the kuleana. It was given to us, then please respect us for who we are. You make these committees, please think in your mind, how do we serve the kanaka maoli which you have a just obligation to protect and to solidify that our rights are taken care of.

And you know, what people don't understand is kanaka's take care of everybody. Look into our governance. In our governance you find people come first, Congress comes second. People are important, not money. We are the only society that live without money and we thrived. So for me, when we do these things please understand that

I'm not trying to make trouble or anything, but truth is truth. And I going speak the truth, I'm kanaka maoli, yeah, I am a citizen of the Kingdom of Hawaii and I claim that because I'm able to do so through the acts of your Congress. Thank you.

CHAIR LEE: Okay, thank you very much. Members, questions. I don't see any hands, I don't see. Thank you very much. May we have the next testifier, please.

COUNTY CLERK: Our next testifier is Junya Nako. To be followed by Albert Perez.

MR. JUNYA NAKO (testifying on County Communication Nos. 22-151, 22-154, & 22-155; Resolution No. 22-162; and Committee Report Nos. 22-47, 22-55, 22-56, & 22-57):

Howzit, you guys can hear me?

CHAIR LEE: Yes we can.

MR. NAKO: Hello. Okay, I gotta check cause it's a, this my nephew's earphone, I when steal um from him. Okay, howzit. Okay, I going talk about, talk about plenty items, I going take all three minutes. Nah, only joking, I am only joking. Okay 22-55, the County employee work remote, remotely. Eh, you know what, brah, that's what we doing now yeah. We doing this, this new Bluetooth thing, the Bluejeans thing, buggah work good so I going support um, yeah. You guys can do the same, do the work wherever and you guys can still be very, very, very do an awesome job. Okay, shoots.

Okay, next one 22-155. Okay, the Director of Water Supply, cause they going do one report yeah, today. And like the sistah was saying today yeah, no only go read the water meters and all that kind stuff, go check for the surface water like that. You know, we just when deal with that, in the Lahaina one, at the State level. Yeah, at the, for the West Maui and we learn plenty like that. So make sure the Water Department--

CHAIR LEE: Junya we're having trouble hearing you. Can you turn off your video? Turn off you video please, then, then we can hear you. I hope.

MR. NAKO Hello.

CHAIR LEE: Okay, say something.

MR. NAKO: Chair, can you hear. Hello, hello.

CHAIR LEE: We can hear you.

MR. NAKOA: Alright. Sorry, see the buggah junk. Okay, where was, yeah, so the Water Supply do the right thing cause, you know, like Upcountry and West Maui, we, we gotta, we gotta watch how we use our water eh, like that. So we got to make sure we, we know what water and how much water we using. But you know, the hotels, the hotels over here, oh boy, nice the pool, fill up the pool. They watering the sidewalks. Yeah, so get the Water Department for do their job. Okay, and then, okay that one pau.

Okay 22-162, the Crossroads. Brah, you know, how many people getting kick out of the, their stuff cause the owners raising the rents, yeah like that. That's what happening over here. And I think you guys was talking about purchasing this buggah maybe, I don't know. Uh, I think more better purchase this buggah instead of stupid, stupid hotel down here in Napili. Yeah, more bettah. And then fight that guy in Napili. So yeah, please go take care that one cause that one you going get, you going be taking care of the people that's working, hardworking people of Lahaina, and that can afford that housing. So please if you guys going purchase anything, go purchase that buggah. Cause that one, that one we know what going be and what, what, who going take care of and all this stuff.

Okay, okay, now this lighting one, yeah, this lighting one. I think you guys get two items yeah, the number, the 154 and 47, yeah. So I think I get like six minutes, but I not going use six minutes. I going make fast. Okay, the lighting, you know, when I, you guys know already I when go try help out with the film industry, yeah. And when every time they went to use the lights, they had, you get the DLNR plus one guy, one, one guy or lady that know about the, the birds that, that we trying to protect. And so . . . talk story about the lights, I wish I when, I do that but at that time I was only worried about COVID.

But I think that we got to get more educated about them. But with the, what you guys when write already and you guys when work hard on um already and all that stuff, you guys can pass um because you guys get choke exemptions, you know, for the Police, the Fire Department. And you know, the kine, all that kind stuff, get choke. I not, I not going read them all. But yeah, and you know, so get exemptions that going help out with that thing.

And then, you know, you get the kine, the guys that come in from Parks and Public Works, oh, my god. Okay, Parks, okay, you guys know I play softball. Oh, I used to, I cannot run anymore. But I coach baseball, yeah and so I coach baseball. And you know, how the braddah was talking about the lights and the ball going in air, baseball going in the air. The lights is all high, high, high, high in the air. The buggah no, the buggah not like fence level or six feet like junior . . . the buggah high.

So if you hit the ball that high, okay of course you going have to wait little while, but when the thing come down in the light, you can see um right away. You still not going, you not going get hurt, you not going to get hurt. Okay, you still going, you still going, you still going catch the ball. And if you miss the ball, your era. No blame, no blame the lights, no blame the lights. And even if they put one, one shade thing on top, if you direct um in the right way, the thing going be good. So, yeah, the baseball one, poho that excuse that one.

And then anyway, I know they, they was saying they when spend \$4 million dollars even before this bill came up. The Lahaina, in Lahaina parks over here, in our Lahaina parks, they when change all the lights, all the lights on the one park that we no use. So you, you go ask the public, the Parks how much time the lights has been used . . . and never use.

But you look at all the, you look at the baseball park, I'm there every day, the buggah all buss up. The fence is, the kids running through the fence to go catch one home run, they going get hurt. Yeah, you talk about safety issue, that's the kind stuff. The dugouts, the dugouts, all the fences, the backstops, all that kind stuff, you talk about safety issue, who, I give you a list. The new guy from the . . . Lahaina . . . that buggah going get one ear full. I kind of when warn him. I kind of when warn him. So yeah, the lights is not the issue again.

What else, but yeah, then, I sorry, but Yuki Lei, you like, you like, you know when the, get one testifier testifying about . . . no go harass them if they going make money from um. You know, they, they, they just testifying on this thing. I no hear you talking about, talking to the developers when they testify. Why cause you going make money off of this . . .

CHAIR LEE: Junya, Juyna, get back to the subject.

MR. NAKOA: That is the subject, the lighting. She brought it up. I make, I'm using what she when bring up.

CHAIR LEE: I know, let's talk about the lighting or whatever else.

MR. NAKOA: Okay, okay, but she the one when talk. Okay and then, yeah, so now all this, you know, all these departments coming up now. Where they was earlier, when you guys was talking about um in committee. I hearing that they was notified about um. I hearing that da kine, and then how come they no make the effort for go check out the Big Island. I would have. You know what I mean. So I say pass this bill as is, as written, as it is right now cause get plenty exemptions inside that buggah that going,

going make it enough time to make the, get the right lights. Okay, shoots, I pau. Sorry I stay piss off.

Okay, 22-151, what is that, oh the East Water Authority. Okay, again you get two, two items, two numbers, two items on this. Okay, Sandy Baz, he came out here and he when talk in behalf of the Mayor. Yeah, and, to, but he was saying about this thing that he going, they, the, he speaking in behalf of the Mayor, that he, they support Mahi Pono controlling um and not the people. Oh my Lord, and the guy, and the guy is saying he for the people, huh. Jesus Christ. And to tell you the truth, I call him guy the absentee mayor cause he's never around, he's never around, the guy. If he really wanted for be here, he should be here. And if Sandy Baz can do um remotely, and not be there physically, the Mayor could have done um, he could have done that. You know what I mean. . . . like me use the phone and do um.

But the, the thing is, give the people the rights to vote first about, on them. And it is almost like what Yuki and Alice was talking about, you guys like hear from the community, you know, about the Greg Brown house. Try listen to the community about this issue, okay. The, the people, how much people when testify for the water being controlled by the people. And the only people who saying that shouldn't be controlled by the people and by Mahi Pono, is the Mayor's Administration. So listen to the people. Okay, guys, listen to the people. People is talking, listen to them. Cause the State when listen to the Lahaina people when we when testify. Now the County Council should be listening to the people when we testify at this level cause this is very important. Listen to the people. Okay, yeah, I pau with those two.

Okay now 22-57, submission . . . yes . . . planning commissioners. I tell you . . . but you know what I mean cause when they testify, they testify and then they ask for the recommendation of the Planning Department, okay. This is the department that when screw us over at this illegal house, illegal hotel over there, down here. So having one planning commission from each district, and I going tell you that district don't know nothing about Lahaina, like how we know. And I bet you if we do each district, that one commissioner from district, that only going concern Lahaina, I bet you plenty Lahaina people going step up to the plate. But right now they no like go step up into the commissioner thing and for me, I gotta go deal with Kihei for go, go try pass this kind and what not. Plus I got to get appointed by the Mayor first and you know, that guy he not going appoint me for nothing. So like I said, the planning commissioners do um by the district brah, cause we going speak, we going speak for our, our, our, our community.

So and if all the guys that grumble to me every place I go, I going tell them step up and they join the commission too. And then again probably make the thing, commission when we all pau work like at 6:00 so everybody can listen, and not the kind 9:00 in the

morning when nobody can listen because they all at work. So, and yeah, again, and that's the other one that, in behalf of the Mayor, Sandy Baz said that they no, they no, they no agree with that. Uh, I wonder why, I wonder why? Try look at the, the jam up, the jam up with the Greg Brown one, yeah. That's what going happen again. And yeah, okay, brah, I pau, I when finish um. Shoot.

CHAIR LEE: Okay, questions, questions. Well, you were so good nobody has questions. Thank you, Junya.

MR. NAKOA: . . . I can add some more. Okay, you guys have a good one.

CHAIR LEE: Bye, you too.

MR. NAKOA: Yessah, gotta go practice now.

COUNTY CLERK: . . . testifier is Albert Perez, followed by Keisa Liu.

MR. ALBERT PEREZ (testifying on County Communication No. 22-151; and Committee Report Nos. 22-47, 22-52, 22-56, & 22-57:

Hello, am I next? Hi, I, yeah, I had my sound down, sorry. Hope you're all doing well in this long day. I'll try to keep it short. The first one I want to testify on is on my own behalf, and that would be the, the two lighting bills. So, you know, I generally support the bills, although I'm not familiar with the details, but I do have something that I think I want to contribute and that is the knowledge of the lighting business, which I was in for several years. I can tell you that the industry is very competitive. People are always going to conventions to get the latest information on the latest technologies. So I guess my message is that competitive businesses will bring in whatever is in demand.

And like with plastics, the ones who may resist, the ones who resist the change first are kind of invested in whatever was acceptable before. But if the County leads in the right direction, they will adapt, they will respond and we'll all be better off. So that's all I wanted to contribute. My probably total of maybe about eight years experience in lighting.

So now I'd like to get to Bill 82. On behalf of Maui Tomorrow, and this is apartments in heavy industrial. We continue to urge the Council to file this bill. Although we support creating the opportunity to live along Kaahumanu corridor, this sets a bad precedent and unfortunately, it's also one more instance of not paying attention to the community plans that citizens have put their heart and soul into. So on page 59 of the Wailuku-Kahului Community Plan, the definition of heavy industrial, it says this is for

major industrial operations whose effects are potentially noxious due to noise, airborne emissions or liquid discharges. Apartments are not listed in this definition for good reason.

So what's being proposed in this bill would require a community plan amendment to amend that definition. Would that require that the bill be sent back to the planning commission? I think it should and in respect of the community. Unfortunately, as often happens, an attempt at a shortcut ends up taking more time in the end. The appropriate route is to amend the community plan, change the zoning for that parcel, not all the parcels, but that parcel, change it to another district that's more appropriate than heavy industrial instead of changing the zone to fit the need and affecting all these other parcels. Otherwise, as I mentioned at committee, we can end up with apartments at the Maui Electric site next to Kealia Pond. Then that would serve as justification for more urban uses in the ag land next door. So this bill has a real danger of contributing to urban sprawl.

I also testified that allowing apartments in industrial zone is contrary to the findings of the Title 19 zoning code audit, which the County paid good money for. That approach does not support industrial businesses because they can't compete with other uses, so they get chased out of the industrial areas and moved to outlying areas, and they also contribute to urban sprawl and higher infrastructure costs. So we urge you to file this bill today and get started on a good bill that respects the community's plan, and I said community's plan specifically because that's their plan. And a bill that targets the need at Kaahumanu corridor instead of this blanket thing that applies to the entire zone.

I will move on to the regional Planning Commission's, 22-57. Maui Tomorrow supports this Charter amendment. All of our communities in Maui County deserve to have decisions that are made about their communities in a way that is sensitive to the actual conditions on the ground. We're growing, you know, the County is growing and it's time for government to adapt. It's time to make sure that we're equally represented. Many, many times, the Maui Planning Commission has made decisions that are basically tone deaf.

I remember clearly when almost everyone in South Maui testified against approval of the Maui Coast Hotel in the most tourist congested part of Kihei. The project was approved. Another time a planning commissioner actually said that Kihei was meant for tourists so residents shouldn't be complaining. This kind of stuff is much less likely to happen if it's your neighbors who are making the decisions, so please support that Charter amendment.

Finally, I'm going to go into 22-151, which is the East Maui, sorry it's the Maui County Water Authority with the East Maui Community Regional Board. We think this is a

good amendment, the 22-56, and it's time for Maui County to take control of its own water resources. I've said it before, but I'll say it again, having public water supply pending on private water systems is poor public policy, and it places the public at the mercy of decisions that are based on what's best for the company, not necessarily the public interest.

I won't go through the whole thing again, but you know, the watershed health is really critical. It's not getting the attention it deserves. A water authority operating in pursuit of defending the public trust could spend more attention on that, which is going to be better for all of the users, including Mahi Pono and anybody else who wants to use the water for agriculture. Or if the company gets sold like it did in 2018, we have a whole new period of uncertainty, while we hope that the new owner will have our best interests in mind. So Water Authority would prevent that situation from happening.

I want to say, though, that it's really important that the employees of East Maui Irrigation who know the system best, it's going to be important for them to be relied on and hired for their expertise. But the authority and the regional board would also need to work closely with invasive species experts and others who can help place a higher priority on restoring the watershed that provides the water in the first place.

And the same goes for other areas of Maui County that may choose to establish their own community regional boards. I like this current solution, so thank you for proposing that Councilmember Sinenci. Water for serious ag users can continue to be provided and balanced with in-stream uses such as kalo growing that have priority. These decisions would be made transparently instead of in a corporate boardroom. And I think I've said everything at least once, so I'll stop.

CHAIR LEE: Members, questions. No questions. Thank you, Albert.

MR. PEREZ: Okay, mahalo.

CHAIR LEE: Next testifier, next testifier and then we're going to take a 10 minute break.

COUNTY CLERK: Our next testifier is Keisa Liu.

MS. KEISA LIU (testifying on County Communication No. 22-151; Committee Report No. 22-56, and Resolution Nos. 22-166 & 22-168):

Everyone . . . this is pretty fun, you guys are here. I'm here to testify on four things today, CC 151, CR 22-56 and Reso 22-166 and 168. And, and forgive me as it's going to be a little bit difficult for me to say what I think I need to say when it comes to CC 151

and CR 22-56, because I think it might be weird to say, which is I don't think we have the right people in the room when it comes to talking about what we should do with our water. I don't know how to say this correctly, and I think I might offend people, but I'm sorry, but I just don't think, I honestly think the kanaka maoli should be the only people in the room when it comes to the water, their water, their land. And regardless of the fact that America is here, I think maybe they should have the biggest say, if not all the say in what we do with our water. So that's all I have to say about that.

The reason why I was kind of thinking about it was because I was thinking about Resolution 22-168, which is what I'll move on to now. As a female, I just appreciate that the Council has, has brought this forward in support of women. And the reason why is because I think at one point women were equal in the spaces as humans but we became more and more of a commodity for consumption. And when you become a commodity for consumption, you don't need to have a choice and your voice is not valued.

Yesterday, I moderated a talk with a Governor candidate and we were discussing women's rights. And it was really funny because that person said, you know, well, I believe that women should have a choice and should know all their options. And you know, I was trying to understand what that even meant, and they kind of elaborated by saying, you know, having abortions over and over again it's just not good for the body. And it made me pause a little bit as someone who has not only had an abortion but also had a child. So it made me think we're not having abortions over and over again, and we're really not understanding what maternal health is if we think that women are having abortions over and over again. That's not maternal health, it's not women's health, and that's not listening to women.

Which of course, made me think about the kanaka maoli and how we're not listening to them when it comes to their woman, their aunty, their mother, their land, their aina, their water, their wai. So I just wanted to take in a moment to express both of those things at the same time because I wasn't quite sure how else to do it. And there's so much more to be said about that, but I haven't quite got all the words yet. But you know me, I know how to find you, and I know how to write very long letters. So when I have those words, I will do that.

So I'm going to move on to the last one, which is 22-166. And I just want to ask if anyone in Council has been houseless or unhoused or homeless within the last three years. I'm going to assume none of you have, and I haven't either. But I thought it was interesting how I was seeing more and more people on the streets pushing carts of belongings or living in their cars. And I thought that was kind of interesting.

And when there was a person who was moved from the illegal camping at Kanaha Beach area, to quote the resolution. I asked them if I could walk with them, if they were going to choose to move out of houselessness. And they agreed. So in November, that's really when we started that process. It is now July 1, yeah, they're still not housed permanently.

And I need you to understand something that this idea that people are camping, and I know I'm boring you a little bit, but I need you to understand that this idea of camping for recreation is different than having literally no other option. And that's continuing, regardless. I am talking to people who are currently housed and wondering where they're going to get their next paycheck. And literally, they said to me, I think I might sleep in my van because I know I can afford that. Like, that's a, that's a person whose housed right now and recognizing that that might be what they have to do.

So it doesn't quite make sense to me though, that this is going to really solve the issue that we have. And just so you know, that person who, you know, I'm walking with in houselessness, one of the things I think we can do is talk about the bureaucracy of our government and when it comes to the funding or the paperwork and things like that. And that's where you guys can actually put some focus and some pressure because that person has put in documents to request for certain things that they need to get the resources so that they can become housed. Four times for one document, four times we've put it in. We've done it twice for another type of document that they needed and we're still waiting. That's what we're waiting for. We're not waiting because they're not interested in being in housing.

And the worst part about it is it gets so discouraging. I'm constantly reminding him and telling them like, okay, it's going to be okay. We can get you through this, like, you're going to be able to get housing and having to constantly tell them over and over again when the system itself is telling that person give up. So I need you guys to just kind of understand that this resolution coming forward isn't really addressing our real issues. And if you as a governing body want to do some work, I would highly suggest that you look at the bureaucracy and how that's affecting the ability for people to get into housing. Mahalo for your time.

CHAIR LEE: Thank you, questions. . . . everybody. Thank you, Keisa. No questions. Next person to testify. Oh yeah, I did say that. Okay, how many more people do we have? Okay, it's 3:43 so 3:53 folks, meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 3:43 P.M., AND WAS RECONVENED AT 4:01 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBERS JOHNSON AND KAMA, EXCUSED.)

CHAIR LEE: Will the Council meeting of July 1, 2022 please reconvene? It is about 4:01 p.m.
Continuing on with testimony.

Madam Clerk.

COUNTY CLERK: Our next testifier is Joyclynn Costa. To be followed by Jessie Kekiwi-Aweau.

MS. JOYCLYNN COSTA (testifying on County Communication Nos. 22-151 & 22-155; Committee Report Nos. 22-56 & 22-57, and Resolution Nos. 22-166 & 22-168):

Aloha, Council. I'm going to try to leave my video off to make sure there's no bandwidth if that's okay.

CHAIR LEE: Okay, that's fine. Thank you.

MS. COSTA: Mahalo. I'm here to testify on 22-56 and 151, also 155, 57, 166, and a short thing on 168. So I'll start with 168. Thank you for bringing this measure forward. I just wanted to leave you with a short story. I had just come back from the iwi conference in Oahu and met with First Nations people, and they talked about birthing. And what they tell us is when a woman is ready to give birth, they, they go to the earth, earth's floor. Yeah, there's no floor in the, where they're going to give birth. It's earthen floor, and they prepare a little bowl within the dirt and the woman bears down and her water breaks, and it fills that little earthen bowl. And as she gives birth, the child falls into this muddy substance of water and soil. And as they cut the umbilical cord, at this point, that is where the child is no longer attached to the mother, but is now attached to that land and must be responsible and defend that land and all that comes with it.

So in our practice, you know, for us is the piko that goes into the soil. But how it relates to this measure can go either way, you know, with, with the future of what we see today for our children. More and more of our rights have been and is being taken away. So I'm not either for or against abortion. I think it's something that needs to be spoken around the table of women and that's all I'm going to say about that.

Number 166, that would be, sorry I have all my notes here, unlawful camping, unauthorized camping. And I heard I think it was Councilmember Paltin asked if they were also referring to those vehicles that park on the side of the road. And I would, you know, I've had my share of homeless people where I used to work. Since then I've retired, but the first thing I would do is walk up to them and ask them their name and they became a human being. And at that point, there was a relationship and a

mutual respect for the most part. And I had no problem with them fronting the commercial establishment that I work as long as they were respectful, and yet they were, felt safe. So I think we need to do more measures on that.

As far as camping, what I see on the side of the road is what I consider unlawful use of a commercial activity, i.e. rental vehicle to be made into a bed and breakfast. And I think that is my concern of what you might consider as camping on the side of the road. Some of them is like RVs where they have an entire house that they're driving around. It's a mobile bed and breakfast. Others have a second story unit of sleeping, which is a tent on top of a roof. So it becomes very clever how they now can rent a vehicle and not, and not be considered a bed and breakfast. And I think that's where the problem lies a lot of times with this unauthorized usage of public land. And I'll leave that at there .

Number 57, district Planning Commissions. A little bit of a slippery slope. I can give it my thumbs up with reservation because I trust the Council that we have now. And, but we not going to be here 20, 30 years from now. And what I've seen in my lifetime, 60 plus years, is my demographic, my area of living has changed perspective. We have so much speculators come in that the quality of life and the amenities therein has changed. It might be somewhat familiar and, and the same, but for me, it's, it's not all the same, not all the same. And so that's why I have reservations, but to leave it to one planning commission that I've seen become so dysfunctional, I guess, I would choose the second option, which is to be able to control and speak to where we live and make that decision on our own.

So now I go to, I did 57, 66, 68. Did I do 55 already? No, 155 is the reporting of the, the water. I totally agree with Toni Eaton that there should be a report on the surface water. I drive into Nahiku frequently and what I witness is the State workers driving by, sitting in the back of the truck spraying poison on the side of the road, even where there is rivers and streams, even where there is favorite swimming holes. And I wonder that effect, that water goes down to the ocean. There have been local fishermen that, that dive the coast and tell, tell me of how certain places the reef is dead. That's been, that has been over time, it's not just today's events. And so we need to know, especially since we're drinking surface water, what we're drinking. So it's crucial that we do that. I'll leave that at that.

22-56, I would highly encourage the usage of Hawaiian Kingdom Law, especially that of 1839, 1859, 1864, because that's where the actual water rights come from. I also would like to see the language of kuleana, lawai'a, and mahi'ai because that is a specific people. We are not farmers, we're not local farmers. We are mahi'ai, different. And the resource that we're speaking of is not from today. It was created seven generations ago for us to now manage in a way that will be carried to the next seven

generation. So if this measure can include the kuleana, mahi'ai, lawai'a and the concept of seventh generation, and, and each time there's a new board that has to be its mission statement, I might be able, you know, feel easier about it.

There's also consideration about, because we have to take care of our people cause we're going to be in drought. I don't want it to and like again I said that I trust this Council, but once it's in the hands of the County, who's to say the next rogue Council might come in and then start stamping all these permits cause we got plenty water coming out of east end. Or, you know, a bunch of people coming over from California that cannot farm anymore because they have no water, and now they're going to have a farming concept that fits the criteria for usage.

And while we got plenty water coming out of East End, we don't have plenty of water, we have water in East End. And when we have a drought, that is not the well you go to just to alleviate the drought. We need to find out what the problem is and cure the problem. Just sucking more water out of East End is not the solution. It's just, it's considered insanity. You know, to see the Central Plains being, being planted with trees, where if you look along the road, trees do not grow.

So I had plenty more to say, but, you know, the Constitution says it's, it's about water use. And that's another thing, I want to make sure and it's clear that it's under, it's for water use and not the water itself. The rights are with the kanaka maoli, for the water. The usage and the, the ditches and all the repairs that needs to be done, if you want to take on that, then you know, the kuleanas would, would probably have no issue assisting with that as well. But it lacks some language, but with reservations, you know, I want to see it on the ballot. The sad part is the kanaka maoli have lost so much faith with so much injury and loss already, I don't know how many vote to be able to put their voice on there. So I pray that it'll affect them to come by and voice their their opinion. Mahalo.

CHAIR LEE: Thank you. Questions, Members. I see no questions. Thank you very much. May we have the next testifier.

COUNTY CLERK: The next testifier Chair, is Jessie Kekiwi-Aweau. To be followed by David Dorn.

MS. JESSIE KEKIWI-AWEAU (testifying on County Communication No. 22-151):

Aloha mai kakou. Can you hear me?

CHAIR LEE: Yes, aloha.

MS. KEKIWI-AWEAU: I too, will leave my video off so that I don't get the jibber-jabbering that went on. But my name is Jessie Kekiwi-Aweau and I am in support of the East Maui Community Water Authority. I am a lineal descendant and a kanaka maoli of Ohana Kauamo and Ohana Kekiwi, who has had many generations, and we have been lo'i kalo mahiai, we have been gatherers from mauka to makai. Our family has seen many changes in the stream flows and it had harmed and damaged many of our crops, our stream life, and our ocean life when the water was diverted away from us 100 percent.

We will not or cannot allow any foreign corporation or any corporation to do this to us again. Many of my kupuna have started this fight for returning of the water. Many of them have died. The next generation is finally seeing the water being returned and a lot of our, not a lot, but some of our younger farmers are returning to the lo'i to open up the, to open up more kalo.

I'm sorry if I offend anybody with what I have to say, but I believe that our water come from Crown Lands and ke Akua has given us this kuleana, responsibility to mālama, mālama ka wai, ho'i ka wai, take care of our waters, return our waters and manage. We are not here to take all of the water, we are here to share. But I believe that the kuleana of the water should go back to the kanaka maoli. And I mahalo everybody who came out to testify on this behalf. Mahalo to Chairperson Shane Sinenci for all you do for our East Maui residents. Mahalo.

CHAIR LEE: Thank you. Members, questions. If not, thank you very much. May we have the next testify, please.

COUNTY CLERK: Our next testifier is David Dorn. To be followed by Mr. Sam Small.

MR. DAVID DORN [testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-55, 22-56, 22-57, & 22-59; Resolution No. 22-162 & 22-168, and Bill No. 111 (2022)]:

Hello, my name is David Dorn testifying as myself. I support 22-47, 22-151, 22-57, 22-162, 22-55, 22-162, Bill No. 111, 22-59, and 22-168, just in case I get cut off.

I support number 22-47, protecting seabirds from outdoor lighting. A lot of people talk about the cost of conversion, but what does it cost to replace an extinct species? It seems like a few testifiers have done some Google searches while some have cited single studies for a single non blue lighting system on a single species. We call this type of superficial research as confirmation bias. The actual scientists are clear that artificial lights in Maui County regularly attract and disorient Hawaiian petrel's, . . . storm

petrels, . . . shearwaters as they navigate between the ocean and nesting colonies resulting in fallout, injury, death.

And we need to do better to protect endangered species, seabirds and other wildlife. This bill will do that, . . . Federal wildlife agencies are charged with helping to prevent these species from going extinct, and they recognize artificial light attraction poses an ongoing threat to species survival and recovery. They outline the best practices is to minimize light attraction. This bill does that and gives our endangered seabirds and wildlife the best chance of survival.

With regards to 56 and 151, I support item 22-151, for the creation of Maui County Water Authority. Water is the most important issue. It is our most precious resource. We cannot give exclusive power of our life sustaining water resources to a private Canadian for profit business entity. I support the Charter amendment to establish the Maui County Water Authority that would include an initial East Maui Community Advisory Board to manage the East Maui Watershed to deliver water to both Upcountry and Central Maui, plus have the potential for other community boards for West Maui, Na Wai Eha, Molokai , etc. 22-151 is better than CR 22-56, which would only be for East Maui. Although a lot of people gave great testimony on 22-56, but I think it equally applies to both that universal testimony of the importance of creating this water authority.

Item 22-57, I support the creation of a regional Planning Commissions. To establish planning commissions for all County plan areas on Maui and dissolve the Maui Planning Commission. We need more local representation and local experience in our planning process, especially in my area of South Maui. We've seen time and again the County commissioners are out of touch with this part of Maui and tend to totally ignore the local issues and dismiss the testimony of local residents. This lack of empathy and experience is leading to a degraded South Maui watershed and repeated bad planning decisions. Examples include building hotels in wetlands and stream beds, building affordable housing in notorious flood zones.

Item 22-162, I support the purchase of Lahaina Crossroads building so we can support the vulnerable residents and prevent their evictions. Maui County needs to acquire and maintain an inventory of affordable rentals. This is the best investment for capital and is a turnkey solution.

I also support item number 22-55, regarding telecommuting for County employees, allow telework and alternate work schedules. We need to keep people off the streets and commuting unnecessarily. All telecommuting should be encouraged in all sectors, wherever possible. There's been plenty of good testimony on that.

Bill. No. 111, with the supporting a cesspools conversion fund and the loan that that would require. We need to help people convert to safer . . . systems. We need to do this to help maintain our watersheds and to improve the quality, quality of groundwater and to prevent stormwater contamination and the resulting stormwater or ocean pollution.

I support 22-59, to establish County residency requirement for board, commission, and committee members, and I support 22-168, supporting our keiki, wahine, and ohana in response to the Supreme Court vote on overturning Roe vs. Wade. Thank you.

CHAIR LEE: Members, questions. If not, thank you, Mr. Dorn. Next testifier.

COUNTY CLERK: Our next testifier is Sam Small. To be followed by Nick Huntz.

MR. SAM SMALL (testifying on Committee Report Nos. 22-56 & 22-57):

Okay, hi, I'm going to try and keep this brief. Certainly in support of the East Maui Irrigation amendment and creation of that authority. Certainly, you know, it's all about, our community has matured and we have the ability now within our community to make these decisions for ourselves that have been abdicated to special business interests. Mahi Pono does not deserve to be controlling this water anymore and, and these amendments that empower our community and empower the Council are very, very important.

To the Charter, the Planning Commissions. Overblown Director's discretion is the linchpin for so many of the problems that we bring you. Greg Brown is just one of a long list of abusive projects where the public has sued developers and the County and where the citizens have won. You know the list: Montana Beach, Olowalu, Palama Drive, Kahoma Villages. Even a suit that is currently in litigation in Napili on Hui Road E, where developer Hugh Farrington with cooperation of department directors and Corporate Counsel, forced Chris Salem into foreclosure by issuing the one and only notice of intent to collect ever sent to any property owners who have signed on of one of the thousands of three lot or less deferral agreements. To teach him a lesson island style that quite literally evicted his, him and his family from the home that he personally designed and built on Thanksgiving Day.

Director's overblown discretion is the linchpin of the abuse of power that serves well-connected developers, complicit directors and whoever happens to be Mayor at the time. That overblown discretion turns permit approvals into enforcement, permit approvals and enforcement into a political tool. It's why there is such great disparity between two different developers, both abusers of the system who get treated so

drastically different. Compare Greg, Greg Brown in Napili to Michael Baskin at the Paia Inn. Both seem to be terrible abusers of County ordinances, yet Michael Baskin is being persecuted with millions of dollars in fines and Greg Brown is being desperately protected to the extent that Corp. Counsel and the Planning Director have repeatedly lied to this Council.

Developers don't like surprises. It's a fact that credible developers want the County to have firm and clearly defined rules in place so that they can know what is expected of them from the beginning, and they can depend on evenly implied, applied enforcement. Corrupt developers prefer just the opposite. They rely on Director's discretion so payoffs can be made, and I think we can all agree at this point that payoffs have been made.

For several years now the Planning Commission has been proposing new SMA Rules that wrongly give even more authority to the directors. At a community meeting, I asked Director McLean how it is that the Planning Commission and not the Council has the authority to write the rules that they then oversee. Rules that have the force and effect of law. She told me that it's by the Charter and it would take a Charter amendment to change that. And I looked into it and she's right.

I'm sorry. Councilmember Paltin is wrong, the State does not mandate that SMA authority reside in Maui's Planning Commission. The State simply acknowledges the authority that each County assigns through its Charter. Honolulu's Charter assigns it to the Honolulu City Council. Our Charter each, says that each planning commission shall or the many, however many you create, shall act as the authority in all matters relating to Coastal Zone Management, all matters. That has been conveniently interpreted to make them the ultimate arbiter of the enforcement of the rules and the author of those rules. And those two things need to be separated in today's proposed Charter amendment, so that it's you, our elected legislators that determine what has the force and effect of law, not a politically appointed commission.

SMA Rules are currently a Committee item waiting to be heard solely because Chris Salem has worked hard both inside the Administration and on his own to fix this. Please correct the Reso to fix this.

CHAIR LEE: Alright, Members, questions.

Member Paltin, clarification question. Okay.

COUNCILMEMBER PALTIN: You know me, Chair.

CHAIR LEE: I know, that's why I asked.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Small for your testimony. So to clarify, you don't want this resolution, you would rather a Charter amendment saying that the Planning Commission, as, advises the Council in coastal zone management, not that the Planning Commission has the authority in coastal zone management. Is that what you're saying?

MR. SMALL: I think that's the thrust of it; however, I don't know that there is the timeframe to create a new Charter amendment. And since we're so late in the process, the existing Charter amendment needs to be modified to achieve, I believe, what you just said that the, that the rulemaking authority needs to go back to the County Council and that the oversight, administration or enforcement stays with the individual planning commissions. But the rulemaking needs to go back to the Council. I don't know that there's enough time in this, in the schedule to, to, to do it any other way than by fixing what's currently proposed.

CHAIR LEE: Was your question answered?

COUNCILMEMBER PALTIN: Thank you, Chair, it was. I don't know if this proposal has enough time either, though, because--

MR. SMALL: I don't. I don't know, Council Services can probably, you know, help you with that.

CHAIR LEE: Any proposal has to be passed today on first reading.

MR. SMALL Then amend it today. Talk to Council Services, I think they understand this problem and they can provide you language today to fix this.

CHAIR LEE: Thank you for your suggestion.

MR. SMALL: Thank you.

CHAIR LEE: Any more questions, any more questions, Members? If not, thank you again. And may we have the next testifier, please?

COUNTY CLERK: Our next testifier is Nick Huntz. To be followed by Kallie Keith Agaran.

CHAIR LEE: Could you repeat the name.

COUNTY CLERK: Nick Huntz.

MR. NICK HUNTZ (testifying on Committee Report No. 22-47):

Hello, I'm Nick Huntz with LED Hawaii, and I was just calling or calling in today to testify for the lighting ordinance bill. I did speak about a week and a half ago, and just a couple of the things that I had commented on was that it's, the decisions that Maui makes today that will define what the, the night skyline and what the city and the island looks like for many years and decades to come.

And I just wanted to clear up a few things that I heard on some of the other testimonies throughout the course of the day, and that is that these fixtures are readily available today for any projects that, you know, were to be in the works right now. I know there was some questions about the Johnson Controls lighting project and how it would apply to the actual Maui County upgrade and retrofit. And there's really no reason that anything should slow down because we've been supplying these on the Big Island for many years now as well as other regular white lights throughout the State of Hawaii. So whether Maui chooses to go with the less than two percent blue light fixtures in this ordinance, and sort of adopt what the Big Island has done, or they don't, you know the fixtures are readily available today.

There was some questions from the Parks and Recreation or comments, I guess the technologies available, ready to be implemented, but no one's going to implement it until there's a demand for it. But if it's something that this Council and the people of Maui are serious about, we're ready to go on this today, tomorrow, whenever, you know, you guys would choose to, to pass the bill, if it's what the people decide that they want to do.

And so we just wanted to offer our support and our expertise in the work that we've done on the Big Island in any way that we can for the people of Maui.

CHAIR LEE: Alright, Members, questions.

Member King.

COUNCILMEMBER KING: Just a real quick question. Thank you, Chair. Aloha, Mr. Huntz. So do you live on the Big Island?

MR. HUNTZ: I do, I live, I lived on the Big Island full time from about 2011 through 2016, and now as my company is expanded, I split my time between Oahu and the Big Island.

COUNCILMEMBER KING: Oh, okay, great. Well, thank you for being here.

MR. HUNTZ: We've got offices in both locations. Yes.

COUNCILMEMBER KING: Appreciate you being here and giving your expertise. Thank you.

CHAIR LEE: Anyone else? If not, thank you very much. May we have the next testifier, please?

COUNTY CLERK: Our next testifiers Kallie Keith Agaran. To be followed by Clare Apana.

(Councilmember Johnson returned to the meeting at 4:32 p.m.)

CHAIR LEE: Repeat.

COUNTY CLERK: Kallie Keith Agaran,

CHAIR LEE: Next.

COUNTY CLERK: Okay, our next testifier is Clare Apana.

CHAIR LEE: There you are. Clare, it's your turn. We can't hear you. We cannot hear you. You're muted on her side.

MS. CLARE APANA (testifying on Committee Report No. 22-47):

How's that?

CHAIR LEE: Perfect.

MS. APANA: Yeah, okay. Okay, thank you very much for hearing so many testimonies.

MS. KALLIE KEITH AGARAN: I'm sorry, this is Kallie Keith Agaran. I apologize, I didn't have the right button.

CHAIR LEE: Oh, okay we'll call you up, we'll call you after this other testifier.

MS. APANA: No, Chair, it's okay. Okay, you want me to go.

CHAIR LEE: Yes, please.

MS. APANA: Okay, thank you. I'm just going to testify on one thing and that's the lighting to protect the seabirds. I seriously cannot understand how we could not do some simple measures to counteract the damage that we have actually done to the birds by our own existence. You know, it seems like it's so simple, and yet there's so much opposition to, to being able to simply fix lighting fixtures that will probably be, in the end, save labor.

Who speaks for animals who lose their habitat and safety because we have to live here and take over the aina. Who speaks for them, you know. So simple, not, this is not political, this is just a no brainer. It's so, it's so logical. I hope that you will see that, that we're not always able to fix things. We're not always able to make things better. But this is something that can be fixed and something that we can do. They've been doing it on the Big Island for all those years and from the testimony I've heard they haven't had any problems. Why would we anticipate having problems? I, I like to speak, you know, I tend to speak for things that don't speak for themselves. I like to speak for the seabirds. Do the small fix and let them live and be safe. Undo what we've done by our intrusion into the environment.

Mahalo, Council. Mahalo, so much. Thank you for your service, I really appreciate you guys. And if you could, I wish you would make one more meeting so that these meetings don't have to have so many items on it. Then you could group them together and it wouldn't be so confusing for us to try to, to figure out what we're going to talk about. And I'm sure it's confusing for you. So that's, that's my two cents. Thank you very much.

CHAIR LEE: Thank you. So you call up all the other testifiers that came up and you tell them the same thing. Okay, any questions for Clare? If not, thank you very much.

MS. APANA: Thank you.

COUNTY CLERK: Our next testifier is Kallie Keith Agaran.

MS. KALLIE KEITH AGARAN (testifying on Committee Report No. 22-47):

Good afternoon, Madam Chair and Councilmembers. I've been on this call since 8:15 this morning but didn't know I had to sign up to testify in the chat until about noon. So that's why I'm here. But I have to say it's been a wonderful experience listening to you and all the testifiers coming through, regardless of their point of view. I am really heartened by . . . experiencing in this meeting today as they approach, of the Council, which I had my suspicions about but has sort of not followed much. So I want to thank you all for that. And all the wonderful testifiers I've learned so much from today.

So I submitted testimony about the lighting bill on behalf of the Hongwanji, all four Maui temples. I am a board member of the Kahului Hongwanji Temple and last week we learned to our surprise about the lighting bill and so we did a quick little conference by email and I'm here to report on that today. And basically to ask, well, first of all, before I go there, we're absolutely in support of lighting to protect people. It's just no question, it follows our ethics, and I've written about that in my testimony.

However, we do have, I, I've identified two issues that concern me. One is that between myself, my husband, my mother-in-law, who's been a political activist . . . most of us have been alive, almost and my sister-in-law, none of us have heard anyone in the Filipino community or in the Hongwanji community who were aware of this stuff. And so the concern I have about that is that if a bill passes immediately and then this Central Maui or whatever communities that don't know about it already start to hear about it and hear that they're going to have to spend money, these are generally not well-off, either community organizations, small businesses or families. There's going to be an uproar, I'm afraid there's going to be an uproar if they think that they haven't been included and it sort of looks like that to me right now. And I'm not blaming anyone for that, I can understand how it happened.

But I think it needs to be rectified before you pass the bill. And just in the interest of keeping everything on track and smooth without a bunch of pilikia between that, you know, quote environmentalists and locals. So that's one concern. And I have a suggestion in that regard, and it is that you consider maybe taking a couple of months to produce a YouTube video that you can advertise in radio and social media and send around that educates people about the bill, what's required, what will be either exempted or grandfather, and so on. And, and, you know, gives them a chance to come in and talk. And and that way, I think it stands a much better chance of passing smoothly without a lot of disruption. So that's my input for that.

With regard to the Hongwanji's, obviously the Bon Dance is a concern. I've heard that answered how the lighting will affect the Bon Dances themselves, I'm not worried about. But there is another issue that hasn't been brought to your attention regarding the Hongwanji's and I'll use Kahului as my example. We are the newest and most recently built temple of all the four on Maui. We, we were completed in the early 70s, so about 50 years, that's already very old.

And some of you may remember that our campus is very, it's relatively short across the front, about 90 feet and about 300 feet back. So it's a very deep, somewhat narrow campus. And right now, all of our buildings are pretty much original equipment, all of the electricity is original equipment. And it's our facilities and our parking lights that are going to be the compliance issue. And I know our parking lights are very high. I

don't know how high, I don't know if they fit your, but that is the least of the issues. The real issue is the rickety electricity and all of those lights that need replacing anyway. Now that would all be fine. I think we could handle that if that's all we faced. But right now, Kahului Hongwanji cannot, and this has been going on for years, probably six or eight years, almost all of the time that I've been a member there, which is 11 years now. We have been unable to get County permits or we have to be sort of snuck in for little repairs that we need to make because we do not have a fire hydrant that can service the back buildings, the buildings in the back of the campus--

CHAIR LEE: Kallie, Kallie.

MS. KEITH AGARAN: Yes.

CHAIR LEE: Could you please conclude in a minute? Thank you.

MS. KEITH AGARAN: Okay, what I'm saying is without that fire hydrant, we can't get a sump pump, which you need for flood mitigation. We can't complete our, any kind of electrical work. We can't even undertake it. So that's a huge expense that we're trying to work on, but it's going to hamper us to have to do that. And so three years might be kind of short for us on this . . . and we can handle that. But I think they're going to be similar problems in most of the other Hongwanji's.

The last thing I want to say is that I think if the bill, the Council, or somehow the County can consider trying to find grant funding to help organizations that may have trouble complying, that there's probably a lot of environmental money, general grant funds and Federal grant funds out there. And I can't offer to do much of that legwork, but I can certainly consult on it, I help with those at Kahului Hongwanji. And I would like to see you folks look at that in whatever way you think appropriate to consider helping those who will struggle financially to comply. So with that, I'll conclude.

CHAIR LEE: Okay, Members, questions. If not, thank you, Kallie. Oh we have a question.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Chair. Good afternoon, Ms. Keith Agaran. With regards to the Hongwanji's, have they submitted anything in writing on the position, on their position with this bill? And if, if, can you get them to submit something in writing with their concerns.

MS. KEITH AGARAN: Sure, sure, sure, I can do that. I think they're going to be variable between the temples, but in general, like I said, I think there's widespread support for the bill. It's just a matter of how we're going to be able to comply. And I know that

there's one temple that's going to be harder hit than us financially, and that's Lahaina. And of course, they're near the ocean, so there will, I think if you guys can come up with funding, some instances not just for us, but for other groups as well, that might be helpful. But I will certainly talk to the groups and try to get something to you. May not be quick because we got to go through all four temples. Alright.

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

MS. KEITH AGARAN: Sure.

CHAIR LEE: Any more questions? If not, thank you.

Madam Clerk.

MS. KEITH AGARAN: Thank you very much. Aloha.

CHAIR LEE: Aloha.

COUNTY CLERK: Our next testifier is Sam Ahling Akoi. To be followed by Jordan Molina.

CHAIR LEE: Repeat the name.

COUNTY CLERK: Sam Ahling Akoi.

CHAIR LEE: He dropped. Next.

COUNCILMEMBER KING: Next up would be Jordan Molina. To be followed by Noelani Ahia.

DIRECTOR OF PUBLIC WORKS JORDAN MOLINA (testifying on Committee Report No. 22-47):

Good afternoon. Is my audio alright?

CHAIR LEE: Yes, you're good.

DIRECTOR OF PUBLIC WORKS MOLINA: Thank you. My name is Jordan Molina, I'm the Director with Public Works testifying on behalf of the Department regarding Committee Report 22-47. The Department opposes the proposed bill for the unintended consequences that will result, and we recommend the bill be sent back to Committee for further deliberations.

My written testimony which was sent to you all outlines the consequences which we anticipate, which include delay electrical permit approvals, particularly as it concerns housing projects in construction and waiting permit approvals; the abandonment of energy efficiency projects, notably the streetlight conversion projects, which will throw away millions of dollars that could be going to more meaningful work to boost our seabird populations; preventing emergency operations that occur at night, such as the debris cleanups like we did back in December from the storm events; and also our challenges in trying to determine compliance with the requirements relating to filtering, nonreflective surfaces and blue light content.

The bill sets up the Department for failure. In our opinion, the bill has not been sufficiently consult, the Department has not been sufficiently consulted with in development of this bill, and there has been no interest in working through the implementation challenges we will face. If there is a desire to get the bill right and ensure the Department's can . . . policy to its full extent, the bill should be sent back to the committee and all the departments and property owners that have expressed concerns should be provided an opportunity to work through the details of this bill.

Further, I would recommend the Council consider following the process used for the previous outdoor lighting amendments, which involve pilot projects and objective deliberations by a collection of industry, professional, environmental advocates, and County departments. That concludes my testimony. Mahalo.

CHAIR LEE: Thank you. Questions.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Mr. Molina, you were at the last couple of committee meetings with this and we did hear your input. But we did ask you to contact the County of Hawaii and reach out to them for how they managed to comply with the ordinance. Have you done that?

DIRECTOR OF PUBLIC WORKS MOLINA: . . . extent, but I don't think we recognize the differences between the two ordinances.

COUNCILMEMBER KING: Have, have you talked to them?

DIRECTOR OF PUBLIC WORKS MOLINA: Yeah, we've con, we've had meetings with their traffic engineers as far as their street lighting efforts.

COUNCILMEMBER KING: Okay, cause, you know, that would have been good to hear how that meeting went. I know we, we asked you to do that at the last committee meeting when we passed this out and we did hear your concerns. We addressed some of your concerns, so I'm a little surprised at this last minute, you know, attack on the bill. But that's all. Thank you, Chair. Thank you.

CHAIR LEE: Any other questions? If not, thank you, Mr. Molina. Next testifier, please.

COUNTY CLERK: Our next testifier is Noelani Ahia. To be followed by Sam Ahling Akoi.

MS. NOELANI AHIA (testifying on County Communication No. 22-151; Committee Report No. 22-47; and Resolution Nos. 22-162, 22-166, & 22-168):

Aloha mai kakou. I almost forgot what it was like to stand at this thing with this microphone. It's been so long, it's great to see you all. I'm Noelani Ahia, thank you for taking this long day to receive everyone's testimony. It's very much appreciated. So I'm going to start with 22-168. I'm in favor of this resolution. I'm going to go kind of quick because I know you've been through a lot today.

22-162, the Crossroads Apartments, I'm in favor of this. I don't think the County should have to do this, but what's happening is shameful and we simply cannot let more people be houseless if the County has an opportunity to do something about it. So I fully support that.

22-47, the seabirds, I absolutely support this. We have to prioritize our ecosystem. If one part of our ecosystem goes out of balance, there are unintended consequences for our entire ecosystem. And our birds have been harmed for too long because of human, human unnecessary luxuries. So I'm hoping that this, this bill can go through today.

And then 22-166, I'm not saying that I support or I don't support, but I think this bill needs some clarification. Because when we're talking about unauthorized camping, it's super important that we clarify the difference between tourists who come here and camp or even residents who are renting out campervans to tourists versus residents who are trying to survive because they don't have housing. Because a lot, there are a lot of people who are living in their vehicles, who are camping because they simply don't have shelter. And it's really their last hope.

And for me as a kanaka maoli, especially when I see kanaka out there on the streets or camping, living in their vans, living in their cars, it's so, it's so representative of the state of respect that the State of Hawaii does not have for kanaka maoli and that the

United States does not have for kanaka maoli. We've been displaced for a 129 years and forced off of our lands and then forced to live out of our cars. It's shameful and it shouldn't happen. So this bill has to be reworded to clarify, especially for law enforcement, that this is not for residents.

And I understand that there are State laws that make sleeping in your car illegal that have to be addressed. But I see this bill as a way for law enforcement to further criminalize kanaka and other unsheltered people in our community. And it's simply not okay. Because what happens, there's a whole cycle that happens. People end up getting tickets for this type of thing and then they can't get to court and then they have a warrant for their arrest and they end up criminalized and in prison or they end up owing fines and then they're deeper and deeper in a hole that they simply cannot get out of because the system does not provide the help that folks think it does. So I'm absolutely clear that it needs to be more clear. I hope that made sense.

Okay, and then the very last thing is 22-151. I absolutely support putting this on the ballot as a Charter amendment and letting the people decide. I think given all the testimony and support, it's pretty clear that the people want to end the plantation era policies and return the water to the people to manage in our best interest and not corporate interests. Starting with the kanaka 'oiwi and as Auntie Joyclynn said it's very important that we include kuleana landowners, our mahia'i, and our lawai'a. These are the folks that need to be on this board or commission or however it's languaged because they have the 'ike, they're closest to the source, they're closest to the piko. And those are, those are the folks that need to have the highest kūlana in this kuleana to manage our water to make sure that we can stop this cycle of suffering because our aina has been suffering and our people have been suffering for way too long. So ola i ka wai. Mahalo nui and a hui hou.

CHAIR LEE: Thank you. Members, any questions? I see none, thank you very much.

Madam Clerk.

COUNTY CLERK: Chair our next testifier keeps coming in and out so I'm not sure if he's back in yet. But Mr. Sam Ahling Akoi. And Mr. Akoi will be followed by Terrill James Kanealii Williams.

MR. SAM AHLING AKOI (testifying on County Communication No. 22-151; Committee Report Nos. 22-56 & 22-57; and Resolution Nos. 22-166 & 22-168):

Aloha.

CHAIR LEE: Aloha.

MR. AKOI: Aloha kakou, County Council, County Council Chair. Mahalo for having me today. I want to testify, my name is Samuel Ahling Akoi IV, I reside in Kipahulu, Maui, Hana. Lineal descendants, lineal descendants of Matapuupuu from Door of Faith, from Haiku. Lineal descendant of Koolau. You know, it's funny how, how we hear all of this just on and, and our native people out here, you know, trying to protect our, our kuleana. But I just want to go run, right pass through everything.

CC 22-151, 22-56, 22-57, I fully support all of this with the best of my heart. Thank you for, for doing what you folks do. I mean, I know we all have our hands tied, our kanaka maoli's, our lineals, you know, and you folks here on the board just want to FYI to let all our people know, you know, that, hey, we all need to unite together and we need to persevere forth in God's law. And to work with each other and to, to be a part of, of this, this movement, you know, so we can, we can have a voice and stuff, you know, to, to protect our, our wai, you know, and not only our wai. We protect all our six committees that is, is put forward onto us. You know, the kanaka maoli's, the lineals, the, the Royal, Royal families. You know, I'm behalf here speaking on the royalty on my family and I support in this with all my heart.

And I thank you all for, for doing what you guys. Mahalo Shane, for, for putting this together. I'm sure we all can get on the table, you know, I'm so excited to get on the table. And, you know, with all our expertise in the, in our culture, you know, to get involved and so, so we can come to one, one agreement in how we can manage and how we can work together in management. You know, it's going up to capitalism and all, you know, and back to the resource management, you know, from the mountain to the ocean, you know. So we call that the ahupua'a system. So thank you very much. I don't want to take you guys, too much of you guys time, we've been here so long. But mahalo ke Akua, mahalo to all of you. A hui hou.

CHAIR LEE: Thank you. Questions, Members? No questions. Thank you very much. Next testifier.

COUNTY CLERK: Our next testifier is Terrill James Kanealii Williams, followed by Kamalani Pahukoa, who is the last one currently signed up to testify.

MR. TERRILL JAMES KANEALII WILLIAMS (testifying on County Communication No. 22-151):

Aloha, can you folks hear me.

CHAIR LEE: Yes. Aloha.

MR. WILLIAMS: Aloha kakou. My name is Terrill James Kanealii Williams. I'm testifying on CC 22-151. I, I want to echo what has been shared by Uncle Keeaumoku Kapu., Uncle Kaniloa Kamaunu, Aunty Joyclynn Costa, and Noelani Ahia. I am testifying as a kanaka maoli, as a kuleana, as a lineal descendant of East Kuiaha, Hamakualoa. As the kanaka maoli we are the ones that have the water rights.

I don't. I, you know, all last year, I showed up to a lot of these County meetings, and I know that that was made very clear throughout several meetings. And so this County Council is very, should be well knowledgeable . . . updates like live updates of the conditions of my river specifically in regards to East Maui Irrigation and Mahi Pono's impacts on the river.

My concern, of course, is I don't have enough context regarding the leasing and this bill because of course I, I wasn't at the table. Like a lot of us kanaka maoli who have the water rights have not been at the table and we have not been invited to the table. We have not been given the opportunity to make the decisions regarding our water that we are the ones that have the rights to. We're, we're constantly put to the side. We are constantly, not only are we not allowed to the table, we're like treated like dogs, given the scraps of the water, if we're allowed to even get a trickle down our rivers.

I, I heard a lot of, you know, testimonies today, people saying our, our rights to the water, our rights to the water, but everybody needs to understand that as kanaka maoli we have the first right and everybody has access to the water through our rights. But our right is not, why should anybody else . . . We're the ones that constantly have to suffer. We're the ones that have to conserve our water. We have to catch water when we of course, its codified not only in Hawaiian Kingdom Law, it's codified in the State Law. There's no, there's absolutely no reason why any private corporation should be having and monopolizing our water resources.

Not only is, is Mahi Pono, a multinational corporation. The, the public's, they're . . . partially owns Mahi Pono, like not only was it, is it a corporation that, a Canadian corporation. But it's a corporation of, produced by the Canadian government and works in the interest of the Canadian government. And so with that in mind, it boggles me that another government, a Canadian government is able to monopolize and have control of our, over our waters here in, on Maui. It's already, it's already bad enough that the United States government has, and its policies have completely mismanaged our water for, for generations. Now we're also dealing with a second government controlling our water.

There's no reason for, for Mahi Pono and East Maui Irrigation, or A&B to, to attain any leases or any, any water being shared with those corporations anymore. It's, it's time for that to end. It's, it's very obvious. I mean, as far as like I mentioned earlier for my river, all, all that documentation is in the County Council record already. You folks saw it all last year.

My river's dry still yet at the hands of East Maui Irrigation. Right? And so it's time for us as kanaka maoli to have full and total control over our water again. I, I support aha moku having a place and having representatives on whatever board is established. The majority, however things turn out, the majority of that board, of the authority should have aha moku, should have representatives from each moku, lineal descendants from their ahupua'a representing themselves and their water rights. And we understand that the water is not just for our kalo, its not just for farming, but there's an entire ecosystem for mauka to makai within the river itself and each river that depends on the water as well, all the way down to the ocean.

CHAIR LEE: Mr. Williams.

MR. WILLIAMS: . . . is no relation . . .

CHAIR LEE: Mr. Williams, could you please conclude.

MR. WILLIAMS: . . . is not protecting . . . Mahalo nui.

CHAIR LEE: Could you conclude, please. No, you have a minute to conclude.

MR. WILLIAMS: Oh, I have a minute. Okay, okay, that's great. So as I was saying there's an entire ecosystem within the river that us, as the kuleanas, our right is meant to protect that ecosystem. And so by our rights, for our . . . kalo not getting the water, the water being diverted from us, not only is it damaging us, but it's literally destroying the ecosystem mauka to makai, which if that's not a concern for the Council, then I don't know if, if we're just at that point where the water is just about money, or if it's about our survival, the survival of our entire environment that's around us. I'm not too sure.

But I, I hope that this Council really takes all these things into consideration and, and is finally ready to allow us as the kanaka who have the generational knowledge, who have the kuleana within our ahupua'a to manage our water . . . Because ultimately we are the ones that are able to manage it properly and know how much should be shared out, when it shouldn't be shared out, and how it's going to impact all of us. And so that's all I have to say for now. Mahalo.

CHAIR LEE: Thank you, Members questions.

Member Yukimura, Sugimura. I'm getting punchy.

COUNCILMEMBER SUGIMURA: Long day.

CHAIR LEE: Punchy now.

COUNCILMEMBER SUGIMURA: So thank you very much for your testimony. And I guess from what I'm keeping track, you're the fifth person who today has come forward to testify about the kanaka maoli and their water rights, which sounds like you're saying is deeper than this water authority that we're talking about for our Charter amendment. because that's part of the, our government systems. Am I misunderstanding?

CHAIR LEE: Mr. Williams, did you hear the question?

MR. WILLIAMS: Can you repeat it one more time, sorry.

COUNCILMEMBER SUGIMURA: From, from today, today, I mean, you are the fifth person who has come up towards the end of our day talking about the rights of the kanaka maoli, maoli and I may be misunderstanding, but just by listening to your testimony as well as the previous testifiers, it sounds like you're saying that your rights as a Hawaiian is deeper than the Charter questions that are before us. And I, and I could be completely wrong and please just correct me, that's my clarifying question.

MR. WILLIAMS: I'm, I'm not saying that my rights as a Hawaiian are deeper, I'm saying my rights as a kanaka maoli are deeper, and it's different, yeah. And I'm also saying that whatever the board makes its decision on, because I don't have control of the board, right, or the, the Council, and what things move forward. I don't have full control right, that kanaka maoli should be in those positions, particularly the ones who have kuleana to the places that are in question, lineal ties to those areas.

And so like, for example, to my knowledge, I don't have, I don't have lineal ties to, for example, Kipahulu, that I know of. So it's not up to me to make a decision, even though I'm kanaka maoli, it's not up to me to make a decision on behalf of Kipahulu families unless that is what they consent to. And the same would be for and in my moku, or my ahupua'a, it comes down to who has kuleana to what wahi, what area, what place and those things we have records of those, of who has kuleana to where.

We have, that aha moku has knowledge of who has kuleana to where and so aha moku should be consulted, not just consulted, but should actually be taking quite of a lead, in my opinion. But does that answer your question.

COUNCILMEMBER SUGIMURA: So you're saying to participate, and you would be, you would be satisfied. Is that what you're saying?

MR. WILLIAMS: I would want--

COUNCILMEMBER SUGIMURA: You're saying something very important.

MR. WILLIAMS: Yeah.

COUNCILMEMBER SUGIMURA: You understand. Yeah, I'm sorry, what did you say.

MR. WILLIAMS: I, when the water concerns my particular area, I would like to have a seat at the table, That's what I'm saying. And I think that might be what other kanaka maoli who have expressed the same sentiments might be saying. I cannot speak for them because everybody has their own kuleana in their specific place, that I cannot speak on behalf of because it's not my place.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Any more questions. If not, thank you, Mr. Williams.

MR. WILLIAMS: Mahalo.

CHAIR LEE: Mahalo.

COUNTY CLERK: Chair our next testifier is Noelani, I'm sorry, Kamalani Pahukoa. To be followed by the testifier calling in on the phone with the last four digits 8124.

MS. KAMALANI PAHUKOA (testifying on County Communication No. 22-151; and Committee Report Nos. 22-47 and 22-56):

Aloha, I hope I'm your last today. Start good diving right into it. Great job with the lighting regulation. I hate to say it, but it's true, some people are selfish to adapt to change. However, I see this as a great step towards island life stewardship. I support the amendment. I bet if we had some astronomers and conservationists, those experts would support this wholeheartedly.

Moving on to the water authority, like mentioned or just kind of clarifying, you know, we're all kanaka. Kanaka means human. I'm kanaka maoli, I'm haole, I'm Mexican, you know, so maybe fizzle that racist narrative and just put it aside because we are all one here. We are the trustees, the beneficiaries, the present, the future, the descendants of this earth, this honua. When it comes to water, yes, some have priority. Kuleana users who have farmed for generations, those who live, of course, right next to the stream would have priority. It only makes sense. Today you've listened to our island community. Mahalo to all testifiers, truly passionate residents who seek honest change and perpetuation of Aloha Aina stewardship.

My life issue, this current water war, and I know that's a harsh word war. But it's the reality when we talk about our vested rights to these waters that are being challenged. Let us break the colonialism like mentioned by Miss Keani two weeks ago. Let's break the imperialism that continues to deprive our community rights. Your island community broke silence today. They support the water authority and I hear that, you know, we support water authorities countywide.

This Council already knows the conflicts regarding CWRM, BLNR, and the State court, courts. They are constantly being challenged on all levels due to mismanagement. We cannot maintain that environmental irresponsibility. Water jurisdiction is complicated; however, this is an amazing first step. Amazing idea in principle, and like mentioned a tool in your toolbox as Maui County.

A reminder East Maui community will always support Upcountry water users and residents from Haiku to Kanaio and beyond. And I say beyond because I would love to see a filtered portable water system in Ulupalakua to serve our Kahikinui Homestead. Like mentioned by Shane Sinenci, whose kupuna is I'm sure beyond proud, his words, "The core of this Charter amendment is the public trust. It doesn't, say kanaka maoli, it says public trust. The State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people. It doesn't say kanaka maoli, it says people."

Kai Kahele's letter stated it is in the County's best interest to secure a lease and free itself from dependency of private, commercial, and third party operators. We're not duty bound to uphold the public trust. As we know their duty is to monopolize these waters. Water that comes off the State lands should always be pursued by our people, not investors from afar who's intent, intent, of course, is to profit. We must tie up our resource or it will be stolen by rats. How can we ensure our Upcountry water users will have water in the future if we do not have a seat at the table?

Voting yes will rehabilitate a fractured system. Voting yes will empower your people. The true measure of success will be the number of people touched, empowered, and

transformed by our success. Let us carry on the efforts of our kupuna who have passed before seeing water restoration. They have passed before seeing this amazing measure of community take back.

Water is our lifeblood, thousands have lived without love, but none without water. We exist today because of the ahupua'a system set in place by those who resisted corporate control. Today, we recognize that the effects of cultural trauma have disconnected Hawaiian families from their heritage. To assist our ohana today, we must develop, practice and live in alignment with our resources. We are no greater than water, than the native birds. We are no greater than the tiny coral polyps that benefit our ecosystem. We are living forms, strong, courageous and spiritually grounded. And that's all I have for you guys today. Mahalo for your time.

CHAIR LEE: Any questions, Members? None.

Madam Clerk.

COUNTY CLERK: Our next testifier is calling in on the phone with the last four digits 8124, 8124 will be followed by Fay McFarlane.

MS. HANNAH BERNARD, HAWAII WILDLIFE FUND (testifying on Committee Report No. 22-47):

Aloha 'auinalā, County Council Chair and Members. This is Hannah Bernard. Can you hear me?

CHAIR LEE: Yes. Aloha.

MS. BERNARD: Aloha and thank you so much for keeping this going. This is such an important discussion. I'm representing Hawai'i Wildlife Fund and I am just giving a quick endorsement to support the seabird protection bill and to once again laud this County Council and its progressive conservation thinking. This is really the right thing to do and not let the Mayor tweak it and mess it up and make it not pass because of false information.

Much like what has happened with our history of polluting our nearshore waters with wastewater. So I once again support you and laud you for your leadership in moving forward to protect our wildlife and our aina and our oceans with your efforts. And the water in particular, also with the water Charter, the last two testifiers, I'm sorry I couldn't hear everybody because working, but the last few testifiers were so articulate. And I just want to reiterate and support their testimony because it was so inspirational. And

agree and so supportive of the return of the water rights and healing for all as imbedded in our State Constitution, particularly for those who . . . for the kanaka maoli. So once again, thanks to this Council for being progressive and taking care of Maui and our aina. Mahalo.

CHAIR LEE: Thank you. Members, questions. If not, Madam Clerk.

COUNTY CLERK: Our next testifier is Fay McFarlane. And Fay will be followed by the last person currently signed up to testify who is Alan Arakawa.

CHAIR LEE: Call again.

COUNTY CLERK: Fay McFarlane.

MS. FAY MCFARLANE (testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-57, & 22-59; and Resolution No. 22-162):

Aloha mai kakou. Can you hear me?

CHAIR LEE: Yes, aloha.

MS. MCFARLANE: Aloha, Chair Lee and Councilmembers. . . . Fay McFarlane kou inoa . . . Lahaina. I'm a volunteer technical kāko'o at Na 'Aikane o Maui, a 501(c)(3) nonprofit Hawaiian Cultural Center on Front Street in Lahaina. This testimony is offered on behalf of kanaka maoli cultural practitioners: Kazuo Flores, Courtney O'Kief, Winter Flores, Carol Flores, Consuelo Apolo-Gonsalves, Raymond Gonsalves, Jezelyn Gonsalves, Suzette Felicilda, Jacelyn Barrozo, Uilani Kapu, Kahikilani Niles, Mauriirani Niles-Cantero, Tauvananui Niles-Cantero, and Lilia Niles.

As kanaka whose customary practices, including traditional uses of wai are negatively impacted by private water corporations, we the aforementioned support adding to the November ballot a Charter amendment to let voters decide if we should create a Countywide community water authority for Maui with regional community boards for East Maui and also, for example, Moloka'i, where we hope 'Aha Kiole o Molokai would be represented. We support County Communication 22-151.

If I may also be permitted to submit my testimony as an individual. I also support CC 22-151 for all the reasons given by the representatives of Nā Moku 'Aupuni 'o Ko'olau. Also support for 22-47, the Committee Report 22-47 for the lighting bill.

Committee Report 22-57 for planning commissions for all planned community plan areas. Please let the voters decide. The existing commission meetings are really long and the decisions have geographically quite a broad scope. So most Maui, Komohana folks that I've spoken to would be more likely to apply for a regional planning commission rather than, you know, be mahaoui, making recommendations in Hana, for example.

And finally, let me see, I'm sorry, I also support Committee Report 22-59 to establish the County residency requirement for boards, commissions, and committee members. And the finally, I support Committee Report *[sic]* 22-162 for the County to acquire Crossroads Apartment in Lahaina. Mahalo for your time.

CHAIR LEE: Members, questions. If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Chair, our last individual signed up to testify is Mayor Alan Arakawa.

CHAIR LEE: Good to see you again, Mr. Mayor.

MR. ALAN ARAKAWA (testifying on County Communication No. 22-151; Committee Report Nos. 22-47, 22-56 & 22-57; and Resolution No. 22-166):

I was hoping never to have to come back here and testify again. And, I just want to say good evening everyone, instead of good morning. I'm actually going to make a few short comments on four different issues. Two are going to be really short.

On 22-166, this is the enforcement on unauthorized camping. I'd be very careful with, with this bill as to how it's formed to be able to allow law enforcement to be able to select and be able to really understand who is, would be illegal and who would be legal. Because if they don't know and understand the Police Department, really, they're people like us, you know, they're not going to be out there with lawyers and everything else to be able to determine who is enforced against and who is not. So they're going to, they're going to be making that determination. And if there's not a clear method for them to determine it, it can become very, very messy. So I just caution that.

Let's see on 22-57 just going to, this is the different planning commissions. I'd just like to remind everybody that there are a lot of communities right now where we have CC&R's, where we have community groups that are actually creating the rules and the laws for those communities, you know. And many times it's done well, and many times you get select groups that become very, very polarized and become very, shall we say,

bullyish in how they enact the rules and regulations. We have to make sure that when you're actually doing this, you're not enabling groups to be able to bully the rest of the community.

Remember, as in everything that we do, only a handful of people actually come out and testify. The vast majority of the community will never come out and testify. So whenever I hear people come out and say, well we represent the community, I've yet to see the vote whereby other community members that authorize them to be able to come and testify unless, of course, their elected officials. So just be aware that there's a huge group out there that actually never pay much attention and are not being represented in the discussion. So I'll just caution that.

If we create all these different boards, it will create delays in approvals of a lot of the different projects that you may want to achieve, such as affordable housing projects or housing projects in general for workforce housing and whatever. And also the ability to plan the community and to be able to dictate how and what is going to happen within each community. Remember, many, many times they're contentious issues, even within the community, and you're going to have to go through another step to be able to get consensus. It's always better to be able to get people within a community to have discussions. However, at times your goals as a Council to try and be able to achieve something for the community may not necessarily be what the community wants.

And I'll give you a little bit of an example in Kihei. We had Federal funding to be able to do the south, the, the roadway along, along the coastline to be able to do the--

CHAIR LEE: North-South Collector Road.

MR. ARAKAWA: No, no, not that, the one right by the coastline, South Kihei Road. We were going to, we were going to do all the drainage, and we were going to do improvements to that. There was a group that wanted to be able to not remove a few monkeypod trees. And because of that, we returned a whole, millions of dollars of Federal funds. So the community did not have the benefit of being able to have that road repaired to the level it should have with Federal funds.

And I'm saying that that's just an example of what can happen. That same instance, if we had taken those four monkeypod trees, we were going to put them in one of our parks, and putting them in one of the parks we're also going to, we also had committed to allow the beautification program and to develop a beautification program for the entire South Kihei area.

But it was rejected by the Kihei Community Association Board. So you can have unintended consequences because of the politicizing of issues within an area. So be very careful with how you create that. And I speak from experience and I could go through many different examples and there is no perfect system.

So I would be the last one to say the County is the best, this planning commission is the best, another one is the best. They all have flaws, depending on the membership in it, flaws and benefits. So just be careful how you put things together.

Which comes to the other two issues that I want to be able to discuss. And that is the two water proposal 22-151, and I just want to make sure I get this correctly, 22-56. I've submitted to the County Clerk a list of, of three pages worth of points to be, you should be able to discuss and should have clarified before you actually pass a bill like this. Now, in the resolution itself, when you actually look at the resolution and I've heard a lot of people testify to this, you have no guarantees, you have no guarantees that if you form an overriding group, the director of that group is going to do anything that you want.

Currently, fact, if the County wanted to apply for the water, the contract for the water, the State Water Commission, you could do it. But apparently the Mayor doesn't want to do it so you're trying to create another entity that would do it. But remember, when you do this, the Mayor has to appoint that person and the Council gets to approve or disapprove. There's no guarantee that that person is going to be who you want and have the same view that you want. Okay it really is at the discretion of who is, who is doing the appointing and what they want to do. Now looking at the, the board, you're trying to elect 11, have 11 members put together. The composition of the board is also not guaranteed to be supportive of this.

Boards will be boards, they will do whatever they feel like. They may be or they may not be. There is no guarantee. And the makeup of the board, when you look at it, the expertise that will, that you're requiring to be able to find people in any of the districts, and when you create all of the districts that have the expertise that they need to be able to understand the water systems is going to be very difficult.

Now I have personally been through almost all of the EMI systems. I've been to every water treatment plant. I've looked at most of the wells, including a lot of the private wells, because I've been around a long time. And one of the things and one of the tools that you really need to look at is designation of surface and subsurface water to the State Water Commission. This is how we were able to determine who is getting what water from the Iao Aquifer and how it's being dispersed.

And the groups that have been fighting this all along are also represented and have been able to represent at the State Water Commission to be able to get a lot of things that they wanted. If you look at what's happening with the East Maui water situation, all the, all the areas where you actually have taro farmers existing right now, all the, all the streams actually are running right now, 100 percent. They're not taking water from those streams. That was set aside by the State Water Commission, so they are taking care of the farmers. So anyone who's testifying that says hey, you know they're not getting the proper amount of water, it's not because it's being taken away from those, those areas by the EMI ditch. Not according to the rules that were established and put down.

Now when you, when you start looking at your proposal to the duties and powers of the administrator of this overall . . . you're and I'll just read a couple of these things because we have limited time. "Manage water collection and delivery systems acquired, owned, or operated by the County." So, this does not differentiate between day to day operation, nor does it differentiate between new and existing. It clearly states, and the verbiage I'm reading it directly "Manage water collection and delivery systems acquired, owned, or operated by the County". You back that up on Section 8-19.6, "The revenues of the water authority must be kept in separate funds known as the Maui County community water fund and used" and we can go on, I can read the whole thing but essentially what it's, what it's doing is saying this director will be able to take all the money from this area. So the water director and the water board are not going to be able to receive the funds from, derived from this area, to be able to do the jobs that they need to do in the area, according to how you have worded this.

Now I will tell you that when I looked at the, when I looked at this, one of the things this Council has been proud of for a lot of the things is being able to be transparent. Look at what you're putting in to the Charter as words. "Shall the Charter be amended to establish the Maui County Community Water Authority with community regional boards to manage water collection and delivery systems acquired by the County, including State license areas in East Maui, and to pursue, pursue long-term water lease agreements with the State to provide a long-term reliable supply of water for domestic and agricultural needs?"

It sounds good, but that does not include for the community to be able to see all of the other stuff that you've put in that are going to be required for the formation of this group. Nor is it really been discussed much.

CHAIR LEE: Mr. Mayor, Mr. Mayor, can you take a minute to conclude?

MR. ARAKAWA: Okay. Well, in any case, I think I'm making the point. The idea and the concept are good. The actual document and the verbiage in the document needs to be worked on. On personal, a personal position I've taken a long time ago was that the County should control all of the water systems, to control all of the water systems. I could not get the Council to go along with it. There are a lot of things that I couldn't get the Council to go along with otherwise we'd have done it a long time ago.

There's sufficient water in the Upcountry area to be able to provide, provide water for all the water meters that aren't there. We have sufficient wells that can be used. When David Taylor was Director, he came before the Council many times and explained that there is adequate water Upcountry, except for about less than a month during a year. And we can pump water up from different wells that we have there because like the Piiholo Well is used less than one month out of the year.

Anyhow, I'm going to run out of time, but this is a very comprehensive issue and it's going to have huge ramifications. It should not be rushed through, and you did this, a lot of changes at the last meeting that you had, should not be rushed through. It should be very carefully thought out because the ramifications are going to exist for generations.

CHAIR LEE: Okay.

MR. ARAKAWA: Thank you very much. Any questions?

CHAIR LEE: Let's see if we have any questions, Members.

MR. ARAKAWA: Yuki.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: You know, as you're talking about the history of water and your experience when you were Mayor and listening because I know you've been here since, I think 9:00 this morning, I've seen you sit over there and then you just recently moved here. But the authority of water, whose hands is it in. Because you said when you were Mayor, you wanted to, you know, take control of the water. But doesn't CWRM by our Constitution have, the State have jurisdiction?

MR. ARAKAWA: The CWRM has the jurisdiction, the State Water Commission has jurisdiction, DLNR has some jurisdiction, the County has some jurisdiction. A lot of it just depends on what you're trying to do with what. DLNR will have the capability of determining who will get the lease. It's not going to be a County decision. You can

make as many suggestions as you want, people have talked about it, but it's going to be the DLNR that's actually going to make the decision on that.

The allocation of water and how it's going to be used can be determined by the State Water Commission if they were to take the area and they were to do what we did with the Wailuku Aquifers, which is to designate both surface and subsurface water so they can actually, anyone who wants to use water has to petition to be able to justify what amount of water they're taking. So the jurisdictions are very much split and the County, even if you pass this legislation, is not going to be the one that determines who gets the contract. That's under the jurisdiction of the State.

COUNCILMEMBER SUGIMURA: So what would the authority do then? I mean, what, what do you see with your experience.

MR. ARAKAWA: Well, you're creating the authority. You tell me what the authority that you're trying to create besides an illusion to all the people that have testified that you actually are going to be able to override the State jurisdiction. Now, as Mayor, I know that there is a hierarchy, you know, you have a National jurisdiction, you have a State jurisdiction, come down County is a lower level of government, and then you have community boards and commissions.

But we're, we're not the driving factor in this, in this particular water issue. Otherwise, we'd have been able to say, hey, we want all the water that we want, Water Commission, you don't get to say it, we want to be able to do it. Legally we couldn't do that, otherwise, I would have loved to be able to do that. But we were able to say Water Commission we want you to designate so we can now identify who is using what water, and we can also identify how we can distribute that water where it makes sense. I don't know if I'm answering your question.

CHAIR LEE: Did he answer your question?

COUNCILMEMBER SUGIMURA: Yeah, I mean, I think, you--

MR. ARAKAWA: Yeah, because--

COUNCILMEMBER SUGIMURA: --and a lot of the testimony that we heard today was talking about this authority would have jurisdiction over, you know, the decisions. But it sounds like--

MR. ARAKAWA: Making, yeah, there's a lot of assumptions that are being made that are not factual and actual. And that's one of the big problems with public testimony when the public doesn't have time to be able to see and read and digest in detail a lot of what

has to go on in the legal, in the legal channels, in the court, and to be able to know from historical reference what happened at the State Water Commission, what's happening at the various boards and commissions, you know.

Fortunately or unfortunately, because I'm getting a lot older and because I've been around a long time, I've been to many of these places and many, done many of the things, are necessary to be able to try and understand the water situation very well.

CHAIR LEE: Did Mr. Mayor, answer your questions.

COUNCILMEMBER SUGIMURA: Yeah, thank you.

CHAIR LEE: Are there, yes.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mayor Emeritus Arakawa.

MR. ARAKAWA: Yeah, right here.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for your testimony. Okay, I have two questions. My first question is regarding your testimony on the selection of the community board on page eight, where it says "Of these eight members, four are appointed by the Council, and four are appointed by the Mayor."

MR. ARAKAWA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: "The three remaining members are appointed by the Council" so seven would be appointed by the Council and three appointed by the Mayor. Did you read that part?

MR. ARAKAWA: Yep, right here.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay, because it just--

MR. ARAKAWA: I actually read the documents, you know.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh no, I just, it, it's, it was conflicting in your testimony when you said that the Mayor would appoint and the Council would confirm. And that section there clearly does, that's not how it would--

MR. ARAKAWA: The Mayor gets, no we're talk, I was talking about the director. The, it, it says that the, the director, if I, maybe, the Administrator, appointed, on Section 8-19.4 "The administrator is appointed by the Mayor with the approval of the Council." That's what I was talking about, the administrator.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, for that clarification. Okay, and then my second question, and I believe Member Sinenci will, will address that later on when the item comes up. My second, my second question is regarding hierarchy, you where talking about hierarchy and CWRM with the water leases. And CWRM when presenting in Member Sinenci's Committee talked about, you know, the, their preference to give water leases to a sister agency like Maui County. And so have, have you heard of that, you know, as far as hierarchy, they would rather give a water lease to a sister agency, a County government, than a private for profit organization.

MR. ARAKAWA: As you went through the Lahaina hearings just the other week . . . the State, you know, the State Water Commission has been told by the courts that they actually have to start doing things and they have to start taking control, which is why they're starting to look at designations of different areas. CWRM and as an organization can make decisions. Any of these organizations can try and defer some of the authority of decision making just through testimony just like you do. You know, somebody comes up and testified, you can change your mind and you can, you could make that part of your testimony, and part of the decision making.

And a matter of fact, if you're doing it right, you should listen to the testimony and then be able to digest that and take the good parts and throw the bad parts out. And CWRM can do the same thing, the members can do the same thing. Remember, just like this Council, the members change, they're, they're, they're not there forever, you know? So you're going to see changes in philosophy and in how they pursue things, depending on the membership themselves. So I hope I'm answering your question sort of, is just they can give the County preference and they have, they can indicate that, but that can also change with the changing of the membership.

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

CHAIR LEE: Anyone else?

Oh, Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair and mahalo Mayor Arakawa for coming and testifying this afternoon. So, I tell that you're a man of proactive and progressive, if you were able to, when you were as a Mayor, you were trying to, to acquire these

leases, so, or these water systems. So my question is, as the Mayor, did you enter into an intergovernmental agreement with the State at the time?

MR. ARAKAWA: We, we couldn't get the State to actually commit . . .

COUNCILMEMBER SINENCI: Because we were told from Mr. Hirokawa that the County could do that to acquire the leases.

MR. ARAKAWA: The County from, from a technical standpoint, and I'm going to say that this is cloudy to a little bit. Okay, when A&B first created the EMI system, they agreed with the State to be able to give State the ability to use some of the system. So if the State were to transmit that authority to the County, and I, this, this discussion has been contested by A&B, okay, if, if that truly occurs and this is what I've seen, then we could utilize the EMI system if the, if the State is willing to transmit this authority. We don't have to buy the system, all we have to do is get the State to give us the right to use it.

Now in the ditch itself, if we were to, let's say, artificially put in plastic pipes all the way, you could put it within the ditch system itself and still have dual use. You could have agricultural and you could have domestic water use taking the underground water, which is a lot cleaner so you don't have to go through all the treatment process of, of surface water that picks up all the leaves and everything else.

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

CHAIR LEE: Members, any objections to designating Mayor Arakawa a resource person when this item comes up?

COUNCILMEMBER SUGIMURA: No objections.

VICE-CHAIR RAWLINS-FERNANDEZ: Which item, Chair?

COUNCILMEMBER MOLINA: No--

CHAIR LEE: The East Maui Water Authority, I mean, the Community Authority. Yes?

COUNCILMEMBER SINENCI: It's just that we've, we've designated some of our resources and we've had about, Chair we've had about 15 meetings on this that we've had both in the GREAT Committee, the APT Committee, and so some of the things that, all due, to respect a lot of the things has, what Mr. Mayor is citing has, is, has changed.

CHAIR LEE: Well--

COUNCILMEMBER SINENCI: During, during those discussions. Yeah, I appreciate him bringing those up, but that's just not simply.

CHAIR LEE: Okay. Any objections to having the Mayor be a resource person when this matter comes up.

COUNCILMEMBER SUGIMURA: No objections.

COUNCILMEMBER MOLINA: No objections.

VICE-CHAIR RAWLINS-FERNANDEZ: Objection.

CHAIR LEE: Okay, can we take a roll call vote, and we'll have a motion, a motion.

COUNCILMEMBER SUGIMURA:

I MOVE TO HAVE MAYOR ARAKAWA BE A RESOURCE
WHEN WE TAKE UP THE WATER AUTHORITY ITEMS ON THE
AGENDA.

COUNCILMEMBER MOLINA:

SECOND.

CHAIR LEE: Moved by--

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: --Member Sugimura, seconded by Member Molina to have Mayor Arakawa be a resource person when this matter comes up, which is the Community Water Authority matter before the . . . at that time, whenever that is.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR LEE: Okay, any discussion?

COUNCILMEMBER SUGIMURA: Yes, I, I would like him to because of his, his historical knowledge and actually hands on experience with working with this. And to me his, his experience is imbedded in factual history, you know, based upon the years of service not, you know, that he has given to the County as a Councilmember, but you know, of course, as a three term Mayor, which is very significant to me. It's almost like writing a history book. So that's my reason. Thank you.

CHAIR LEE: Any more discussion.

Member Sinenci, and then Member King.

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. And all due respect, Mayor, but I think, you know, this entire process was based on the preface that the County can enter into an intergovernmental agreement with the State, that the current Mayor can, can do so. And so if, if the Mayor doesn't feel that, that the County is able to do that, that, that was presented to us in our October APT meeting by Mr. Ian Hirokawa from the Department of Land and Natural Resources. So that that, that was the premise that began this, this entire process. So with that as my objection. Thank you, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I really appreciate Mr. Arakawa being here and giving us your perspective. We had a pretty robust discussion, I think, with him on the floor. And I feel like it would be inappropriate to have him be a resource because we've had so much that's happened to this point that he has not been a part of, that have been new revelations, our, our interactions with the State directly as Councilmember Sinenci said. So I'm not sure, I mean, I, I appreciate what I've heard, I'm not sure that there could be a lot added to the discussion from what, you know, all the meetings that we've had on this issue. So that's my objection. Thank you.

CHAIR LEE: Alright, anyone else?

Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. In all the time I've been on the Council, I have never opposed anyone's request to have a resource. And you don't even have to call on the resource if you don't want to. So in fairness, and I hope it's not being, has something to do with politics here. The former Mayor can bring a perspective as a Mayor to see, you know, because the Council, we initiate legislation, the Mayor and the executive department, they have to carry out these laws. And if it's the will of the people to approve a Charter amendment and you know, the Mayor certainly has a, an Administration, they have a role with all of this. So it's more of a just a sharing of perspective. And you know, that's just how I take it, and I appreciate anyone who wants to be a resource.

And, you know, so I think we should always make ourselves available to hear whoever has, wherever they've been in the whole, you know, water matter. Of course, the former Mayor for a long time was involved in a lot of water discussions whether you

agree or disagree. So for me, I don't have a problem if he wants, wants to be a resource, but if others do, I'll respect that. But, again, just in general, it's about, you know, tapping into all of our resources out there in the community for contentious issues. So that's just my take, Madam Chair. Thank you.

CHAIR LEE: Any other comments? No. And I'll just say that I agree with Mr. Molina. It, it would be nice to have a more balanced perspective. And cause we already know the two designated resource people are strong advocates of this proposal, which is fine. But apparently they're being, it, it seems here that no one, no one else is being considered because there may be dissension. So at this time, I'd like to take the vote.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: NO.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: NO.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: NO, THANK YOU.

But I don't know that I've ever taken a vote before public testimony was closed. So just making sure we're not violating any laws.

CHAIR LEE: No, we're taking a vote on, on whether someone can be a resource person or not. So we wouldn't be taking it afterwards, we'd be taking it now.

COUNCILMEMBER PALTIN: Okay, I'll vote no thank you.

CHAIR LEE: Okay.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: YES.
COUNTY CLERK: Council Pro Temp Tasha Kama.
CHAIR LEE: EXCUSED.
COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: NO.
COUNTY CLERK: Council Chair Alice L. Lee.
CHAIR LEE: AYE.

AYES: COUNCILMEMBERS MOLINA, SUGIMURA, AND CHAIR LEE.

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

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay, there are five "ayes", three, I mean five "noes", three "ayes", one "excused". The motion fails.

Well, but we do thank you, Mr. Mayor, for your, your testimony here today. Further questions for the Mayor.

COUNCILMEMBER SUGIMURA: Well I have, I would like to if I could, and just talk about the feasibility and, and what he sees and steps forward.

CHAIR LEE: Okay, well, unfortunately, he didn't cover that part. So, you know, we only want to stay with clarification. Any more clarification questions? If not, thank you very much, Mr. Mayor.

MR. ARAKAWA: Thank you.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, we have one more individual who signed up to testify, and that would be Faith Chase.

CHAIR LEE: Alright.

MS. FAITH CHASE (testifying on County Communication No. 22-151; and Committee Report No. 22-56):

Aloha, Chair Lee. Aloha, Councilmembers. I just wanted to say thank you for listening to all the citizens, residents of Maui and just remind this body that if you have 70 plus testifiers in favor for this East Maui Water Council and the Water Council, the Maui County Water Council, and if you vote against this, you're voting against your people. So just keep that in mind. Thank you so much for your time today. A hui hou.

CHAIR LEE: Thank you. Are there any questions? No questions, Members for the testifying. If not, thank you very much.

Madam Clerk.

MS. CHASE: A hui hou.

COUNTY CLERK: Chair Lee, we do not have any other testifiers noted. If anyone has not testified but would like to do so, please identify yourself now. This is the last call for testifiers. Chair, no one has, no one else has indicated that they wish to testify, and we have received written testimony.

CHAIR LEE: Members, are there any objections to receiving written testimony into the record and to closing public testimony?

COUNCILMEMBER PALTIN: Oh, objection, Chair.

CHAIR LEE: Yes. Yes.

COUNCILMEMBER PALTIN: Seen one guy, Paul, Paul raised his hand when you said if any one else wanted.

MR. PAUL KEAHI (testifying on County Communication No. 22-151; and Committee Report No. 22-56):

Aloha . . .

CHAIR LEE: I'm sorry. Madam Clerk.

COUNTY CLERK: Yes.

CHAIR LEE: I think the Member said there's one more testifier. Is that what you said, Member Paltin.

MR. KEAHI: Aloha. Aloha, can you all hear me?

COUNCILMEMBER PALTIN: Paul raised his hand and now he's saying aloha, can you all hear me.

MR. KEAHI: Aloha, can you hear me?

CHAIR LEE: Members, you have any objections to letting this person be the last testifier. He did come online after we had asked for testifiers.

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections.

Okay, Madam Clerk can you call the testifier, please.

MR. KEAHI: Aloha. Can you all hear me?

CHAIR LEE: Okay, can you state your name for the record, please.

MR. KEAHI: Yes. My name is Paul Kapalu Keahi and I come from Lahaina. And just wanted to testify in support of both measures, the 22-151 as well as the 22-56 on the agenda today. And the Hana community, or the west, the East Maui community is a very . . . community. There are many, many people in that community whom I love very much; friends, family, so on and so forth. And they have endured many generations of water theft. And just like Lahaina, we, who, you know, we are very much familiar with that water theft, which, which exacerbated the land theft. And so, for any governmental agency to allow the plantations or the plantation-minded corporations out there to continue to take water from the east end without the approval, without the concession on the part of the, the East Maui people is a tragedy and is a crime.

I think the decision to distribute water, which is equal to their wealth over on the east end of Maui, the decision is a, is a sacred one onto, onto the people of East Maui. And so, the distribution of their wealth should be in their hands and should be ultimately made by their decisions. So, with that I'd like to say, aloha to all the East Maui water protectors and fighters over the generations. You have certainly been an inspiration to the West Maui water protectors. And I want this Council to pass it through. Mahalo.

CHAIR LEE: Members, are there any questions for the testifier?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Keahi. Just clarifying you're in support of the countywide opportunity as well as the East Maui one.

MR. KEAHI: Absolutely.

COUNCILMEMBER PALTIN: Right on. Thank you. I never knew that was you when I just said Paul. Thank you.

CHAIR LEE: Okay, let's take one more last call. Nobody can hear you. Okay, last call for testifiers. Anyone online, in the building? Give you ten more seconds.

Okay, Madam Clerk, I don't think there is anyone. Okay, no one has indicated that they wish to testify. And so, I'll ask you once again, Members, are there any objections to receiving written testimony into the record and to closing public testimony?

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. John Pelletier, Chief of Police;
2. David Lane Henkin, Earthjustice;
3. Pamela Tumpap, Maui Chamber of Commerce;
4. Mike Moran;
5. Eric Miyasato;
6. Scott Rollins, Wastewater Reclamation Division Chief;
7. Jordan Molina, Director of Public Works;
8. Alan Arakawa;
9. Kallie Keith-Agaran;
10. William J. Aila, Jr., Hawaiian Homes Commission Chairman;

11. John Blumer-Buell;
12. Denise Boisvert;
13. Lynn Britton;
14. Sherry Broder, Charter Commission's Legal Analyst;
Richelle M. Thomson, First Deputy Corporation Counsel;
Keola R. Wittaker, Deputy Corporation Counsel;
15. Tria Cabral;
16. Lehua Cosma;
17. Robert A. Detrick;
18. David Fradin;
19. Kay Fukumoto;
20. Chad Fukunaga, Kaanapali Land Management Corp.;
21. Gerard C. Gibson, Hawaii Hotel Alliance;
22. Tara Grace;
23. Steve Grimes;
24. Maya Hara;
25. Alexa Hatton;
26. Ralph Hendrickson;
27. Elizabeth Hird;
28. Sarah K. Hofstadter;
29. Kim Jorgensen;
30. Carol Lee Kamekona;
31. Mia Kaulana;
32. Mary Keller;
33. Tori Lawson;
34. Kathy Lewis;
35. Suzette Marlowe;
36. Matt McDonald;
37. Marla Mervis-Hartmann;
38. Hanna L. Mounce;
39. Kyle K. Nakanelua;
40. John Naylor;
41. Buddy James Nobriga; Maui County Board of Water Supply;
42. Lucrezia Oddie;
43. Mavis Oliveira-Medeiros;
44. Pacific Resource Partnership;
45. Paula Phillips;
46. Pamela Polland;
47. Grace Pretre;
48. Jill Richards;
49. Sheila Roback;
50. Carter Rosenthal;

51. Michael Sado;
52. Susanna SeaFire;
53. Barry Sultanoff;
54. Ane Takaha;
55. Akari Ueoka;
56. Jennifer Valentine;
57. Tapani Vuori, Maui Ocean Center;
58. Richard J. Wainscoat;
59. Aerie Waters; and
60. Alicia Wood.

CHAIR LEE: Okay. Now, what would you like to do? It's five, it's more than recess. I think we're looking at dinner. Okay, so are we looking at a one-hour dinner and resuming at seven? 7:30?

COUNCILMEMBER MOLINA: Madam Chair? Chair?

CHAIR LEE: Yes, Member Molina.

COUNCILMEMBER MOLINA: Yeah, no, before we take a dinner break, maybe we can do some of the lighter stuff before going to break. You know, like the minutes, maybe Consent Calendar, just a couple of small things--

CHAIR LEE: East Maui Water Authority.

COUNCILMEMBER MOLINA: That might take, that might take a few--

CHAIR LEE: Actually, if we did that first, we might get through earlier. Members, you want to take some of the lighter items first before going to dinner, a dinner break?

Member Johnson.

COUNCILMEMBER JOHNSON: Chair, I don't know the body's schedule next week, but would any be interested in recessing till next week and do this, I see people shaking their heads no. Okay. Figure I'd ask.

CHAIR LEE: Okay, so Members, you want to take up, you know, like go for ten minutes and then take an hour and a half break? Okay.

Madam Clerk, we're going to do the minutes and the Consent Calendar and a few easy things.

MINUTES

The minutes of the Council of the County of Maui's regular meeting of April 1, 2022, 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.

COUNCILMEMBER KING:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member King, to approve the minutes of April 1, 2022.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBERS KAMA AND PALTIN.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Tamara wasn't on?

Okay, all those in favor of the motion, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. Okay, everybody has, we're going to be here for ten minutes only. So, everybody stay online, okay?

So, again, all those in favor of the motion, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries. Okay.

COUNTY CLERK: Okay. Chair, proceeding with the Consent Calendar.

ACTION ON THE CONSENT CALENDAR

COUNTY COMMUNICATIONS

NO. 22-148 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated June 23, 2022)

Informing of the acceptance of a Roadway Lot and a Road Widening Lot, Pueo Hill Subdivision, Lots 382 & 383, TMK: (2) 2-3-022:144 & 145.

NO. 22-149 - JOSEPH PONTANILLA, COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM MANAGER, (dated June 22, 2022)

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 \$1,868,193.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE ALL ITEMS ON THE CONSENT CALENDAR.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to file all items on the Consent Calendar.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

COUNTY CLERK: Chair, proceeding with county communications. You have before you county--

CHAIR LEE: Let's just do one, okay?

COUNTY COMMUNICATIONS

NO. 22-150 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated June 13, 2022)

Transmitting 85 contracts/grants for the month of March 2022.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair.

I MOVE TO FILE COUNTY COMMUNICATION 22-150, EXCEPT THOSE GRANTS AND CONTRACTS THAT COUNCILMEMBERS REQUEST FOR COMMITTEE REFERRAL.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to file the contracts, except for, and grants, except for those pulled by the Members.

Members? Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

CONTRACT C7578, ABOUT SPEED TABLES; C7478, WAIALE EXTENSION; C7582, PUKALANI TERRACE SUBDIVISION PAVEMENT; AND C7619, WHICH IS INVESTMENT GRADE AUDIT FOR JOHNSON CONTROL. THANK YOU.

CHAIR LEE: Anymore, Members?

Member Paltin. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

CAN I GET C7584, LOWER HONOAPIILANI ROAD REHABILITATION; C7419A-1, LAHAINA SAFETY AMBASSADOR PROGRAM TO HCP; AND G5579, HEALTHCARE WORKFORCE DEVELOPMENT TO HCP AS WELL. THE FIRST ONE WAS FOR IT, SORRY, IF I DIDN'T SPECIFY.

CHAIR LEE: Okay. And then, anybody else? Any objections to these items just referred to by the two Councilmembers?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. So, ordered.

So, any objections, let's take the vote on filing, filing the rest of the contracts, except for those just noted. All those in favor of filing the contracts, raise your hand, say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Okay, so the next page begins more substantive matters and so shall we take our break now? It's about 6:02, so 7:30, everybody? Same time, same place. Alright. Well, I meant, you know, in general, I meant the same time. Okay, 7:30 be back promptly now, okay? Alright, meeting in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 6:02 P.M., AND WAS RECONVENED AT 7:34 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBERS KAMA AND SUGIMURA, EXCUSED.)

CHAIR LEE: Will the Maui County Council meeting of July 1, 2022 please reconvene. It's about 7:34.

Madam Clerk, can we please continue with our agenda?

COUNTY CLERK: Yes, we can continue with--

CHAIR LEE: Wait. Can't hear you.

NO. 22-151 - SHANE M. SINENCI, COUNCILMEMBER,
(dated June 22, 2022)

Transmitting a proposed amendment to Resolution 22-119, CD1, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH A MAUI COUNTY COMMUNITY WATER AUTHORITY AND AN EAST MAUI COMMUNITY REGIONAL BOARD".

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. If there are no objections, may I request that this item be brought up at the same time as Committee Report 22-56?

CHAIR LEE: Any objections?

COUNCILMEMBER SINENCI: No objections.

COUNCILMEMBER KING: No objections.

CHAIR LEE: No objections.

COUNCILMEMBER MOLINA: Madam Chair.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Procedural question. 22-56 came under the GREAT Committee and I'm supposed to, I guess, introduce it for consideration. So, how are we going to do this then if we're going to have both? You know, will Mr. Sinenci first discussed 22-151, we take a vote on that, and then we go to, straight to 22-56? Is that how we're going to proceed?

CHAIR LEE: Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you, Chair and mahalo, Member Molina. Yeah, we were going to take Member Molina's lead and then refer to me for, for my substitution.

CHAIR LEE: Member Molina, shall we call a short recess to--

COUNCILMEMBER MOLINA: Yeah. I'm not, I'm not clear how we're going to do, cause Member Sinenci's proposal is under county communications and mine is under committee reports. So, maybe, I see Mr. Raatz on, on the call if he would like to comment.

CHAIR LEE: David?

DEPUTY DIRECTOR OF COUNCIL SERVICES DAVID RAATZ: Thank you, Chair Lee and Councilmember Molina. If I may just briefly? As I understand, Councilmember Sinenci's county communication; it's presented as an Amendment Summary Form responding to the GREAT Committee's committee report, which will be presented by

Councilmember Molina as Chair of that Committee. So, as I understand the progression from looking at the documents, when we get to that committee report, Chair Molina from the GREAT Committee will recommend adoption presumably of what the Committee recommended. And then, at that time, amendments would be in order, including perhaps Councilmember Sinenci's Amendment Summary Form that's attached to his communication. Thank you.

CHAIR LEE: So, the, so the request was to take this matter up when the same item comes up for the GREAT Committee. That was the procedural question, David? David, come back. So, that, that's, that's acceptable, right? That, that's okay?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, thank you.

CHAIR LEE: Member Molina, did you have any more questions of David Raatz?

COUNCILMEMBER MOLINA: No. So, as I understand it then, we'll, cause we're currently on County Communication 22-151, Mr. Sinenci's proposal. So, is it, will Mr. Sinenci, will you be introducing that and then we take a vote, or do we just skip over to Committee Reports 22-56, I do my spiel and then, then you come back with yours? Sorry, I'm still not quite clear. I see Mr. Raatz again.

CHAIR LEE: David, could you explain it again please?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Sure. So, we do have the section on the, the meeting agenda for committee reports. And my understanding of what Councilmember Sinenci's proposing right now is that his communication, which happens to be listed first on the agenda, be deferred until the corresponding committee report is taken up later in the meeting. So, then again, his amendment would be in order at that point because it's responding to the GREAT committee report.

COUNCILMEMBER MOLINA: Okay, so from a procedural matter then, we just skip over 22-151 and then go to County Communication 22-152. Finish county communications, then we go to committee reports. Then when it gets to 22-56, mine, I do my spiel and then Mr. Sinenci will bring up--

CHAIR LEE: Amend.

COUNCILMEMBER MOLINA: 22-151. Okay.

DEPUTY DIRECTOR OF COUNCIL SERVICES: That's correct.

COUNCILMEMBER MOLINA: Okay, I got it. Thank you.

CHAIR LEE: Okay, so no objections to deferring CC 22-151 until we take up Committee Report 22-56? Okay, everybody got that?

COUNCILMEMBER MOLINA: No objections.

CHAIR LEE: Okay. So, Madam Clerk, the next CC.

COUNTY CLERK: Okay, the next CC, actually, the next three of them are going to be somewhat similar; waiting for another item to come up on the agenda.

NO. 22-152 - KEANI N.W. RAWLINS-FERNANDEZ, CHAIR, BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE,
(dated June 23, 2022)

Transmitting a proposed amendment to Resolution 22-121, entitled "APPROVING COST ITEMS FOR EMPLOYEES EXCLUDED FROM BARGAINING UNIT 11, FIRE FIGHTERS".

NO. 22-153 - KEANI N.W. RAWLINS-FERNANDEZ, CHAIR, BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE,
(dated June 23, 2022)

Transmitting a proposed amendment to Resolution 22-122, entitled "APPROVING COST ITEMS FOR BARGAINING UNIT 11, FIRE FIGHTERS".

NO. 22-154 - KING TAKAYA KING, CHAIR, CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE, (dated June 23, 2022)

Transmitting a proposed amendment to Bill 21, CD1 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO PROTECTING SEABIRDS FROM OUTDOOR LIGHTING".

COUNCILMEMBER KING: Chair?

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. If there are no objections, may I ask the Clerk to call up this communication later in the agenda for our discussion on Committee Report 22-47, which is agendized under "Unfinished Business"?

CHAIR LEE: Committee Report 22 dash, did you say 47?

COUNCILMEMBER KING: Seven.

CHAIR LEE: Okay.

COUNCILMEMBER KING: Under "Unfinished Business".

CHAIR LEE: Okay, any, any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay, so ordered.

NO. 22-155 - HELENE KAU, DIRECTOR OF WATER SUPPLY,
(dated June 22, 2022)

Transmitting the State of Hawaii Commission on Water Resource water use reports for April 2022 for all registered well reporters in the County of Maui.

The recommended action is that County Communication No. 22-155 be referred to the Infrastructure and Transportation Committee.

CHAIR LEE: Are there any objections to the referrals, except for CR, I mean CC 22-154, as requested by Member King.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. If there are no objections, I would like to ask that County Communication 22-152 and 22-153 be taken up at the same time as Resolutions 22-121 and Resolution 22-122.

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay, so ordered.

Alright. So, that leaves only one. I don't think Member Yukimura *[sic]*, Sugimura will mind taking that in her IT Committee. Alright. No objections, right, to the referrals?

Committee reports.

COUNTY CLERK: Proceeding with the committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 22-55 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Resolution 22-165, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PROMOTING CLIMATE CHANGE ADAPTATION," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

I MOVE TO PASS RESOLUTION 22-165 ON FIRST READING.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member King, . . . to pass this bill on first reading, be ordered to print.

Any discussion, Member Molina?

(Councilmember Sugimura returned to the meeting at 7:41 a.m.)

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Your Government Relations, Ethics, and Transparency Committee met on June 7 and June 15, 2022, to discuss the proposed resolution to place on the next General Election ballot the

question of whether the Revised Charter of the County of Maui (1983), as amended, should be further amended, effective January 2, 2023, to establish a County policy to promote climate change adaptation, including the implementation of guidelines to allow telework and alternative work schedules for certain County employees.

Your Committee notes telecommuting has been widely implemented throughout the County in response to the COVID-19 pandemic.

The Environmental Coordinator added that telecommuting helps to reduce greenhouse gas emissions, impacts roadways, and traffic. And both the Mayor's Office of Climate Change, Resiliency and Sustainability and the Managing Director expressed support of this proposal.

Your Committee voted 8-0 to recommend adoption of the proposed resolution, with one Committee Member excused; Member Johnson. Thank you.

CHAIR LEE: Any further discussion on this resolution?

Member King.

COUNCILMEMBER KING: Chair, I, for all the reasons that was just stated by the GREAT Committee Chair, I support this. And we heard a lot of support from the public. It's actually what we're already doing, so it just kind of codifies what we're doing, I guess. Thank you.

CHAIR LEE: Any more discussion, Members? Let the record show that Member Sugimura is present. Now there are eight of us.

COUNCILMEMBER SUGIMURA: But wait, . . . I wanted to say a few words.

CHAIR LEE: No. No, I was just saying that for the record and then I was going to call on you.

COUNCILMEMBER SUGIMURA: Oh, okay. Okay.

CHAIR LEE: So, I'm calling on you. Member Sugimura.

COUNCILMEMBER SUGIMURA: So, thank you. I moved to my Kula office and I'm sorry that I was a little bit late. But I wanted to just say, in behalf of Tasha Kama cause this was her proposed Charter amendment, and I think that the testifiers as well as what we said earlier exemplifies what she expressed during Committee meeting. So, thank you very much for supporting her Charter amendment. Thank you.

CHAIR LEE: Okay. Any more comments or questions? All those in favor of the motion, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion passes.

Madam Clerk.

COMMITTEE REPORT

NO. 22-56 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Resolution 22-119, CD1, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH THE EAST MAUI COMMUNITY WATER AUTHORITY," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR LEE: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

I MOVE TO PASS RESOLUTION 22-119, CD1 ON FIRST READING.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sinenci, to pass Committee Report 22-56, recommending first reading of Resolution 22-119, CD1 to pass first reading.

Any discussion? Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your Government Relations, Ethics, and Transparency Committee met on June 7 and June 15, 2022, to discuss Resolution 22-119, which would place on the next General Election ballot the question of whether the Charter should be further amended, effective January 1, 2023, to establish the East Maui Community Water Authority and Community Board to: 1) pursue the feasibility of acquiring the long-term water lease agreements for the Nāhiku, Ke'anae, Honomanu, and Huelo License Areas and enter into an intergovernmental agreement to provide a long-term reliable supply of water for domestic and agricultural needs; and 2) manage water resources in a competent, fiscally responsible, and transparent manner as mandated by the State of Hawaii Constitution and public trust doctrine.

Your Committee notes historic concerns have long been emphasized by local elected officials about the appropriate management of water in Maui County, and in particular, the water in East Maui.

Your Committee also notes a Temporary Investigative Group was formed by the County Board of Water Supply to explore the feasibility of purchasing and maintaining the East Maui Irrigation Company, LLC water delivery system and examine other alternatives for ensuring that the people of Maui County have authority over the delivery of water.

The primary recommendation from the TIG stated that the Maui County should immediately apply for a long-term water lease for the Nāhiku, Ke'anae, Honomanu, and Huelo License Areas in the Makawao and Hana Districts, on the island of Maui.

And your Committee further noted that, as a government agency, the East Maui Community Water Authority should, would have an unambiguous obligation to uphold the public trust doctrine and the legal obligations of the Hawaiian Homes Commission Act and the State of Hawaii Constitution, and have the ability to obtain significant private, State, and Federal funding not available to private, for-profit entities to manage and upgrade water delivery systems and to protect the watershed in License Areas.

And also, the Council's Agriculture and Public Trust Committee met on May 24, May 31, June 14, and June 28, to discuss the proposed Charter amendment.

And your Committee amended Resolution 22-119 to provide clarity and flexibility, incorporate input from the community and the Department of the Corporation Counsel, amend the effective date to January 2, 2023, and make numbering and nonsubstantive changes throughout.

And your Committee voted 5-3 to recommend that Resolution 22-119, CD1 be passed on first reading, with Committee Member Johnson excused. I think I've said enough. Thank you, Madam Chair.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Member Molina.

MOVE TO SUBSTITUTE RESOLUTION 22-119, CD1, WITH THE PROPOSED FD1 VERSION ATTACHED TO THE ASF FOR GREAT CR 22-56, WHICH HAS BEEN DISTRIBUTED TO YOU.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay. Alright. Moved by Member Sinenci, to substitute with this, his new proposal. Was that distributed during the recess?

COUNCILMEMBER SINENCI: And if staff can go ahead and include that in the chat.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair. It's, it was on the agenda. That, that was the item that Member Sinenci asked to be taken up at the same time as the CR 22-56. That's 22-151. That's his ASF.

CHAIR LEE: Okay. When I left the building, it wasn't done yet. So, that's why I'm asking, was it distributed after we, after we left the building?

Okay, maybe I should ask, when was it distributed?

COUNCILMEMBER KING: Looks like Mr. Raatz--

CHAIR LEE: Mr. Raatz.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. So, there was an Amendment Summary Form listed on the meeting agenda from Councilmember Sinenci, as we were discussing earlier, with the primary focus of extending the water authority proposal to Countywide instead of just East Maui. There's been a new Amendment Summary Form that was just emailed to the Councilmembers that I

understand will supersede what was posted on the agenda. It's very similar in terms of notice. So, we believe that the new Amendment Summary Form is fair game under the Sunshine Law. But we understand that's what Councilmember Sinenci will be asking the body to work from at this point. Thank you, Chair.

CHAIR LEE: Yeah, the new one, right? The new one?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. My apologies for that confusion. I have a question for Mr. Raatz.

Mr. Raatz, if by doing the substitution, usually when we substitute, there's no further amendments that can be made. Would we just waive a Rule, so if we wanted to make further amendments or can we just make further amendments?

CHAIR LEE: David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. And thanks for the question, Vice-Chair. We've looked at Robert's Rules and we believe that the message about a motion to substitute is that while that motion is pending there shouldn't be further amendments. It should be a straight up or down vote on that motion to substitute. But after that motion is dealt with, then further amendments would be in order. Thank you.

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

CHAIR LEE: Any more discussion?

Member King?

COUNCILMEMBER KING: Yeah, was that, so Mr. Raatz, the new, the newest version was just emailed? I don't seem to have it, so if you could send it to my direct email that would be helpful, since my staff is, I let my staff go home.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll forward it.

COUNCILMEMBER KING: Thank you.

CHAIR LEE: Members, do you, do you want five minutes to read it?

COUNCILMEMBER SUGIMURA: Yes, please.

CHAIR LEE: I haven't read it myself. Okay. It is, okay, we can return at 5:50, 5:60, 5:60.

COUNCILMEMBER KING: Well, it's 7:53, so I think you mean 8?

CHAIR LEE: Yeah, that's what I meant. I was going to say 8:00, but I said 5:60. Okay, 8:00, so that gives us a few minutes. And if you haven't received it, can you check with David?

COUNCILMEMBER KING: Got it. Thanks Keani.

CHAIR LEE: Alright. Meeting in recess till 8:00.

(THE MEETING WAS RECESSED BY THE CHAIR AT 7:53 P.M., AND WAS RECONVENED AT 8:03 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER KAMA, EXCUSED.)

CHAIR LEE: Will the Maui County Council, Council meeting of July 1, 2022, please reconvene.

Where were we, Ms. Madam Clerk? Okay, we passed out the ASF's, so are there any questions on this, Members?

Member Sinenci.

COUNCILMEMBER SINENCI: Chair, if I may just go ahead and give a brief summary of the ASF?

CHAIR LEE: Okay.

COUNCILMEMBER SINENCI: Okay, Members, this proposed FD1 version came as a result of our most recent Committee discussions. It proposes that the Charter be amended to create a Maui County Community Water Authority and an East Maui Regional Community Board and Administrator. Also allows the Council to create additional regional community boards and administrators as warranted. It also amends language throughout the consistency and adds or amends certain provisions for more specificity and clarification, including:

Adding more specific clarifying language relating to membership area designations, aquaculture and lo'i *[sic]* i'a, loko i'a practices, the board appointment of Hawaiian Homes Commission member, and initial board staffing.

It amends language relating to the powers, duties, and functions of the regional community boards, to better delineate the responsibilities between the authority and the Department of Water Supply. It also establishes that the regional board appoints the regional administrator, to provide more input from the accountability to the communities.

It also establishes the East Maui Regional Administrator and provides for the creation of additional regional administrators, the process for their appointment and removal, and the salary to be set by the Salary Commission. It removes language detailing specific qualification requirements to provide more flexibility in the appointment process.

It specifies that Water Authority funds are kept in separate funds for each region.

And it amends the question on the ballot to reflect countywide Water Authority with regional community boards to manage water systems that are acquired by the Water Authority. Thank you, Chair.

CHAIR LEE: Questions?

Member King.

COUNCILMEMBER KING: Chair. Thank you, Mr. Sinenci. The one thing I'm confused about is there's no staffing or there's no description of what the County Community Water Authority is. So, there is a, under Section 6, it says that delivery systems acquired by the Water Authority include the State license areas in East Maui. But then, so if there's somebody, if there's going to be a Community Water Authority that's going to acquire, there's no, who is that? Is that going to be an administrator with staff for the countywide? But then, under Section 8-19.5, it said that the regional administrators will acquire water systems and leases. So, that's, acquire water systems and leases to be managed by the Water Authority. So, I'm a little bit confused of where the structure of the Community Water Authority comes in.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. As the, each regional board comes online, that community board will set those staff, staffing positions.

COUNCILMEMBER KING: Okay, but where's the County, where's the Community Water Authority? So, so, we're just creating a system of regional boards? We don't really have a community body? I thought the point of it was to have a Community Water

Authority, like a countywide Water Authority and then these boards would be advising the different regions.

COUNCILMEMBER SINENCI: Chair.

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Member King, are you speaking about the board or just the staffing at this one?

COUNCILMEMBER KING: Well, I'm just wondering about the staffing for the countywide Water Authority. Because the, the boards are described with the staffing and the administrator, but there's nothing describing the countywide Water Authority, which is the under, under the item, or I guess it's paragraph six. It says that the Maui County Community Water Authority with regional community boards to manage collection delivery systems acquired by the Water Authority. So, it sounds like the water, the Water Authority is going to acquire the systems but there has to be somebody in the countywide Water Authority to do that.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Member King, for that question. It looks like, so those staffing would be proposed by the Council.

COUNCILMEMBER KING: Okay, so that would be, that doesn't, that's not in the Charter amendment but it, it's intentioned that there would be, we're going to create a countywide Water Authority and then the Council would create the staffing and a structure for that? Okay.

COUNCILMEMBER SINENCI: Correct.

COUNCILMEMBER KING: Alright. Thank you.

CHAIR LEE: So, does that mean, Member Sinenci, that that structure needs to be created before the regional authorities or boards are created? Right? You have to have the central one, community, the central one first, right?

I, I think you're muted. I can't hear you.

COUNCILMEMBER SINENCI: Oh, sorry about that, Chair. Yeah, the first, the first region would be established with the, this amendment. And then, as each one comes on, then we'll be adding each regional one. And it might not be, whether it be several

years, but we're just kind of setting up the structure. We're just starting with the East Maui and then as more regional boards come online, whether they do it or not, then, then we'll create that staffing mechanism.

CHAIR LEE: Okay. No, but I thought you, this amendment was to create the Maui County Community Water Authority first, and then, regional boards under that, right? So, so you're going to put structure and staffing to the Maui County Community Water Authority first, and then build the other regional boards.

COUNCILMEMBER SINENCI: Yes, Chair, through ordinance.

CHAIR LEE: Okay. Any other questions, Members?

Member Sugimura.

COUNCILMEMBER SUGIMURA: So, there's going to, you're proposing then regional community board, East Maui regional community first, concerned with Nāhiku, Ke'anae, Honomanu, and Huelo. And then what after that?

COUNCILMEMBER SINENCI: Chair Lee.

COUNCILMEMBER SUGIMURA: Is there any more after that, Mr. Sinenci, or is this one just East Maui?

COUNCILMEMBER SINENCI: Yeah, Member Sugimura, yes, we're just starting with East Maui. And then, as the other ones come online, the other regions will come online as they present themselves.

COUNCILMEMBER SUGIMURA: Okay. And so, that's undefined at this point?

COUNCILMEMBER SINENCI: Yes. Yes. Yes, we're just setting up the, we're just setting up the structure at this moment in case we want to expand it. And like all of the, all of the input that we got from community, Councilmembers that want to expand it to different regions, so we're setting up that process today.

COUNCILMEMBER SUGIMURA: And in your document you talk about purchase of land or I guess budgets being designated by region. So how is this body getting their funding?

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Yeah, the fund would be self-sustaining.

COUNCILMEMBER SUGIMURA: From what? Is it from water fees in the area? So, all of Kula's water that we pay to the County will then be put in this, it's called a Maui County Community Water Authority Fund. Is that what you're, is that what you're thinking? How will this get funded?

COUNCILMEMBER SINENCI: As discussed earlier, Member Sugimura, we're going after a lot of the infrastructure grants that are available out there as a source of income. We don't have to fund it right away. So, we can work on getting those funds first. And also, as some testifiers have mentioned, if we want to go ahead and pursue water rates should, should that be, you know, one of the efforts in funding the, the new department.

COUNCILMEMBER SUGIMURA: Okay, I have more questions. I'll wait.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. If I can try clarify what I think it means in the way real people talk and not the way that it's written like how lawyers make things. Is it that the first time when Mr. Baz was a resource to us and he said, oh, this is a good idea but you should set up the framework so that all the areas could take advantage of it. And then, so this is that, what he was saying that time when he wasn't testifying on behalf of the Mayor, but as a resource? But then, you had already had the East Maui Water Authority thing and so it kind of combines the two where we're still moving forward with the East Maui board because it's needed. There's a need for it.

But you brought in Mr. Baz's recommendation that sets up the framework for folks like my community or whoever else's community by Charter can now set it up. But it doesn't set it up because maybe we'll see how it goes for East Maui water, or regional board first and then, you know, lessons learned and so on and so forth. And meanwhile, as a government entity, we can go after the Federal funds that those ladies from the WIR that you met talked about. Is that kind of what this is in, in real people speak?

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Oh, thank you, Chair. That's correct, Member Paltin. The, this legislation has definitely grown. But it has, because of the community input and because of some of the Councilmembers as well as, like you said, other departments that wanted to see if this can expand either to other departments and other regions. So, that's why we're here tonight, to add on the, those regional boards.

COUNCILMEMBER PALTIN: Well, in that case, thank you for accommodating our request.

CHAIR LEE: I have a question, a follow-up question, Mr. Sinenci. So, the community authority oversees the regional boards, right? So, the regional boards are advisory to the community authority, is that right?

COUNCILMEMBER SINENCI: Thank you for the question, Chair Lee. As these regional boards come online, the boards will be formed first, and then the board will choose an administrator for each one of these regional boards.

CHAIR LEE: You mean the, the regional boards will be created before the overall authority? Okay.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, what I'm understanding Member Sinenci saying, and this makes sense, that this maximizes home rule for each community. What I see in the ASF is that each regional board would choose, would hire the administrator. That administrator would then propose a budget for the staff for that area. So, the East Maui community is ready to go. And, and that was the original proposal of Member Sinenci. And so, with the East Maui community, that region would set up their community board. That community board would select the administrator. That administrator would then hire staff. And that would be how it would work under, so there would be no central water authority. There would be no County central water authority.

This is decentralizing, just as when Member King was on the Board of Education and she advocated for decentralizing to maximize home rule, it's the same concept. So, that, the budget for each area would be presented by the administrator. And let's say if, when West Maui is ready to create their water authority if they would like to, then they would establish their community board. And that community board would be established through ordinance. The Council would work with the community to establish that community board. That community board in West Maui would be West Maui Regional Community Board and that community board would then select their administrator which would work for that water authority region. And they would have their own budget. And the--

CHAIR LEE: So, there's no--

VICE-CHAIR RAWLINS-FERNANDEZ: That funding would then go into, the revenue from those areas would then help to fund those systems with the addition of what Member Sinenci is saying, outside Federal support, private foundations, other creative ways.

And I applaud Member Sinenci for his, his creativity in really thinking outside of the box to ensure that we are empowering the community's voices to the fullest.

Chair Lee, you were asking a question?

CHAIR LEE: Yeah. But in the ASF it talks about creating a Maui County Community Water Authority. And you're saying there, there's no central water authority overseeing the regional boards. It's just the regional boards, right?

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

CHAIR LEE: Being created.

VICE-CHAIR RAWLINS-FERNANDEZ: Mhm.

CHAIR LEE: So, why would you use the word Maui County Community Water Authority if, if it doesn't exist?

VICE-CHAIR RAWLINS-FERNANDEZ: As an umbrella for all the regions.

CHAIR LEE: And it has its own staff and budget?

VICE-CHAIR RAWLINS-FERNANDEZ: The Maui County Water Authority does not have its own staff. They do not oversee the regions. It's the community boards that oversee the, the administrator. It's the community boards that the administrator is accountable to. Not to a director of a centralized system.

CHAIR LEE: I see Member King has a question.

COUNCILMEMBER KING: Yeah, thank you, Chair. That, I mean, I just asked that question. I was told there would be staffing and a structure for the community water authority, which is what I thought we were creating with these, with these regional boards, under, you know, advising them or however you want to set it up. But the water, the Community Water Authority would be the one to decide which ones, how we're going to acquire, it says right here that the delivery systems are, would be acquired by the water authority.

So, now I'm really confused because it, it doesn't, it doesn't seem like there's really a community water authority. How would we decide, how does the County decide when the next one should be formed? Do we have to do another Charter amendment every time we, we, I wanted to ask Mr. Sinenci because earlier you told me that there would

be, that the Council would be setting up the staffing and structure of the, of the Community Water Authority. So, there's no Community Water Authority, it sounds like.

COUNCILMEMBER SINENCI: Well, Chair.

CHAIR LEE: Yes, Mr. Sinenci.

COUNCILMEMBER SINENCI: Yeah, thank you, Member King. That's absolutely correct. The authority, again, we're just setting up that framework. And as I mentioned earlier, the Council has that ability to add staff as needed.

COUNCILMEMBER KING: Okay, but that's to the, you're talking about add staff to the community water authority? So, should we put a phrase in there saying that the staffing and structure of the community water authority shall be set in ordinance by the County Council? Because it sounds like, because I think, I think what we're talking about is, is basically, you know, having that countywide water authority that would actually establish those boards and figure out what the next, next purchase would be, right, the next water, water board would be?

COUNCILMEMBER SINENCI: Yeah, and it says that at the beginning of the bill, as necessary, under Section 8-19.1 Organization. There is a Maui County community water authority, also referred to as the "water authority", consisting of one or more regional community boards, regional administrators, and the necessary staff to manage water collection, delivery systems acquired--

COUNCILMEMBER KING: Right, but--

COUNCILMEMBER SINENCI: --and operated by the, by the water authority.

COUNCILMEMBER KING: Right, but all of those staff, those staffing positions go to the regional community board, so there's nothing that says anything about staffing the community water authority. That's my concern. So, if we put something in there, like there's a Maui County community water authority to be staffed in, in by ordinance or something by the County Council, and one or more regional community boards. Otherwise, there's really not a, a community water authority. So, I'm just really confused, cause I thought we were setting up a community water authority and then we're going to go through and they're going to help identify the, the various boards in the different regions depending on what water systems we want to buy. Is that what, was that the original intent? I mean, I think that's what Sandy Baz was talking about when he said, you know, create the countywide.

COUNCILMEMBER SINENCI: Right. So, there, the necessary staff would be for the board, the first board. And then, as the other regional boards come online, then by ordinance the Council will--

COUNCILMEMBER KING: I under--

COUNCILMEMBER SINENCI: --you know, staff for those. But--

COUNCILMEMBER KING: Who's going to put them--

COUNCILMEMBER SINENCI: --the necessary, the necessary staff that we have now would be for the water authority for East Maui.

COUNCILMEMBER KING: Okay, but then there's, there's really no community water authority then? There's no office of a community water authority. There's no administrator. There's no staff for the community water authority.

COUNCILMEMBER SINENCI: Yeah, that would be--

COUNCILMEMBER KING: Can we, can we ask--

COUNCILMEMBER SINENCI: That would be the next--

COUNCILMEMBER KING: Can we ask Mr. Raatz?

CHAIR LEE: Mr. Raatz?

COUNCILMEMBER KING: Can we ask Mr. Raatz?

CHAIR LEE: David, are you on the call?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, thank you, Chair. I would just--

CHAIR LEE: Did you hear the--

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yeah.

CHAIR LEE: Did you hear the question?

DEPUTY DIRECTOR OF COUNCIL SERVICES: I did thanks.

CHAIR LEE: Okay.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yeah. Thank you. I am reading this proposal as granting the Council a fair amount of authority through, for instance, its annual budget power, its ability to create positions. In just reading the first proposed section for Chapter 19, Section 8-19.1 Organization, that last clause, it talks about necessary staff to manage water collection and delivery systems acquired or operated by the water authority. I think that could be reasonably interpreted by the Council to mean that the staff is purely assigned to the East Maui Regional Community Board or if deemed necessary to the umbrella entity of the Maui County Community Water Authority. So, I, I'm reading it as providing flexibility to the Council. You know, whether that's a good or bad thing is obviously a policy decision for the Council.

COUNCILMEMBER KING: Okay. But that's the kind of what I'm trying to get at is what is the intent? Is the intent to, to leave everything up in the air, or is the intent to actually create a Maui County Community Water Authority? Cause I thought that's what we were doing with this new substitute ASF. But it kind of sounds like we're just creating one board. Is that, is the intent to actually create an entity called the Maui County Community Water Authority?

COUNCILMEMBER SINENCI: Chair?

CHAIR LEE: Yes. And let me add onto that too. I remember in the, a lot of testimony we had tonight, yeah, said, oh we support the East Maui Water Authority but, you know, we could go with the Community Water Authority as well. So, in other words, the bigger, the bigger umbrella authority. So, they saw that as two distinct authorities. And the bigger authority, the overarching authority was the Maui Community Water Authority. And, you know, some of us took it that was as well.

Mr. Sinenci.

COUNCILMEMBER SINENCI: Yeah, thank you, Chair, for the discussion. The original intent was, again just like the Department of Agriculture, to start off small. And then, as we add on regional boards and get larger, then we'll include more staff by ordinance. But if, if this body wants to either include the language for specific staff or would want to add any additional staffing tonight, we're open to that as well.

CHAIR LEE: Member King, did you have a follow up question?

COUNCILMEMBER KING: Well, yeah. I guess, I guess what, according to David Raatz, that that last phrase "necessary staff to manage water collection and delivery systems

acquired or operated by the water authority", means that we would be, we would need to, the Council would need to delineate staff for the actual water authority that's going to be acquiring these regional systems and then having the board, the boards operate the new regional systems.

But if we're going to, I mean, my, my concern was if we're going to acquire them with, you know, all the taxpayers' money, then all the taxpayers should have, you know, a countywide entity that they can go to to understand why we're going in this order. You know, why we're, why we're, I don't know, maybe the next thing we'll do is buy Wailuku Water Company or buy the, you know, water system on Molokai. But everybody should understand why we're doing what we're doing if we're using, you know, the collective countywide taxpayer dollars. So, that, that was my understanding of what we were doing with the community water authority.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The intention of the original proposal wasn't to create another Department of Water Supply. And it wasn't supposed to be a top-down kind of approach. It's supposed to be a bottom-up approach. The community in Na Wai Eha have been very active. And I, I haven't spoken to them about whether they would be interested in be, in forming a water authority regional community board. But this would put power into their hands. This would return the power, decision making authority to our communities.

And that, that was, that was the first proposal with the East Maui Water Authority, in creating that community board to empower our communities like all of the testifiers testified to today. So, if, if the community in Na Wai Eha is interested in becoming a water authority, they would have that decision making power to hire a water authority administrator who would manage and operate the system of Na Wai Eha rather than just creating another Department of Water Supply where there's a director that would be nominated by the Mayor and then approved by the Council. It, it, it doesn't create anything different to empower the communities. Mahalo, Chair.

COUNCILMEMBER KING: What is the difference between the first proposal and this one then, if there really is no community water authority?

VICE-CHAIR RAWLINS-FERNANDEZ: You didn't raise your hand.

CHAIR LEE: Member Sinenci, are you going to answer that one?

COUNCILMEMBER SINENCI: Yeah, again, the idea, the intent was to start small. And then, as we get larger after we go after the Federal funding, I mean, the intent was for, to be

more fiscally responsible and not just pay for staff and we don't have any funding or any of the grants online first. We wanted to pay for it as we acquire those grants. We wanted to pay for that extra staff after receiving funding. And I think if we didn't add the staff now or we didn't put specific staff because we wanted just to add as, as we built on. Now, the difference is the regional, we're creating the structure to add regional boards after the East Maui, the establishment of the East Maui Community Board.

COUNCILMEMBER KING: Can I follow up, Chair?

CHAIR LEE: Member King. Member King.

COUNCILMEMBER KING: Yeah, that's what I'm trying to understand, Member Sinenci, is what is the structure? Because if we create that one regional board, how does the next regional board get created? Does, who, do they, does somebody come to the Council and propose it. What's the entity that would, would establish the next, you know, because we only have one community board that we're establishing in this Charter amendment. So, what, how would the next one get established? I thought that was through the water authority, the community water authority. But there is no community water authority. It's part of just, I think it's a descriptor . . . descriptor for all of these different boards. But I don't understand how we get to the next one if there's not an entity that's looking for that and figuring out, you know, what the next logical community board would be. So, how would we get there?

COUNCILMEMBER SINENCI: Again, by Council ordinance. It could be initiated by any of the Councilmembers that represent another region, be initiated by any one of us.

COUNCILMEMBER KING: Okay.

COUNCILMEMBER SINENCI: And then, we could, to start that regional, we could share some of the staff prior to building up each regional board. So, we can share some of the staff that we've already established with the East Maui.

COUNCILMEMBER KING: Okay. So, the, the idea of a community water authority is not really an entity. It's just, it's kind of a catch all phrase for, you know, all of these different regional boards together. Is that what it is?

COUNCILMEMBER SINENCI: Yeah, we're establishing that framework.

COUNCILMEMBER KING: Okay.

COUNCILMEMBER SINENCI: Member King--

COUNCILMEMBER KING: I think I kind of get it.

CHAIR LEE: Member Molina. Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you. I might as well throw in my two cents on this. I was kind of like Member King, too, had this vision of we're going to have this Maui County Water Authority and then all the other regional boards. Like, it would emanate from that. So, now, as the question's going to be framed, should this move forward, the question posed to the public, are we going to leave the word Maui County Water Authority since there basically isn't any? Or, I mean, I'm sure we have the, the first board that will be established is the East Maui. I'm just trying to get an understanding cause we're definitely going to have to educate the public on this. Cause if we're having a hard time, you know, understanding, you know, and I appreciate my colleague from West Maui, real people talk, you know. That, to kind of simplify it a little bit.

So, cause I was under the impression we'd have this separate Maui County Water Authority and then all these various boards in the different regions would be created, would emanate from that authority, so. Okay. But I appreciate the discussion to kind of add some clarity here because I can just see, you know, what I would be afraid of is if the public doesn't understand it, they may not vote or they may vote no. Cause, you know, it's human nature, yeah, if you don't understand something, you may vote no. So, that's why it's important the educational aspect is really emphasized on this particular Charter proposal. Thank you.

CHAIR LEE: But can I ask why you used the term "Maui County Water Authority"?

COUNCILMEMBER SINENCI: Thank you, Chair. . . . if we wanted to expand to the other islands, like Molokai, then it would include the greater Maui County.

CHAIR LEE: No, because, because in the Charter, Charter proposal provides for adding different regional boards. So, why would you need to use the term "Maui County Water Authority"?

COUNCILMEMBER SINENCI: That was our original name, but I'm open to changing it, as Member Paltin, we can--

CHAIR LEE: Member Paltin.

COUNCILMEMBER SINENCI: --emphasize community. But if, Members, if you wanted to go ahead and add necessary staff or if you wanted to, this would be the time and we

could entertain any additional amendments to the ASF if you wanted to go ahead and, and add the staff at this time.

CHAIR LEE: Before I call on Member Paltin, I do have a question. As you were talking, Member Sinenci, you said, well, we'll just have the staff work together. I mean, there will be, they are part of the executive branch now, right? They would be part of the executive branch. They would be part of the legislative branch?

Okay, Member Paltin, which branch are they a part of? You keep shaking, shaking your head for each one. So, where would they fall? Where would they fall?

COUNCILMEMBER PALTIN: Yeah. Okay, real people talk, my understanding. You know, I come from a community-based management background. And so, I believe that Member Sinenci put Maui County because when you just say "Maui", it only applies to Maui Island, but if you say "Maui County", it encompasses all the islands. But it's not Maui County Authority, it's Maui County Community Authority. And so, it's like, you know, the grassroots approach where it's community-based management. Not completely, because the community would have to come to, like, their legislature to say, "hey, we want to do what East Maui got right now. They got a, they got a, or a regional water authority board. We want that." So, then the Council would set that up by ordinance.

But I think Member Sinenci, in this one, the administrator reports to the regional board, so it's not necessarily a part of the executive branch or the legislative branch. They, it reports to a community, community based, Maui County Community Water Authority, not, not reporting to the executive or the legislative, reporting to the community and their regional board.

CHAIR LEE: Where would they get their funding from? From the Council and, and the Mayor, too.

COUNCILMEMBER PALTIN: That's where everybody gets their funding from, County money, unless they go out and get grants and the Federal money. I mean, or you can raise it yourself in the public-private partnership model. That also occurs in community-based management non-profit organization.

CHAIR LEE: I don't know. I see a lot of loose screws here.

COUNCILMEMBER PALTIN: So, do I.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yeah, maybe the better word for it is there's not a water authority because there's not a central entity. So, maybe the better word for it is "Maui County Community Water System". Cause that's really what it is, it's a system of smaller boards, of regional boards. Is, if there's not a, an actual, I mean, I think that word "water authority", that's what it evokes, is a, is an entity.

CHAIR LEE: Mr. Sinenci, again, money is my major concern. You know, you can give people titles, but if they don't have the money to, to back up their plans, then they really don't have significant power. Like, you know, you, initially you talked about they would be able to initiate condemnation and so forth. And condemnation is definitely a County responsibility, it's not a community responsibility. You know, we take on the liability and, you know, we find the funding, yeah? We have to pay for the properties we condemn. So, where is that money coming from?

And they would have to have oversight by somebody, yeah? So, I don't see that part, you know, lining up in my mind and so that's why I have a hard time. But what threw me tonight was the community thing, because I heard the people say, okay, I initially wanted the East Maui one, but I'll go for the community one now, you know, as if there were two.

So, Vice-Chair, you had your hand up?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, Member King threw out an idea, "systems". We could also do water authorities, multiple, and then that way maybe it's clear and then it doesn't convey one central one. So, if, I, I think part of the difficulty is, is making . . . thinking that there was . . . one like Department of Water Supply.

CHAIR LEE: You're kind of breaking up.

VICE-CHAIR RAWLINS-FERNANDEZ: Aw. How about now?

CHAIR LEE: Okay, your signal is a little weak that's why.

COUNCILMEMBER MOLINA: We missed a lot of your earlier comments, Vice-Chair. Sorry, you can repeat before you got garbled.

VICE-CHAIR RAWLINS-FERNANDEZ: Let me see if I can get another device. Was that clear?

CHAIR LEE: Yes, that was clear.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Did you hear about the, the idea of doing water authorities? That part, was that clear?

CHAIR LEE: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Did you hear the part about, I think the difficulty is making that leap from thinking that it was a centralized administrative system like Department of Water Supply? Did you hear that part? Okay.

CHAIR LEE: Kind of.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, okay. So, making that leap from a central water authority to multiple community-based regional authorities. So, Maui County Community Water Authorities perhaps is an idea.

In the amendment, I looked for, you know, the power to exercise eminent domain, and it's no longer in this proposal. So, if that was one of your concerns, Chair Lee, then I think Member Sinenci addressed your concern there. So, it's, it's no longer in this draft, that power would reside within the Council. Was that clear?

CHAIR LEE: That's, yeah, that was clear.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And then, I, I like that Member Sinenci added on page, what is that, page 6, that it further clarifies one of the issues that Ms. Thomson brought up in Committee about where the jurisdiction of the Department of Water Supply start or ends and where the water authorities jurisdiction would begin. And so, it amends Chapter 19 to state, "Except as set forth in Chapter 19, the Department of Water Supply shall manage and operate all water systems owned by the County". And so, it provides for an exception here, where if the water system . . . under the regional water authority, then the Department of Water Supply would not have jurisdiction over that water system. So, that, that clarifies, I think, Member Sinenci and his team worked really hard to address a lot of the concerns that were brought up in Committee.

CHAIR LEE: Oh, Member Sugimura.

COUNCILMEMBER SUGIMURA: So, the regional, 8-19.5 Regional Administrator, Powers, Duties, and Functions. So, this regional administrator would be one per whatever region is developed or decided on, right? So, this one that we're talking about is one for East Maui, correct? Yeah? And then, so if there's another one that comes up, it'll have all of these duties, or that person would have all these regional administrator powers, duties and functions, which are 16 of them, right? And it would be just tailored to whatever region it is, correct? That's your concept?

So, by looking at this, what difference does this have in comparison to Board of Water Supply or what the . . . the department is doing because it's a lot. Acquire water system, leases to be managed by the water authority, including East Maui water licenses. I can read it all, but you all have it. Negotiate purchase agreements. Oversee water leases. Seek funding for water system operations, maintenance, and capital improvements. Manage the distribution of water under the control of water authority, including providing water to the Department of Water Supply. This is kind of huge. It's like you're developing a new department. So, are you anticipating to get rid of the Department of Water Supply?

I mean, the powers and duties are pretty, pretty powerful for a authority that is, I thought would be making recommendations, a voice from the, from the community. But this sounds like we need to have a budget, that the community needs to know before they vote on this, how much is it going to cost them. And I know you're saying it's going to go out and find other grants and that's good. But you start this off, you must have an idea of how much you're planning on paying people or how much the rent is, or just kind of basic stuff like that. And then, going into all of this, like maintaining the system and CIP. I mean, this is like, this is kind of huge, right, versus just a voice from the community. That's what you are planning? So, you have a budget? You have a fiscal idea of how much this is going to cost us?

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair. And yeah, thank you for the question, Member Sugimura. And you're not in my, my APT Committee, but in the last two months, we've been going all, all through the budget. We've had all of these rural community people come on and talk about what kinds of grants are available out there. And as you know, with Senator Schatz, with the, we've got a quick timeline, a turnaround of five years to even apply for some of these infrastructure funds presented by the Biden Administration.

So, those were and, and the main, the catalyst was that a lot of the private systems, including the current lessee cannot, would not be able to apply for some of these government grants that are only available to the County, government agencies, as well as our County bond rating. So, we could also use, as a, as a County entity, we could go ahead and use the County bond rating for any CIP projects should we go ahead and acquire private systems.

So, again, all of these changes, and you brought up an important question, these changes that we made, including what Member Keani Rawlins-Fernandez mentioned in number one, the "Except as set forth in chapter 19, the department of water supply

shall manage and operate all water systems owned by the county". So, these systems that we're talking about would be those systems that the, the only the water authority would go out and acquire.

And then, we did have Mr. Agawa mention to us today that it's not the waters that are being, that is processed at the plants. This is all the raw water that will be sent to the, the water facilities, the department of water facilities. So, that's the big, this is raw water, not water that is being to our customers. So, that's the big difference to your question about the water authority, what their duties are and what the Department of Water Supply does. They, they would only manage the current community owned system. Excuse me, the County owned system.

COUNCILMEMBER SUGIMURA: We would only manage the County system? I thought you were going to say non-County system if it's not going to be processed water.

COUNCILMEMBER SINENCI: Correct. Sorry about that. Yeah.

COUNCILMEMBER SUGIMURA: Not, it's not County. It's private acquisition of Na Wai Eha for example, an example. Is that what your, that's what this body will do? Look for other sources of water?

COUNCILMEMBER SINENCI: Correct. That's correct.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Okay. I'm a little, getting more confused. So, you're saying that this is not County owned water? I thought these were like individual County water authorities, community water authorities, so?

COUNCILMEMBER SINENCI: Yeah, I, I meant I was answering Member Sugimura's question about the difference between the Department of Water Supply and the water authority. What the Department of Water Supply does is manage the County system.

COUNCILMEMBER KING: Oh, the County system.

COUNCILMEMBER SINENCI: The water authority, the water authority would be managing those systems where they're private or leased from the State. Those, those systems are not currently managed by the Department of Water Supply. The water authority--

COUNCILMEMBER KING: Right.

COUNCILMEMBER SINENCI: --would be doing that.

COUNCILMEMBER KING: But they wouldn't, but they wouldn't be private systems would they? They would still be County systems because we're, we're leasing them with County money. So, they would be County systems, but they would be different County systems than what the Water Department manages. And I don't, I think the other difference is that the Water Department doesn't go out and acquire, or hasn't, I mean, maybe they should have, we wouldn't have gotten to this point. But, you know, they haven't gone out and acquired leases of other entities. They haven't, you know, we've talked about it. We've talked about EMI. We've talked about buying Wailuku Water Company, but nothing has happened. And so, this is trying to get something like that to happen. I mean, we could, we could have tried to charge our own Water Department with doing it, but we'd have, probably have to build them up with all these same type of people. So, we're just doing it as a separate entity.

But I do still think that the, you know, I thought, I think what we all thought the community water authority was supposed to be is not, that's not what it is. So, I think we've got to make that more transparent, so people understand that there's not a countywide authority. I think a lot of people who were testifying thought that that's what that was as well. So, maybe if we, if we change it to, you know, I don't know, Maui County Community Water Board System or something like that, or water systems, it may, it, it's, it's more in line with what we're trying to do here.

CHAIR LEE: Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I appreciate the discussion. And I, my first question, and Councilmember Shane Sinenci touched on it, as how many meetings have we had on this? It seems like we've discussed this quite for some time.

The other thing is, is I think the mechanism for all of those grants that we're talking about and all of these fundings would be the, the authority. Then that way, it would be like the mechanism to receive all of those grants. And I think that is, I wouldn't want to, I'd be weary to change that, because a lot of those other presentations in, in his Committee we're talking about this is how small communities get their funds. And if we, if we make this reflect more of like just smaller boards, it might mess with the funding mechanism for them to get all those funds that, that in other ways that the financials would flow into it. So, I don't, I'm just kind of leery of changing it. But I also see like yeah, if you don't change it, then it'd just be a bunch of boards and then they wouldn't be able to get any of those funds, you know. We don't want to tie their other hands so.

CHAIR LEE: You know, Mr. Sinenci, I think Mr. Johnson raises a good point in that, although he probably won't agree with me, but a good point in that when you talked about

borrowing money, floating bonds, yeah, then you're using the full faith and credit of the County. And so, these people, the advisory board folks, cannot go out on their own and borrow money backed by the County if they are an independent body.

So, in fact, I, I'd be surprised if they can get grants without any financial foundation. If there, if their salaries and so forth are coming from the County and they have no other money, no other source of money because they haven't acquired any systems yet, I'm not sure how they would get grants. You know, a lot, a lot of what they are able to do will be based on how much the County backs them up.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Exactly. And so, it's the administrator and the administrator's staff that would be doing that work and would propose the budget. The, like the, it would still need to be worked with the Finance Director, and then the budget would be proposed to the Council. The Council would still have that authority to approve budgets. So, all of those proposals, just like, you know, we talked about receiving grants, it would be, it would need to be recognized in the budget.

The administrator and the administrator's staff, so the administrator could hire grant writers. Those would all be County employees. So, the community board would select the administrator. And the administrator would be a County employee, just like the Fire Chief and the Police Chief and the Department of Personnel Services Director, where civil service hires that person. So, we have this model that exists already. And they're County employees. And as the heads of those regional water authorities, the administrator would hire the necessary staff in order to carry out the duties, functions, and responsibilities of that water authority.

CHAIR LEE: Yeah, I can see that. However, it's very similar to creating another water department. Right?

VICE-CHAIR RAWLINS-FERNANDEZ: . . .

CHAIR LEE: Because the money will be, because the budget will be provided by the County, so our taxpayers, the employees will be County employees. And they will be overseen by, I would imagine volunteer regional board members. Right? And then, even the administrator will be paid by the County.

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

CHAIR LEE: So, I'm--

VICE-CHAIR RAWLINS-FERNANDEZ: But the difference between these authorities and the Department of Water Supply is that the administrator, which would be the head of the regional authority, would be selected by the community board and not by the Mayor. Department of Water Supply is selected by the Mayor. And so, the Department of Water Supply would carry out the goals and direction that the Mayor is proposing.

Additionally, communities have been able to successfully secure grant funding through private foundations. The Molokai community has successfully shown that to be possible in organizing its community.

CHAIR LEE: I think those are good ideas. I just feel that, you know, we need to have a better handle on the fiscal impact of this investment, which is very significant. And so, you know, I feel it would be wonderful if we could get a feasibility study so that we have, so we know how much we're really talking about.

Because I've, I've heard, and for example, I've heard that the purchase of EMI could be upwards of \$50 million, okay? \$50 million because you have to remember this is a very expensive system and much of the lands are not all state-owned lands. A lot of it is private lands. So, these lands need to be condemned and then we pay market-value for all of these lands. These lands could extend 10, 15, 20 miles of land. So, let's say it's upwards of, and this is not counting repairs and maintenance, this is just purchase. And by the way, it's not for sale, so we would have to condemn it.

VICE-CHAIR RAWLINS-FERNANDEZ: So, all, all of this is speculation. And that's one of the duties and functions of the administrator to do this work. Any, any speculated quotes that anyone gives would likely assume that the water leases would belong to that other entity and not to the County. And the County is trying to acquire the water leases through DLNR. That's where the value of the water, that's where the value of the system is, in the water. And so, whoever has the water leases has the value of the system, and then that would be retained by the County.

CHAIR LEE: Well, we might have the leases, but you have to have the system in order to transport the water. So, that's why I'm saying, you know--

VICE-CHAIR RAWLINS-FERNANDEZ: And Chair--

CHAIR LEE: --DLNR doesn't own EMI.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. I know that Member Sugimura is not part of the APT Committee. And in the last APT Committee, we did have former Board of Water Supply Chair Shay Chan Hodges, which did speak to a lot of the financing on this. And we did ask if she would serve as resource when this item comes up. So,

she's been doing a lot of work on the financing part. So, if any of these questions you'd like to ask her, she's also available here for--

CHAIR LEE: Well, I was at the meetings. I was at the meetings.

VICE-CHAIR RAWLINS-FERNANDEZ: But Member Sugimura wasn't, so I was just letting Member Sugimura know that a lot of these questions, if she does have, Ms. Shay Chan Hodges . . . elaborating on.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. As to Member King's point, I was wondering how the Members felt as a more descriptive term, Maui County Community Water Authority Framework. Cause it's not, then it fits what we're trying to set up is the framework. That's more--

CHAIR LEE: I know that's, that sounds like a work in progress. I mean, don't you want to--

COUNCILMEMBER PALTIN: Well, that's--

CHAIR LEE: I kind like systems myself.

COUNCILMEMBER PALTIN: Oh, okay. But that's what it is, it's a work in progress because this just, cause you can't, you need the Charter amendment. That's what Mr. Baz' point was when Member Sinenci tried to propose the East Maui Water Authority. He said, you know, and then if it works out well then, every place that wants one is going to have to go back and make another Charter amendment, Charter amendment. So, this is just setting up the framework so that every time another region wants an authority, they don't need to go back and make another Charter amendment. There's still choke more steps that needs to be happen, like, things need to be set up by ordinance. But we can do ordinance, or legislation year-round. We're not like the State or whatever. But the Charter amendment part only comes when there's an election. So, that's why we're setting up the framework and there is still plenty more steps, so--

CHAIR LEE: Why don't we check with everybody.

COUNCILMEMBER PALTIN: Oh, okay.

CHAIR LEE: Then we can get that out of the way. Does everybody like the word "framework"?

One, two, three--

COUNCILMEMBER KING: . . . that works for me, either framework or systems. But it's kind of the same thing.

CHAIR LEE: Okay. You know what, let's, let's kind of take care of that. And Mr. Sinenci, you can change it. Because if we're going to spend our time this late on a Friday night discussing things, let it be deeper than just the title, okay. Let it be deeper.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Since you're polling everyone. I like Maui County Community Water Authorities.

CHAIR LEE: Three. Four. Four, you got four. The other one had five. Framework had five.

COUNCILMEMBER SINENCI: Chair?

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Yeah and, and thank you, Member Paltin for, and it is, it is a framework, but we anticipate that the framework will eventually be build in to, to the point where it will become community water authorities.

COUNCILMEMBER PALTIN: Okay. Do you, how much does systems get? Let's poll systems? Maui County Community Water Authority Systems?

CHAIR LEE: Okay. One, two, three, four, five, I'll say six; myself six. We have to move on, folks. Okay, you guys, let's change it to systems and then talk about a little bit more substantive matters so we can actually vote on this and move onto page 3, how's that? Okay, so the word is systems. So, Mr. Sinenci, you would have to make the changes wherever it would apply, yeah.

Okay, anymore questions on this, Members? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, number 3 of 8-19.2, Regional Community Boards. And if you go number 3, just because of the discussion. So, I would recommend that the Department of Management will provide staffing, technical assistance, clerical services required by the board until such time as necessary staff is hired. It feels more like a Department of Management thing rather than Corp. Counsel . . . Corp. Counsel's guidance.

CHAIR LEE: Which number are you talking about? 8-19.3, number 3?

COUNCILMEMBER SUGIMURA: So if you go 8-19.2 under Regional Community Board. Then, you go down to number 3, item 3 at the bottom of the page.

CHAIR LEE: Oh, I see. I see.

COUNCILMEMBER SUGIMURA: And it says, the Department of, yeah. I say delete Corp. Counsel--

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: --provide staffing whatever--

CHAIR LEE: Mr. Sinenci, did you check with the Corp. Counsel? They said, okay?

COUNCILMEMBER SINENCI: Yeah. Sorry, Chair. Yes, we did speak with them.

CHAIR LEE: Okay.

COUNCILMEMBER SINENCI: And they were . . .

COUNCILMEMBER SUGIMURA: --you check with them? They're on the call now, right? Can you ask them?

CHAIR LEE: He said that they, he checked with them, right?

Member King.

COUNCILMEMBER KING: Yeah, I trust that he checked with them. I don't have to have them come online and say that. But I don't think we should change that piece because then we would have to go back and check with the Managing Director and that might be a huge thought process for him to consider. So, I rather just, if you've already checked with Corp. Counsel, I rather just leave it the way it is.

CHAIR LEE: Okay. They're probably going to need a lot of legal help anyways. The right department. Anything else?

Oh, I see Keola Whittaker. You got any questions for Corp. Counsel?

DEPUTY CORPORATION COUNSEL KEOLA WHITTAKER: Chair, Richelle had to step away. I know she had concerns about that portion, but she just had to step away.

CHAIR LEE: Well, what concerns did she have?

DEPUTY CORPORATION COUNSEL WHITTAKER: I understand that she had concerns about the staffing, being able to staff the department . . . staff the administrators.

CHAIR LEE: Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you for that clarification. We did speak to her. She did have concerns. She said it was temporary that we could utilize Corporation Counsel. And I see Ms. Lutey on.

CHAIR LEE: Moana Lutey. Ms. Lutey?

CORPORATION COUNSEL MOANA LUTEY: Yes, thank you. Sorry, I was also on the phone. I, we do have concerns about the staffing aspect of it. We are short secretaries right now. We are in the process of hiring attorneys so, you know, it would be a stretch for us to be also covering this . . . issue.

CHAIR LEE: Any other suggestions, Members?

Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Just for clarification. As Ms. Thomson said, we would possibly just need them for our first meeting until we can get staff onboard.

CHAIR LEE: Ms. Lutey? Ms. Lutey? Moana Lutey? Corp. Counsel?

CORPORATION COUNSEL: I'm here. Thank you, Chair.

CHAIR LEE: We're talking about one meeting?

CORPORATION COUNSEL: I think one meeting would be fine, you know? We're always willing to help, so I don't want to make it seem as though we're not happy to help out when we can. It's just the long-term aspect of it is what's concerning to me.

CHAIR LEE: I see your Deputy is there. Shall we call on her?

CORPORATION COUNSEL: She's concerned too.

CHAIR LEE: Okay. Deputy Thomson.

FIRST DEPUTY CORPORATION COUNSEL RICHELLE THOMSON: One of the things that might work, if there's some reluctance to assign that to Management, is to just remove who's providing clerical support and that type of thing and do that by ordinance later on.

CHAIR LEE: Alright, do you want to remove that provision then, Mr. Sinenci? Mr. Sinenci, are you taking notes on all your changes? Huh? We changed the name. We changed, changing that number 3, the Department of Corporation, you're going to delete that and then just pass an ordinance to cover that later? Is that what you said?

COUNCILMEMBER SINENCI: Yes. Yes, Chair. We're taking notes.

CHAIR LEE: Okay. Anybody else?

Member King.

COUNCILMEMBER KING: Yeah, I think that's a good idea. Maybe they, maybe they won't meet until they hire the necessary staff. That seems to be what's happened with our advisory committees, you know. They haven't met until they get the staff.

But my, one of my questions is, you know, the paragraph above says, the Director of Water Supply, the Councilmember holding residency area seat for the applicable watershed area, so what about the, the jurisdictions that are actually, that might not be in the exact watershed area but are utilizing the water from that water system? Like, you know, we talked about Upcountry area.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. For the, the board members, you get two seats on--

CHAIR LEE: Put your hand down.

COUNCILMEMBER SINENCI: --on the, on the Water Authority Board, sorry.

COUNCILMEMBER KING: The board members? What was that?

COUNCILMEMBER SINENCI: The, the district area gets two board members from that, from that area.

COUNCILMEMBER KING: What district area?

COUNCILMEMBER SINENCI: Where the water is.

COUNCILMEMBER KING: Where the water is being utilized, or where the water--

COUNCILMEMBER SINENCI: Correct, yes. Sorry. Where the water is being used.

COUNCILMEMBER KING: Okay. Cause there's an actual watershed where the water comes from, but then there's the areas that the water is delivered to. So, your, you're including the, the areas where the, that are actually using the water from the actual system? Okay. Thank you.

CHAIR LEE: Anybody else?

Member Molina, you look like you have a question.

COUNCILMEMBER MOLINA: No. Not yet. Just trying to digest everything that's been discussed here. I'll, go ahead, you can continue discussion. I'll, I may have something to ask later.

CHAIR LEE: Okay.

COUNCILMEMBER MOLINA: Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. One of our spectators texted, suggesting for the name, instead of Maui County, since County can be, you know, the geographical area or it can be the, the government, to use Maui Nui Community Water Systems. So, we'll keep the systems, but instead of County, replace it with Nui, Maui Nui Community Water Systems.

COUNCILMEMBER MOLINA: Less governmental, huh?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR LEE: How many votes? How many votes? Who's in favor? One, two, three, well, you got it. You got it.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

COUNCILMEMBER MOLINA: People talk, yeah?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo to the community for texting.

CHAIR LEE: Anybody else? Anything else? Otherwise, we're going to move onto the vote. Ready, everybody? Alright. But do you want the changes in writing before we vote? Maybe--

COUNCILMEMBER KING: Chair?

CHAIR LEE: Maybe, maybe, Member Sinenci, you could just itemize the changes verbally.

COUNCILMEMBER KING: Chair?

CHAIR LEE: Yes? Member King.

COUNCILMEMBER KING: Can we just ask the staff if they got all those changes we were talking about?

CHAIR LEE: Sure. Staff, did we get all those changes written down? They went home already. Staff? Kathy?

COUNCILMEMBER KING: Staff?

CHAIR LEE: Clerk?

COUNTY CLERK: I didn't get it.

CHAIR LEE: You didn't get it?

COUNTY CLERK: I didn't.

CHAIR LEE: Member Sinenci.

CHAIR LEE: David. Maybe David got it.

VICE-CHAIR RAWLINS-FERNANDEZ: In the chat.

COUNCILMEMBER SINENCI: Thank you, Chair. Oh, it's in the chat. Yeah, thank you, Chair. We had Maui Nui Community Water Systems. And the second one was no Corporation Counsel for, as temporary staff.

CHAIR LEE: Okay. Only two? Alright.

COUNCILMEMBER SUGIMURA: Are you deleting that paragraph, or you just taking out Corp. Counsel's name?

CHAIR LEE: No, deleting the paragraph.

COUNCILMEMBER SUGIMURA: Yeah. Okay. That's what I thought.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yeah, so we asked them, since we're changing it to Maui Nui Community Water Systems, we're asking them to go through the document and change the name wherever the community water authority. So, it would be, it, we're leaving it up to staff to do that, those changes. Right? To go through the document and change the name where--

CHAIR LEE: Yes. Yes.

COUNCILMEMBER KING: --appropriate. Okay.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The regional water authorities would remain water authorities. Just the--

COUNCILMEMBER KING: Right--

VICE-CHAIR RAWLINS-FERNANDEZ: Member King, I have the floor. Okay. So, just where it says, where it used to say, Maui County Community Water Authority would be replaced with the Maui Nui Community Water Systems. And then, if, where it says, Maui County Community Water Authority, in the next section, it would be replaced there. But where it has the regional authorities, then it would, it would stay regional authorities.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yeah, that's what I was saying. Anywhere in the document where it says, community water authority, is where we're going to make the change, because that's in the title and its throughout the document. So, that's what I was referring to.

CHAIR LEE: Okay, anymore Members? So, I'll go back to you Mr. Sinenci, for the motion.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. In the, the funding section, to simplify, I put it in the chat, all or a portion of the revenues of the water authority may be transferred to a regional authority fund which may be used for regional water authority. And that addresses the concern that Mayor Emeritus Arakawa brought up in his testimony and gives it more flexibility.

CHAIR LEE: Okay. David, are you still on the call? David?

VICE-CHAIR RAWLINS-FERNANDEZ: And if you want to take that after, take that up after this vote, I'm also happy to do it then, as well.

CHAIR LEE: Okay. David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, Chair?

CHAIR LEE: Okay, when, when it comes to substitutions, it's handled a little differently. You can't keep making changes, right?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Well--

CHAIR LEE: Well, you can?

DEPUTY DIRECTOR OF COUNCIL SERVICES: If you want to follow Robert's strictly, that's correct. But as we've noted a few times this term, there is an allowance for informality for small boards, and this Council meets the criteria. So, you know, unless the County Clerk has any objections, we're able to understand what the body is doing right now, I think. I've been told by our staff that we've been keeping tabs and we understand, and we'll be able to, if this proposal moves forward, incorporate what the body's agreed to thus far. Thank you.

CHAIR LEE: Okay, so that, would that mean taking the vote on the substitution and then multiple amendments to that?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. Not necessarily. I mean, we're under the impression perhaps that maybe Councilmember Sinenci would be in effect revising his proposed motion to substitute to incorporate these elements that have been endorsed by the body. And that, that's one approach. And you, you know.

CHAIR LEE: Okay, let's take that cause that's easier. That's easier. Why don't we do that?

So, go ahead, Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Just before I do that, going back to the second one, strike the Department of the Corporation, oh, 3, the Department of the Corporation Counsel will provide staffing, technical assistance, and clerical services required by the board until such time as necessary staff is hired. Can we put in OCS staff?

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I think the Corporation Counsel's idea of putting in ordinance later is, is good and then that way we can address it at that time, instead of at 9:20 the night that it needs to pass first reading. And then, we can, you know, . . . all that out at that, and it doesn't have to be in the Charter.

CHAIR LEE: I think that's a good idea. Mr. Sinenci, you agree?

COUNCILMEMBER SINENCI: Yeah, that's fine, Chair.

CHAIR LEE: Okay. Okay. So, you're withdrawing your motion to substitute for now until you get the whole list of things. You have the whole list of things ready to go, plus the last one that Vice-Chair added?

COUNCILMEMBER SINENCI: Chair, we do have it in the chat.

CHAIR LEE: Okay. All of it?

COUNCILMEMBER SINENCI: Should it be as a friendly amendment to my motion to replace Maui Nui, the title with Maui Nui Community Water Systems; and strike number 3, the Department of Corporation Counsel will provide staffing, technical assistance, clerical services required by the board until such time as necessary staff is hired; and under Section 8-19.6, Maui County Community Water, all or a portion of the revenues of the water authority may be transferred to a regional water authority fund, which may be used for the regional water authority.

CHAIR LEE: Okay, everybody clear on those changes? Any last comments, questions? This is it folks.

Okay, Member Paltin, is that a half a wave or hand? No? Okay. Guys ready? Ready for the vote?

Okay, Madam Clerk, roll call.

COUNTY CLERK: Councilmember Shane.
COUNCILMEMBER SINENCI: AYE.
COUNTY CLERK: Councilmember Mike Molina.
COUNCILMEMBER MOLINA: AYE, WITH RESERVATIONS.
COUNTY CLERK: Councilmember Kelly Takaya King.
COUNCILMEMBER KING: AYE.
COUNTY CLERK: Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON: AYE.
COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: NO.
COUNTY CLERK: Council Pro Temp Tasha Kama.
CHAIR LEE: EXCUSED.
COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
COUNTY CLERK: And Council Chair Alice L. Lee.
CHAIR LEE: NO.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA, PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-FERNANDEZ.
NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.
EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: That's six "ayes", two "noes", and one "excused".

CHAIR LEE: Motion carries.

Okay, next item.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, am I, am I frozen?

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Chair. I believe we're on the main motion as amended.

CHAIR LEE: Oh, okay. I didn't think we had to do that with a substitution. Okay, main motion as amended. All those, roll call. Roll call.

COUNCILMEMBER SINENCI: Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: It looks like Member Sinenci has some comments.

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Real quick, sorry. And I did want to address Member Johnson. So, Members, we've had 15 meetings on the water system. Three of those meetings were focused specifically on Na Wai Eha and the Wailuku Water System. Three of those meetings were on the Board of Water Supply TIG report and their recommendations. Five meetings were on the East Maui. And six meetings were on establishing a Water Authority, the first starting with East Maui. We've also had six meetings on the water system financing, where we had those experts come in, as well as six meetings, specifically on the proposed water authority Charter amendment.

When we, we found that when we really engage with our community and listen to them, we have all the, these changes that we proposed tonight to the legislation. We had our last meeting this Tuesday and heard from our community, from other Councilmembers, and our attorneys as well. So, in response to that, we have clarified a lot of the language tonight and also given the board or community more input into this water authority. And I appreciate Councilmembers support. Thank you.

CHAIR LEE: Any other?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to express my gratitude to Member Sinenci, you know, for incorporating all the feedback. And, and, and you know, I totally would've understood just running with the East Maui Authority, because of how long they've been fighting and, and how much it means to everyone. But and, and I see why a lot of people don't, because of all the screws here on the screen and how difficult it is to get everyone on the same page. But I just wanted to, you know, express extreme gratitude for taking everybody's feedback and incorporating it into this bill and giving us all a chance to, to determine our own future in terms of water, because water is life. And without it, you know, we wouldn't even be able to live. So, thank you so much.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo Member Sinenci, all the community members who invested such a . . . To Gina, I hope you get to rest after this. I know you've worked really hard on this. Everyone in the community, all the testifiers that came out in support, you know, I, the warriors that's been fighting to advance this work for years and Member Sinenci, for giving them a strong voice. I want to quickly echo, in closing words of Ms. Pahukoa earlier, voting, yes, will rehabilitate a fractured system. Voting yes, will empower our people. Mahalo. I fully support the motion as amended. Mahalo, Chair.

CHAIR LEE: Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I also rise in full support of the motion as amended. I can only echo what my other Councilmembers are saying and say thank you to Councilmember Shane Sinenci for his due diligence, his hard work. Water is a public trust doctrine. Water is a right for our people.

I was a former farmer. If I didn't have water for my crops, I wouldn't have been able to feed the people of Lanai. There's a very specific place on Lanai that we fought hard for water for it, the LWAC, the Lanai Water Board. They, they tried their darndest to get water rights for the folks of Lanai. Folks like Ron McOmber who passed away fighting for our water rights. Folks like John Ornellas who passed away fighting for our water rights. Folks like Butch Gima. Folks like the Dela Cruz's.

There's been people fighting for these water rights for so long. And some of those warriors that were mentioned, they're gone already. So, this is like what the testifiers came, they brought their children in. This is what this is about. So, mahalo everybody who's been involved in the past, and in the present, and in the future for this. So, it's a great day. Mahalo Chair.

CHAIR LEE: Anyone else.

Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. You know, my preference was to have kept it more simple, just stay with the East Maui proposal. But then, when the countywide proposal came in, it sort of added more screws, as Member Paltin had mentioned earlier, and I guess figuratively. So, again, I, I want to . . . that assuming this moves forward, that the educational component is out there so the public doesn't get a misunderstanding that we may be, we may be looked at as duplicating services. Cause like I said before, if people don't understand something, they're either not going to vote or they're going to vote no.

So, it's certainly a big step forward in terms of empowering people with a resource that's always been looked at as a public trust. So, I did my reservations on the amendment was just based, again, on not understanding. But now, as I see it, it's more like a mechanism that's been put in place to allow other potential regional boards that could occur in the County. So, all I'm going to say, this is going to be one of the more interesting Charter amendment proposals and we're going to see a lot of folks coming out on the other side as well. So, stay tuned. It's going to be a, going to be a ride in this election when it comes to this proposal and some of the others.

And I want to thank, Mr. Sinenci. You know, we put him through the meat grinder tonight. But, you know, he's always been a good, patient, understanding person. So, I want to thank you for your proposal and for being patient with those of us who had a lot of questions or maybe didn't quite clearly understand the, the amendments. So, thank you, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: I'll try to be brief, because I think everybody expressed where we're at. I'm really happy that we're affording the people of Maui a chance to vote on this, on the ballot. It's, was a little confusing to me because I had a different impression of what the Countywide Water Authority was going to be. So, and that's the part we didn't have a lot of discussion on. It was just kind of came up towards the end. But I think the way we changed it is more explanatory to people, what we're trying to do and the system that we're creating.

And I do think it's a long time coming. I hope we have help from the State, whoever our next Governor is. And I'm, I'm just, I think it's, it's something that we heard loud and clear from the public that they want on the ballot this year. So, agree with Member

Molina that we need to make sure that the, there's clarity in the explanation of this Charter amendment so that people don't feel, they feel comfortable with it, you know, to vote on it. So, that's all.

Thank you so much, Mr. Sinenci. You put a lot of work into this. And you listened to a lot of people, just like you did with the Water Use Development Plan. So, I, I was, the only thing that kind of bothered me was people saying, well, we knew nothing about this. And we've been working on it for so long, I just, I don't understand how nobody not know about it. But I don't know, maybe we need to do a better outreach just as a Council on the whole. But that's all. Just really thankful for--

CHAIR LEE: Does anybody--

COUNCILMEMBER KING: --point.

CHAIR LEE: Anybody else?

Member Sugimura.

COUNCILMEMBER SUGIMURA: So, I--

CHAIR LEE: Wait, I think you're muted.

COUNCILMEMBER SUGIMURA: I am going to maintain my vote. But I, I am concerned, as I said earlier, that there is the feasibility side of this and what is it going to cost. And as you can tell, you know, it's going to cost the taxpayers. If you go out and get grants . . . it's going to start off with the County of Maui. And I think that we owe it to our taxpayers so they understand what the cost is. Even if it's some basic amount, I think we, you know, we went through this with Department of Ag for basics. And here we are today with a, you know, completely different amount. But at least we knew what the basics were on that. And I think that this is pretty broad and is being talked about generally. So, I am going to maintain my vote of no. And again, my big concern is that I want to make sure that Upcountry, which is so susceptible by the impacts of the East Maui Irrigation and a lot of this discussion, I just want to make sure that they have water before we take a giant step forward and change things. So, that's my concern.

CHAIR LEE: Thank you. And for my remarks, I just want to say that I wish I could vote yes, but I will be voting no. Primarily because I agree with Member Sugimura that we should have done a feasibility study, a fiscal analysis before taking this kind of undertaking, creating an entity without the proper resources and funding, and, and the analysis that should go with it is. It makes me very skeptical because this is a huge investment on,

I'm talking about monetary investment on the part of the County, and could, we could also incur a lot of liability. So, we should have done our due diligence first.

So, ready for the vote, Members? Roll call.

COUNTY CLERK:	Councilmember Shane Sinenci.
COUNCILMEMBER SINENCI:	AYE.
COUNTY CLERK:	Councilmember Mike Molina.
COUNCILMEMBER MOLINA:	AYE.
COUNTY CLERK:	Councilmember Kelly Takaya King.
COUNCILMEMBER KING:	AYE.
COUNTY CLERK:	Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON:	AYE.
COUNTY CLERK:	Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN:	AYE.
COUNTY CLERK:	Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA:	NO.
COUNTY CLERK:	Councilmember, Council Pro Temp Tasha Kama.
CHAIR LEE:	EXCUSED.
COUNTY CLERK:	Council Vice-Chair Keani Rawlins- Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ:	AYE.
COUNTY CLERK:	And Council Chair Alice L. Lee.
CHAIR LEE:	NO.

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

NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: That's six "ayes", two "noes", one "excused"; motion carries.

COUNCILMEMBER SINENCI: Mahalo, Members.

CHAIR LEE: Okay. Very good, Mr. Sinenci.

Okay, Madam Clerk.

COUNTY CLERK: Chair, can we get a disposition for the County Communication 22-151?
That was the subject of the ASF.

CHAIR LEE: Member Sinenci.

VICE-CHAIR RAWLINS-FERNANDEZ:

I MOVE TO FILE COUNTY COMMUNICATION 22-151.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to file
the matter. Any discussion? If not, all those in favor of the motion, raise your hand
and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: All "ayes", zero "noes"; motion carries. One "excused"; Member Kama.

COUNTY CLERK: Thank you.

CHAIR LEE: Next item.

COMMITTEE REPORT

NO. 22-57 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 22-144, CD1, entitled "PROPOSING AN AMENDMENT TO CHAPTER 8 OF ARTICLE 8 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH PLANNING COMMISSIONS FOR ALL COMMUNITY PLAN AREAS ON MAUI AND DISSOLVE THE MAUI PLANNING COMMISSION," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO PASS RESOLUTION 22-144, CD1, ON FIRST READING.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member King, to pass this Resolution 22-144, CD1, on first reading.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your Government Relations, Ethics, and Transparency Committee met on June 7 and June 15 to discuss Resolution 22-144, which would place on the next General Election ballot the question of whether the Charter should be further amended, effective July 1, 2023, to establish a Maui County Planning Commission, establish planning commissions for all community plan areas on Maui, and dissolve the Maui Planning Commission.

Your Committee notes the idea of individual planning commissions has been discussed by prior Councils to provide a stronger voice for communities regarding development occurring in their areas.

Your Committee further notes that the proposed Charter amendment would promote home rule in land use and planning by giving each of Maui's six community plan areas its own planning commission.

And your Committee discussed the Charter Commission's proposal to require the Maui Planning Commission to have representation from each Maui community plan area; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; and to also clarify the order of community plan development; and set a 10-year deadline for the review of all community plans.

And your Committee noted that this proposal would amend the same Charter section as a Charter Commission proposal, that it is not uncommon for multiple proposals amending the same Charter section be on the same ballot.

Your Committee notes all successful Charter amendments must be read in harmony with each other, as has happened throughout the County's history. Except when the Charter Commission and the Council have competing alternatives under Chapter 50, Hawaii Revised Statutes, in which cases, in which case only the proposal with the largest number of votes is given effect. The County Clerk is otherwise empowered and obligated to give effect to each proposed Charter amendment that receives a majority vote.

And excuse me, I need water after that last item. Your Committee notes legal action has not been required in the past to determine how to incorporate approved Charter amendments into an updated Maui County Charter after a General Election, and it's not required here.

And your Committee noted that the addition of the Hana Advisory Committee, the Council approved the creation of the South Maui Advisory Committee and Paia-Haiku Advisory Committee to the Maui Planning Commission by Ordinance 5210, but they do not have decision-making authority.

We're almost there, Members. Your Committee agreed to amend Resolution 22-144 to no longer establish a Maui County Planning Commission; remove redundancies; clarify the powers, duties, and functions of planning commissions for all community plan areas on Maui; and extend the timeline for the commissions to transmit proposed land use ordinances and amendments to the Council; and incorporate nonsubstantive revisions.

And your Committee also agreed to keep the 120-day deadline for findings and recommendations prepared by the Planning Director, returned to the Council for consideration and action after the final public hearing.

And it was noted by the Planning Director that she did not support creating seven separate planning commissions and does not believe there is sufficient volume of projects to justify a planning commission for each community plan area.

But nonetheless, your Committee concluded it was appropriate to let the electorate decide whether each community plan area on Maui should have its own planning commission and, therefore, voted to recommend passage of Resolution 22-144, as amended.

And the Committee voted 5-3, with one excusal, Committee Member Johnson. Thank you, Madam Chair.

CHAIR LEE: Wow. Okay. Any more discussion?

Member Paltin, then King.

COUNCILMEMBER PALTIN: Thank you, Chair. I just was putting it out there if anyone had the appetite to entertain taking the authority away from the planning commission over the coastal zone management area as the testifier suggested?

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Member Paltin, for that question. I actually attempted to wordsmith an amendment and showed it to our OCS attorneys, that would amend Section 4 in the relevant community plan review area. "Review all matters relating to the . . . management law . . . transmit findings and recommendations to the Council". That is too substantive of an amendment that would change the, the intent of the proposal. And so, that would be inappropriate at this time. And I saw Ms. Thomson. I saw her turn off her video, so I think she agrees. But I--

FIRST DEPUTY CORPORATION COUNSEL: That's exactly what I was going to say.

COUNCILMEMBER PALTIN: Okay, thanks. Just putting it out there.

VICE-CHAIR RAWLINS-FERNANDEZ: We tried. We tried.

CHAIR LEE: Okay. Anymore, anymore discussion? Ready to vote?

Member King.

COUNCILMEMBER KING: Yeah, thank you, Chair. Thank you for that attempt, Member Paltin. Nice try. But I just want to speak in strong support of this. And we heard from many members of the community, it's, it's their kuleana to vote on this whether or not they would like to see their taxpayer dollars put into this. But the representation that this would bring . . . equity to the, those of us in communities who are not represented with a planning commission. So, I just wanted to echo what Mr. Dick Mayer had said, and others, that this has been a long time coming. And I'm hoping that we can put it to the voters. Thank you very much.

CHAIR LEE: Okay. Vice-Chair Rawlins-Fernandez and then Deputy Thomson.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. Okay. So, I, I have an amendment. But if Ms. Thomson wanted to speak to anything that she heard in the discussion before I propose my amendment, I'm happy to yield the floor.

CHAIR LEE: Mem, Deputy Thomson.

FIRST DEPUTY CORPORATION COUNSEL: Thank you very much. I wanted to reiterate what I said in Committee. So, as, as you're all aware, the Charter Commission did consider a proposal very similar to this, creating a Maui, dissolving the Maui Planning Commission and creating planning, regional planning commission for the island of Maui. Based on our advice and also Sherry Broder, their legal analyst advice, there are many legal problems with that approach that I can go into in a little bit more detail.

The bottom line is that the Charter Commission did abandon that approach. And they in fact adopted the Council's alternative, which will be on the ballot. That proposal is to have regional representation on the Maui Planning Commission and it would go into effect immediate. Councilmember King's proposal would go into effect, I believe, six months later or so. At any rate, if both amendments pass, if both receive a majority yes votes, our office will need to go to court to seek a judicial determination on which amendment controls for which parts. It could be that a judge will . . . that the Charter Commission's proposal is enacted for a shorter period and then Councils. Or they could strike down both, or fashion another remedy. But I wanted to make it very clear that our office cannot sign off on this bill as it is written based on the understanding that we will need to take this to court. That's what we wanted to advise you today.

And there are also legal issues with six regional planning commissions for the island of Maui, specifically the example of the SMA was brought up, having conflicting opinions come out of different planning commissions that could be, you know, rendering decisions on adjacent property is problematic. Having different SMA rules could be problematic. Each planning commission would set their own rules. So, those are just a couple of the problems. There are more. But I won't go into those into any further detail unless . . .

CHAIR LEE: Member King.

FIRST DEPUTY CORPORATION COUNSEL: Thank you.

COUNCILMEMBER KING: Thank you, Chair. Can we hear from David Raatz on this issue, the issues that were brought up by Ms. Thomson?

CHAIR LEE: David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair Lee. Yes, our viewpoint is expressed within the committee report and as Committee Chair Molina just said in his opening remarks. We would rest on that unless there are any questions. Thanks.

CHAIR LEE: Member King, do you have any more questions?

COUNCILMEMBER KING: No. I guess he's just saying in his opinion it's okay. I mean, that's, that was a discussion we had in Committee and so, you know, I feel like again, Corp. Counsel is imposing policy on us and that's our job to do, is to make policy. So, I'm comfortable moving ahead.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I, I have a question for Ms. Thomson. In one of the last concerns that you stated where the different community plan areas, if the planning commission of, of adjacent community plan areas were to make different decisions based on the SMA matters that may come up, would you be able to, well I guess two things. If you're able to provide an example, real world example.

And then two, as the composition of planning commissions change, and I've seen this happen with the Molokai Planning Commission, where, as you know, Mayor Arakawa talked about where the body's change, decisions also change, so the makeup of the bodies. So, the former, you know, planning commission approved certain things and set certain precedent, they were changed, and the new planning commission makes

different decisions. So, within that one Molokai Planning Commission there's inconsistencies. So, I guess I'm trying to understand the concern so I can try to figure out how to address the concern.

CHAIR LEE: First Deputy Thomson.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. Well, given that we just have the one Maui Planning Commission right now, if their decisions are challenged it goes up to Circuit Court. But, you know, say that you have a, like a Kihei, you know, and then a Central Maui or a West Maui regional planning commission and they're analyzing similar types of applications. And they could decide those very differently. I mean, the Maui Planning Commission could also, like you said, over time, make different decisions.

I think that where problems could occur would be, you know, properties that are quite large and that span two community plan areas, you know, which planning commission is going to have jurisdiction over, you know, over those, over that application? Like I said, they can, they make their own rules. They set their own administrative rules. They also adopt their own SMA maps. So, the island of Lanai just recently updated their SMA boundary. But that was, you know, it was an island-wide effort, you know. So, if you have six planning commissions, your SMA boundary could radically change between one jurisdiction and another. And it would be based, it could be based on different criteria because you would have a different decision-making . . . We think that, you know, conflicting decisions coming out of adjacent planning commissions would be problematic.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair. Mahalo for that response, Ms. Thomson. Okay, so if, it says that the community plan area planning commission would be concerned with the area of that community plan area. And so, the SMA map would only be of that community plan area. I guess, I'm trying to understand where the conflict would be in the maps example.

CHAIR LEE: First Deputy.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. So, it would be at the borders. You know, so where one community plan would come into contact with the next community plan, that doesn't always line up perfectly with the tax map keys or the parcels, you know. And then also, some projects can span multiple TMK's that could cross over the boundaries of the community plan area.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, and then, my last follow up, I'll yield the floor . . . So, the community plan areas are established in ordinance so if problems arise on, on those very specific lines, would we be able to resolve those issues via ordinance in determining the boundaries of the community plan area?

FIRST DEPUTY CORPORATION COUNSEL: I don't think, . . . with your permission. I don't think that you could do it in advance, you know. I think that the problems would occur and then it would be, you know, retroactively kind of addressing them. You know, I think it'd be a huge endeavor to try to, you know, align the community plan maps with all of the TMKs.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson. Mahalo, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. As the State Legislature does when they have overlapping subjects, they could also have joint meetings between two adjoining community, planning commissions, if that's an issue. But we have had conflicting returns of information come back from the three planning commissions we have now when we send out countywide items to them. And you know, one will send it back with some changes, another one will send it back with another change. And what happens is, right now, the planning commission, or the Planning Department takes those changes and decides on what the bill should look like and then sends it back to the County. So, they may not get their changes in there, depending on the conflicting information from another planning commission.

So, I think those conflicts are going to happen. They're, you know, as Member Rawlins-Fernandez mentioned, they're happening between, you know, when the, when the members change, the decisions change. So, I don't think we should be afraid of that. Change happens and sometimes it's a good thing. But to me, the bottom line is representation. And if it, if it fails, if the people don't want it, the people won't vote for it. But if the people want that kind of representation, they should be allowed to vote on it. Thank you.

CHAIR LEE: Anyone else?

Okay, Mr. Molina. Oh, Vice-Chair Rawlins-Fernandez, did you have your hand up?

VICE-CHAIR RAWLINS-FERNANDEZ: I did, Chair.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. I have a proposed amendment. And that is on the first page of the, so under Section 8-8.4 Planning Commission, 1. The South Maui planning commission will have jurisdiction over matters on Molokini and Kahoolawe. So, I tried to look, so Kahoolawe has its own community plan area. In the Charter on page 3, the West Maui residency area, Kahoolawe is there. So, I was going to propose that, I move to, okay, wait, I guess my amendment isn't perfect yet. Because I couldn't find Molokini within the community plan area. So, maybe I'll ask Ms. Thomson or OCS if they know where Molokini? Cause it wasn't, it wasn't in the South Maui community plan area either, unless it's considered three miles out from the community plan area. But I don't know the distance.

CHAIR LEE: David?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, go ahead.

CHAIR LEE: David, are you on the call?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, thank you, Chair. Unfortunately, we don't have a ready answer to the question. We are researching it right now.

CHAIR LEE: Member Paltin, do you know? We haven't done South Maui yet.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

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

VICE-CHAIR RAWLINS-FERNANDEZ: It, okay, it is under West Maui. In the residency area of the Councilmember's district. I know. So, it's on page 3 if anyone wants to look.

AND SO, MY AMENDMENT WOULD BE TO AMEND, FROM SOUTH MAUI IT WOULD SAY "THE WEST MAUI PLANNING COMMISSION WOULD HAVE JURISDICTION OVER MATTERS ON MOLOKINI AND KAHOOLAWE."

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Any more discussion? Any more discussion?

Member King?

COUNCILMEMBER KING: I'm shocked, but I support it. If it's part of the West Maui Community Plan, then that's what it is. I'm just surprised. We were the ones that felt the bombing when they were bombing on Kahoolawe but, you know, it is what it is.

CHAIR LEE: Yes, I remember those days. Okay, ready to vote on the amendment? No.

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I just, to the question I was asked earlier, I believe it's two miles, cause I know some guys that used to go their on their own power.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR LEE: Okay, all those in favor of the motion, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay, all "ayes", one "excused". So, eight "ayes", one "excused"; motion carries.

Any more amendments?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

IN THE, IN THE FIRST SECTION, SECTION 8-8.4 PLANNING COMMISSION. THE LAST LINE WHERE IT LISTS THE NAMES OF THE DEPARTMENT DIRECTORS AS NON-VOTING EX-OFFICIO MEMBERS OF EACH COMMISSION, I WOULD LIKE TO STRIKE ALL OF THAT.

I asked our, our, the Chair of our Molokai Planning Commission if any of them attend any of the meetings or if she was even aware that they were non-voting ex-officio

members. And she's been on there for over four years, and five years in a previous term. So, in practice, I, they don't really attend the meetings. And when I was looking at other commissions and boards, it seemed that this was pretty standard language to name a bunch of the directors as non-voting ex-officio members. But I guess I can, if you'd like, I can ask Ms. Thomson if there, if she knows of any purpose for that language being there. Otherwise, in practice, they're not, non-voting, they don't really show up to the meetings, so strike it.

CHAIR LEE: Member King.

COUNCILMEMBER KING:

FIRST, I'LL SECOND THE MOTION.

And I just, the question I had is, doesn't preclude them from coming to the meeting, right? They're just not, I mean, they can still come, just like anybody else from the, from the public can come. It just, is not naming them as a ex-officio members.

CHAIR LEE: Any more discussions? Been moved by Member, Vice-Chair Rawlins-Fernandez, seconded by Member King, on this particular amendment, striking the ex-officio members. Any more discussion? All those in favor of the motion, raise your hand, say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Okay. The main motion. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The last thing I would like to speak to is the intent, so that it's clear for the record. Each of Maui island's community plan areas may have its own planning commission. So, I, spoke with our OCS attorney about the word "may", because it's not a "shall" and it's not a "must", it's a "may", therefore, it's kind of optional. And so, my question was, what happens if a community plan areas was not, did not have a planning commission? Who would represent, what planning commission would represent the interest of that community plan area?

And so, I asked if it would be possible to combine community plan areas to form a multiple community plan area planning commission? And the response was that it, there's flexibility in the language for that work to be done via ordinance. And Section 7 kind of . . . that legislative intent. And so, I, I speak in support the . . . And then, if Member King wanted to add more to legislative intent as the author of the proposal. Mahalo, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. I remember this came up because Vice-Chair Rawlins-Fernandez mentioned that we might, you know, maybe we could combine them if that made more sense, and that's why we changed it to "may". So, yeah, full support. I'm glad you, I'm glad you verbalized it, because now it's in the record that that's why we did that. Thank you.

CHAIR LEE: Anyone else? Okay. No more amendments? Oh, this is the second amendment, right? Are you change, this is a new amendment, right, that you're making?

VICE-CHAIR RAWLINS-FERNANDEZ: No amendment, Chair. Just a main motion as amended.

CHAIR LEE: Okay, so you're just clarifying that?

VICE-CHAIR RAWLINS-FERNANDEZ: Articulating the legislative intent for any future researchers wanting to understand the legislative intent of this section.

CHAIR LEE: Alright, now the main motion as amended. Roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

CHAIR LEE: Excused. Oh no, I'm sorry. Thinking Tasha Kama. You can be excused too.

COUNCILMEMBER PALTIN: We look so much alike.

CHAIR LEE: Yeah.

COUNCILMEMBER PALTIN: I don't know if you can hear me over the rain and the coquis.

BUT I'LL SAY AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

And I do hear the coqui frogs. They're pretty clear.

COUNTY CLERK: Council Pro Temp Tasha Kama.

CHAIR LEE: EXCUSED.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: NO.

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

NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: So, that's one "excused", two "noes", and six "ayes"; motion carries.

CHAIR LEE: Member Paltin, were the frogs making noise earlier?

COUNCILMEMBER PALTIN: Since sundown. And now, the rain is really loud, so I got my headphones on.

CHAIR LEE: Oh okay, because I, I thought I heard frogs, and then I thought, can't be. Would be the, so it's the Hilo frogs? Okay.

First Deputy Thomson.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. I'm hoping that Councilmember Rawlins-Fernandez can help clarify whether, so the ballot question, let me scroll down, sorry. The ballot question dissolves the Maui Planning Commission immediately and creates a planning commission for all community plan areas on Maui. But the discussion around the word "may", so each of Maui island's community plan areas may have its own planning commission. Is the intent that these planning commissions be created by ordinance or are they created on the effective date of this Charter amendment? The ballot question and that explanation, I wasn't clear if they matched.

VICE-CHAIR RAWLINS-FERNANDEZ: The effective date is July 1, 2023. So, there would be time. And then, my understanding was that it would be established via ordinance. But I'll, I'll also yield to Member King.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. That was my understanding too, that that would be created by ordinance, and this gives us six months or so or more after the election.

FIRST DEPUTY CORPORATION COUNSEL: Thank you.

CHAIR LEE: Does that answer your question, Deputy Thomson?

FIRST DEPUTY CORPORATION COUNSEL: I think so.

CHAIR LEE: Okay.

FIRST DEPUTY CORPORATION COUNSEL: Yeah.

CHAIR LEE: I don't know why we're having all this discussion in a Council meeting, quite frankly. Next item.

COUNCILMEMBER MOLINA: Madam Chair?

COUNTY CLERK: Next item, Chair. Oh.

COUNCILMEMBER MOLINA: Sorry, Madam Chair?

CHAIR LEE: Yes, Mr. Molina?

COUNCILMEMBER MOLINA: If there are no objections, I know we've been going at it for about two and a half hours, would it be okay to take maybe a ten-minute break?

CHAIR LEE: Alright, 10:17.

COUNCILMEMBER MOLINA: Okay, sounds good. Thank you.

CHAIR LEE: 10:17, in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:07 P.M., AND WAS RECONVENED AT 10:18 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER KAMA, EXCUSED.)

CHAIR LEE: Will the Maui County Council July 1, 2022 meeting please reconvene.

Madam, Madam Clerk.

COUNTY CLERK: Chair, continuing with committee reports.

COMMITTEE REPORT

NO. 22-58 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Bill 65 (2022), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES, REGARDING THE ISSUANCE OF A MANAGEMENT RIGHT-OF-ENTRY FOR BRUSH CLEARING AND PUBLIC PARKING PURPOSES," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR LEE: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO PASS BILL 65 ON FIRST READING.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member King, to pass Bill 65 on first reading.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your Government Relations, Ethics, and Transparency Committee met on June 14, 2022, to discuss Bill 65.

The purpose of this bill is to authorize the Mayor or his authorized representative to execute the management right-of-entry permit agreement, attached as Exhibit "1", for a parcel located in Keawakapu, Kamaole, Maui, Hawaii. The agreement would allow for public parking and the clearing of overgrown brush from an unencumbered portion of State of Hawaii land consisting of approximately 0.524 acres, identified as Exhibit "A".

The Budget Director said the Administration has been working with the State of Hawaii, DLNR, to obtain an Executive Order for the entire parcel.

And the Budget Director also said \$100,000 was allocated in the Fiscal Year 2023 Budget to clear the area and create about 50 temporary parking stalls that can be used immediately.

Your Committee voted 8-0 to recommend passage of Bill 65 on first reading, with one Committee Member excused, Member Johnson. Thank you, Madam Chair.

CHAIR LEE: Any more discussion? If--

Member King.

COUNCILMEMBER KING: I just want to speak in strong support. And I want to thank Daniel Ornellas from DLNR. I've been working with him on this since 2018, so he's been a

huge advocate and collaborator. So, I just wanted to give him some kudos for getting this, this far. Thank you.

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

Member Paltin?

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; Member Kama. Motion carries.

COMMITTEE REPORT

NO. 22-59 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Bill 92, CD1 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.60, MAUI COUNTY CODE, RELATING TO A RESIDENCY REQUIREMENT FOR BOARD, COMMISSION, AND COMMITTEE MEMBERS" be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO PASS BILL 92, CD1 (2022) ON FIRST READING.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to pass the bill on first reading.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your Government Relations, Ethics, and Transparency Committee met on June 7 and June 15 to discuss Bill 92.

The purpose of this bill is to establish a County residency requirement for boards, commissions, and committee members.

Your Committee noted individuals appointed as members to a board, commission, or committee should, at minimum, be a Maui County resident with a general understanding of Maui County and the challenges faced by our community.

Your Committee noted "resident" means a person who meets the requirements of a home exemption claim under Section 3.48.050, Maui County Code, other than the requirement to own and occupy real property as a principal home.

And your Committee also noted residency outside of the County or failure to report a residency change outside of the County would justify removal from a board, commission, or committee.

The Committee voted 7-0 to recommend passage of Bill 92, CD1 on first reading, with two Committee Members excused; Member Johnson and Member Sugimura. And I'd like to thank Member Paltin for this consideration. Thank you.

CHAIR LEE: Any more discussion?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. You know, with this new virtual technology where we can do meetings, and I'm doing it . . . the County right now, I just wanted to, you know, close the gap and just ensure that decisions for Maui County were made by Maui County residents as best as possible. So, thank you, Members, for your support of my bill.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", one "excused"; motion carries.

COMMITTEE REPORT
NO. 22-60 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending that Resolution 22-149, entitled "REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN LAND USE DESIGNATION TO MF MULTI-FAMILY AND OPEN SPACE AND CHANGE THE ZONING TO A-1 APARTMENT DISTRICT FOR REAL PROPERTY SITUATED AT KIHEI, MAUI, HAWAII, TAX MAP KEYS (2) 2-1-023:004, (2) 2-1-023:005, AND (2) 2-1-023:006 (WAILEA POINT VILLAGE)," be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT NO. 22-60.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Sinenci, to approve the recommendation in Committee Report 22-60.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Your Planning and Sustainable Land Use Committee met on June 16, 2022, and discussed Resolution 22-149, referring to the Maui Planning Commission proposed bills to amend the Kihei-Makena Community Plan land use designation from Hotel to Multi-Family and Open Space, and a Change in Zoning from H-1 Hotel and H-2 Hotel District to A-1 Apartment District for the Wailea Point Village.

Your Committee notes Wailea Point Village is a gated community consisting of residential units, short-term rental units, and long-term rental units.

A representative from the Department of Finance said 15 owners self-declared their units were operating short, as short-term rentals in 2020.

The Department of Finance representative expressed concern with the potential loss in tax revenue and possibly setting precedent for other areas seeking similar changes in land use and tax classification. In 2022, the average assessed value for a unit was \$3.9 million and the minimum *[sic]* assessed value for a unit was \$10.7 million.

A representative from the Wailea Point Village said an independent survey was conducted with the owners and concluded that a majority supported prohibiting and phasing out short-term rentals.

A representative of Wailea Point Village added that some owners were possibly unaware of the County's property tax classifications and rates for units at Wailea Point Village.

Your Committee expressed concern for a Council-initiated amendment if all unit owners did not support the change. And the land use change would fail to provide the desired tax relief for Wailea Point Village.

Your Committee recommended Wailea Point Village apply for an amendment to change the community plan land use designation and Change in Zoning directly with the Department of Planning

Your Committee voted 6-0 to recommend filing of Resolution 22-149. I respectfully ask for the Members support of my motion.

CHAIR LEE: More discussion? Okay, roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE, WITH RESERVATIONS.

COUNTY CLERK: Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON: AYE.
COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: AYE.
COUNTY CLERK: Council Pro Temp Tasha Kama.
CHAIR LEE: EXCUSED.
COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
COUNTY CLERK: And Council Chair Alice L. Lee.
CHAIR LEE: NO.

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

NOES: CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: One "excused", one "no", and seven--
CHAIR LEE: "Ayes".
COUNTY CLERK: "Ayes". Motion carries.
CHAIR LEE: Resolutions.

COUNTY CLERK: Proceeding with resolutions. These resolutions are recommended for referral to the following Committees as noted:

RESOLUTIONS

RESOLUTION
NO. 22-111

APPROVAL OF COST ITEMS FOR BARGAINING UNIT 02,
SUPERVISORY, BLUE-COLLAR EMPLOYEES

The recommended action is that Resolution No. 22-111 be referred to the Budget, Finance, and Economic Development Committee.

RESOLUTION
NO. 22-115

APPROVING COST ITEMS FOR NON-SUPERVISORY WHITE-COLLAR
EMPLOYEES EXCLUDED FROM BARGAINING UNIT 3, SUPERVISORY
WHITE-COLLAR EMPLOYEES EXCLUDED FROM BARGAINING UNIT 4,
AND PROFESSIONAL AND SCIENTIFIC EMPLOYEES EXCLUDED FROM
BARGAINING UNIT 13

The recommended action is that Resolution No. 22-115 be referred to the Budget, Finance, and Economic Development Committee.

RESOLUTION
NO. 22-116

APPROVING COST ITEMS FOR BARGAINING UNIT 3, NON-SUPERVISORY
WHITE-COLLAR EMPLOYEES, BARGAINING UNIT 4, SUPERVISORY
WHITE-COLLAR EMPLOYEES, AND BARGAINING UNIT 13,
PROFESSIONAL AND SCIENTIFIC EMPLOYEES

The recommended action is that Resolution No. 22-116 be referred to the Budget, Finance, and Economic Development Committee.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Did our Clerk also call up 22-121 and 122?

COUNTY CLERK: I'm going to call them up right now.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh okay. If she may? If there's no objections?

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay.

RESOLUTION
NO. 22-121

APPROVING COST ITEMS FOR EMPLOYEES EXCLUDED FROM
BARGAINING UNIT 11, FIRE FIGHTERS

The recommended action is that Resolution No. 22-121 be referred to the Budget, Finance, and Economic Development Committee.

RESOLUTION
NO. 22-122

APPROVING COST ITEMS FOR BARGAINING UNIT 11, FIRE FIGHTERS

The recommended action is that Resolution No. 22-122 be referred to the Budget, Finance, and Economic Development Committee.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

AND I MOVE TO DISCHARGE THE BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE FROM FURTHER CONSIDERATION OF RESOLUTIONS 22-111, 22-115, 22-116, 22-121, AND 22-122.

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, second by Member Paltin, to discharge all the resos that were mentioned; 111, 115, 116, 121, and 122.

Discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. We reviewed these resolutions during the June 29 Budget, Finance, and Economic Development Committee. As discussed during that meeting, these items are time sensitive, so we must take action on them today.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay, eight "ayes", one "excused"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT FOR RESOLUTIONS 22-111, 115, 116, 121, AND 122, IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

COUNCILMEMBER MOLINA: Second.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, second by Member Sinenci, to waive the Rules of the Council on the resolutions as stated by the Vice-Chair.

Discussion, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Same discussion during the discharge motion. All of these resolutions are time sensitive.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay, eight "ayes", zero "noes", one "excused"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT RESOLUTIONS 22-111, 115, 116, 121, AND
122.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to adopt Resolutions 22-111, 115, 116, 121, and 122.

Discussion, Vice-Chair.

COUNTY CLERK: Discharge. Disposition.

CHAIR LEE: What's that?

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk?

COUNTY CLERK: Yes?

VICE-CHAIR RAWLINS-FERNANDEZ: Were you talking to us?

COUNTY CLERK: Oh no. I'm sorry. I was talking to the staff.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh okay. Alright.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Members, as stated--

CHAIR LEE: Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: As stated by Director Underwood during our meeting earlier this week, these agreements have to be heard and approved by all of the legislative bodies before they can go into effect.

These agreements run from July 1, 2021, through June 30, 2025, and reflect the salary increases and any step changes negotiated by the Hawaii Government Employees Association and the Hawaii Fire Fighters Association.

Chair, at this time, I would like to proceed with proposed amendments, beginning with the County Communication 22-152, which was brought up by the Clerk earlier.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh shoot.

CHAIR LEE: Go ahead, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo Chair.

I MOVE TO AMEND RESOLUTION 22-121 BY REPLACING EXHIBIT "1" WITH A REVISED EXHIBIT "1" CONTAINING UPDATED NUMBERS; AND FILE THE COMMUNICATION.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to replace the exhibit, as stated by the Vice-Chair.

Discussion, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. These, this amendment would allow for the numbers to be updated.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Seven "ayes", eight "ayes", zero "noes", one "excused"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I move to, oh sorry, let's see. I would like to proceed with County Communication 22-153.

I MOVE TO AMEND RESOLUTION 22-122 BY REPLACING EXHIBIT "1" WITH A REVISED EXHIBIT "1" CONTAINING UPDATED NUMBERS, AND TO FILE THE COUNTY COMMUNICATION.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to replace Exhibit "1" and file the communication.

Discussion, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Again, this would update the numbers.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. That concludes my amendments to the main motion. I respectfully ask for the Members continued support of these items. Mahalo, Chair.

CHAIR LEE: Any more discussion? Main motion as amended, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Madam Clerk.

COUNTY CLERK: Continuing with referrals to your Government Relations, Ethics, and Transparency Committee.

RESOLUTION
NO. 22-128

RELATING TO THE APPOINTMENT OF RANDON ALIKA SANCHES TO
THE COST OF GOVERNMENT COMMISSION FOR THE
COUNTY OF MAUI

The recommended action is that Resolution No. 22-128 be referred to the Government Relations, Ethics, and Transparency Committee.

(RESOLUTION NO. 22-128 WAS AMENDED AND ADOPTED
LATER IN THE MEETING. See pages 231 through 237 for
discussion and action.)

RESOLUTION
NO. 22-129

RELATING TO THE APPOINTMENT OF POERAVA U'ILANI TEHIVA TO
THE COST OF GOVERNMENT COMMISSION FOR THE
COUNTY OF MAUI

The recommended action is that Resolution No. 22-129 be referred to the Government Relations, Ethics, and Transparency Committee.

(RESOLUTION NO. 22-129 WAS ADOPTED LATER IN THE
MEETING. See pages 237 through 240 for discussion and
action.)

RESOLUTION
NO. 22-160

AUTHORIZING SETTLEMENT OF CLAIM NO. 4056092
OF CRAIG CLOVE

The recommended action is that Resolution No. 22-160 be referred to the Government Relations, Ethics, and Transparency Committee.

RESOLUTION
NO. 22-161

AUTHORIZING SETTLEMENT OF RONDA SMYTHE AND LIANA P. KANNO V.
BRANDON SAFFEELS, ET AL., CASE CV 21-00056 LEK-RT AND
ALISHA N.K. CONSTANTINO V. BRANDON SAFFEELS, ET AL.,
CASE CV 21-00316 LEK-RT

The recommended action is that Resolution No. 22-161 be referred to the Government Relations, Ethics, and Transparency Committee.

RESOLUTION
NO. 22-163

APPROVING THE HAWAII STATE ASSOCIATION OF
COUNTIES EXECUTIVE COMMITTEE'S
NOMINATIONS TO THE NATIONAL ASSOCIATION OF
COUNTIES AND WESTERN INTERSTATE REGION
BOARD OF DIRECTORS FOR FISCAL YEAR 2023

The recommended action is that Resolution No. 22-163 be referred to the Government Relations, Ethics, and Transparency Committee.

(RESOLUTION NO. 22-163 WAS ADOPTED LATER IN THE
MEETING. See pages 241 and 242 for discussion and action.)

CHAIR LEE: Members, any objections to the referrals as noted?

Member Molina.

DISCUSSION AND ACTION RELATING TO
RESOLUTION NO. 22-128

COUNCILMEMBER MOLINA: Chair, yeah.

WITH REGARDS TO RESOLUTION 22-128, I MOVE TO
DISCHARGE THE GOVERNMENT RELATIONS, ETHICS, AND
TRANSPARENCY COMMITTEE FROM FURTHER
CONSIDERATION OF RESOLUTION 22-128.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, second by Member Sugimura, to discharge from the Committee, as stated by Member Molina.

Discussion?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. The Council's deadline to approve or disapprove the nomination of Mr. Sanches is July 2, 2022. If we don't take action today, the nomination will automatically be deemed approved, which is the reason for today's discharge request. Thank you.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Mr. Molina, hurry up before it's 12 midnight.

COUNCILMEMBER MOLINA: Yeah, thank you.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT FOR RESOLUTION 22-128 IN
ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE
COUNCIL.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, second by Member Sugimura, to waive the Rules of the Council on this matter.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Yeah, Madam Chair. Because it's time sensitive, that's the reason for the waiver. Thank you.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT RESOLUTION 22-128.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sinenci, to adopt Resolution 22-128.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. During its June 28, 2022, meeting, your GREAT Committee discussed the Mayor's nomination of Randon Alike Sanches to the Cost of Government Commission for a term expiring on March 31, 2023, to fill a vacancy replacing Noemi Barbadillo.

Mr. Sanches is a plumber and manager of Ricky's Plumbing and the Lanai High School tennis team coach. And being that, you know, we heard from him, I'm confident that nominee will work hard to educate himself in areas that he feels he needs to and subsequently, provide valuable insight to the Cost of Government Commission. Thank you.

CHAIR LEE: Any more discussion?

Member Johnson.

COUNCILMEMBER JOHNSON:

CHAIR, I'D LIKE TO MAKE, AMEND IT TO MOVE TO DISAPPROVE IF, IF THIS IS THE PROPER TIME.

CHAIR LEE: Yes. Second anyone?

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Moved by Member Johnson, seconded by Vice-Chair Rawlins-Fernandez, to disapprove Mr. Sanches.

Mr. Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I, I, although I appreciate Mr. Sanches' willingness to serve, I feel that he would better be served on his first choice of commission which was the disability commission. So, I just, I respectfully ask that he hold off until a slot opens up for a position that I think he would better serve on. Thank you, Chair.

CHAIR LEE: Any more discussion? All those in favor of the amendment, raise your hand and say "aye". Well, roll call. I should say roll call, I'm sorry. Roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: NO.

COUNTY CLERK: Councilmember Kelly Takaya King.
COUNCILMEMBER KING: AYE.
COUNTY CLERK: Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON: AYE.
COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: NO.
COUNTY CLERK: Council Pro Temp Tasha Kama.
CHAIR LEE: EXCUSED.
COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
COUNTY CLERK: And 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: Motion carries; five "ayes", three "noes", one "excused".

So, now we have the main motion as amended. Any, any more discussion? Roll call.

COUNTY CLERK: Councilmember Shane Sinenci.
COUNCILMEMBER SINENCI: AYE.
COUNTY CLERK: Councilmember Mike Molina.
COUNCILMEMBER MOLINA: NO.
COUNTY CLERK: Councilmember Kelly Takaya King.
COUNCILMEMBER KING: AYE.
COUNTY CLERK: Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON: AYE.
COUNTY CLERK: Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN: AYE.
COUNTY CLERK: Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA: NO.
COUNTY CLERK: Council Pro Temp Tasha Kama.
CHAIR LEE: EXCUSED.
COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.
COUNTY CLERK: And 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.

COUNTY CLERK: That's five "ayes", three "noes", one "excused". Mr. Sanches is disapproved.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Let's see. Okay, so--

CHAIR LEE: Mr. Molina. Mr. Molina.

DISCUSSION AND ACTION RELATING TO
RESOLUTION NO. 22-129

COUNCILMEMBER MOLINA: Oh, yeah, sorry, Madam Chair.

CONSIDERATION FOR RESOLUTION 22-129. MOVE TO
DISCHARGE THE GREAT COMMITTEE FROM FURTHER
CONSIDERATION OF THIS RESOLUTION.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Okay. It's been moved by Member Molina, second by Member Sugimura, to discharge the Committee of 22-129.

And Member Molina is, discussion.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. This has to do with the nomination of Poerava U'ilani Tehiva. This will be to the Cost of Government Commission. And the Council's deadline to approve or disapprove this nominee is July 8, 2022. So, again, like the previous matter, if we don't take action today, the nomination will automatically be deemed approved. Thank you.

CHAIR LEE: Any more discussion?

Member Sinenci. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And we did reach out to Ms. Tehiva. And extended our sentiments and asked her if she was willing to serve, and she's excited to serve. Again, she is part of the Hana Business Council, as well as a small business owner. And so, we just want, want to speak in support of her nomination, Chair.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT FOR RESOLUTION 22-129, IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR LEE: Second. Moved by Member Molina, second by Member Sugimura, to waive the Rules of the Council regarding this Resolution 22-129.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Again, this matter is time sensitive and that's the reason why I'm making this request for the discharge. Thank you.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes". Eight "ayes", zero "noes", one "excused"; motion carries.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you.

MOVE TO ADOPT RESOLUTION 22-129.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second? Moved by Member Molina, second by Member Sinenci, to adopt Resolution 22-129.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. At the June 28, 2022, GREAT meeting, we discussed the nomination of Poerva *[sic]*, Poerava U'ilani Tehiva to the Cost of Government Commission. And this will be for a term for March 31, 2024, to fill a vacancy replacing Susan Pu. It's getting late, Madam Chair.

But anyway, Ms. Tehiva is the President of Coconut Grove Hana, which is a, and she's also a Hana committee member for the Festivals of Aloha.

And I appreciate my colleague Mr. Sinenci to, he was giving us a, also a nice description of the nominee. I'm confident that this nominee will provide valuable knowledge and skills to the Cost of Government Commission. And I ask for the Members full support. Thank you.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Member Molina. No?

COUNCILMEMBER MOLINA: No, I think that was the--

CHAIR LEE: Madam Clerk.

COUNCILMEMBER MOLINA: We just took action, yeah. Thank you.

CHAIR LEE: Okay. Madam Clerk.

I thought you were going to the next one.

COUNTY CLERK: Chair, I have one more--

CHAIR LEE: Madam Clerk.

COUNTY CLERK: --one more referral to the Government Relations, Ethics, and
Transparency Committee.

RESOLUTION
NO. 22-167

AUTHORIZING SETTLEMENT OF
VIRGINIA A. CHAPMAN V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 7-18-01109

The recommended action is that Resolution No. 22-167 be referred to the Government Relations, Ethics, and Transparency Committee.

COUNTY CLERK: And to your Affordable Housing Committee, resolution--

CHAIR LEE: Oh, Member, wait. Hold up, Madam Clerk.

Member King.

DISCUSSION AND ACTION RELATING TO
RESOLUTION NO. 22-163

COUNCILMEMBER KING: Thank you, Chair. Can I ask for consideration on No. 22-163?

CHAIR LEE: Oh sure. We'll go back one. Okay, we'll go back one.

COUNCILMEMBER KING: I didn't know she was moving ahead. I move to--

CHAIR LEE: Yeah. Go ahead.

COUNCILMEMBER KING: Okay, thank you.

I MOVE TO ADOPT RESOLUTION 22-163.

CHAIR LEE: Second.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member King to, moved by Member King, second by Member Sugimura, to adopt Resolution 22-163.

Discussion, Member King.

COUNCILMEMBER KING: Thank you, Chair. At the June 16, 2022, meeting the Hawaii State Association of Counties, or HSAC Executive Committee, made its nominations to the National Association of Counties, or NACo and Western Interstate Region, WIR, Board of Directors for Fiscal Year 2023.

Resolution 22-163 outlines the nominees for both NACo and WIR, which includes Councilmember Shane Sinenci as a nominee to the WIR Board of Directors.

Pursuant to Section 5A and 5C of the HSAC Bylaws, the HSAC Executive Committee shall nominate individuals who are elected officials to serve in the positions provided. And each Council shall pass a resolution nominating the NACo and WIR Board of Directors. After all Councils have approved the nominees, the HSAC President shall forward the nominations to the NACo and WIR President and Board of Directors for consideration.

I respectfully ask for the Councilmembers support of my motion to adopt this resolution today, thereby approving the nominations. I also want to thank Member Sinenci for being a diligent attendee of the WIR conferences when I haven't been able to get there. And thank you, Chair.

CHAIR LEE: Thank you. Any more discussion? If not, all those in favor of the motion to adopt Resolution 22-163, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Madam Clerk.

COUNTY CLERK: Proceeding with referrals to your Affordable Housing Committee.

RESOLUTION
NO. 22-162

AUTHORIZING THE PURCHASE OF LĀHAINA
CROSSROADS APARTMENTS AT 767 LUAKINI
STREET, LĀHAINA, MAUI, HAWAI'I

The recommended action is that Resolution No. 22-162 be referred to the Affordable Housing Committee.

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.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Johnson, to waive the Rules of the Council regarding this resolution.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Approval of my motion by a two-thirds vote will enable the Council to consider the proposed resolution today. These matters are time sensitive. And while the owners have paused evictions and rent increases as of June 27, they could resume. And I have more if this motion passes.

CHAIR LEE: This is only on the waiver, yeah? Okay, any more discussion? All those in favor of the waiver, raise your hand, say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one, one "excused"; motion carries.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT RESOLUTION 22-162 ON FIRST
READING.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Paltin, second by Member Sinenci, to adopt the Resolution 22-162.

Discussion, Member Paltin.

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

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Thank you, Chair.

(The resolution was read in its entirety.)

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. This resolution will allow the County to purchase the subject property in Lahaina. This is urgent given the fact that many individuals in this apartment building are long-term residents and kupuna on fixed income. Due to the housing crisis and ever-increasing market rate price of rent in the County, many of these residents will have nowhere to go.

And just to let you folks know, this, this building is in the historic district in Lahaina. And I don't want to spell out what that means for all the speculators out there, but we do have a caps bill going through the planning commission.

I have spoken with the owner, and the owner has spoken with the Mayor, and I have spoken with the Mayor. We haven't all spoken with each other at the same time, but there's been conversation. And my intention is, or my hope is the County would purchase this building and keep the units affordable for the current and future tenants.

I don't know if you've tried to find a one-bedroom in Lahaina right now. A quick Google search will tell you 2300 to 2900 is what is being asked for a one-bedroom unit in Lahaina. I agree with the testifier Mr. Nakoa, if I had to choose, I would definitely choose Lahaina Crossroads. We are at a crossroads right now. And you've heard of the many people sleeping in their cars with no place else to go.

And in my conversations with the owner who purchased it in April, he's a community businessman born and raised in Hawaii, and it looked like a good deal on paper. He's gotten in over his head and, and realized this is not the image, this is not who he wants to be. He wants to remain in our community, and he's willing to negotiate. And he has had offers from off-shore investors willing to take this property off his hands for much more than what the County would be willing to pay. So, it is time-sensitive in that nature. And I know it's, it's, you know, it's just a chance, but I'm asking you guys to give, give my community a chance. It's like a six-month deal if we can work something out.

I realize that if it comes out of Affordable Housing Funds, this would be the only reading. But, you know, the Maui News Building fell through and if that funds are being used, it would come back as a budget amendment. So, I'm just asking you folks to give these guys a chance.

CHAIR LEE: Is the appraisal 10 million, like the Maui News Building?

COUNCILMEMBER PALTIN: So, the current owner is going to be out of town on, I think he has a funeral situation, but he'll come back in a month, and we'll do the, we'll get the appraisal at, I believe it would be less than 10 million.

CHAIR LEE: Okay. Thank you. Any more questions? If not, all those in favor of the motion to adopt this resolution, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

COUNCILMEMBER PALTIN: Thank you, Members.

CHAIR LEE: Madam Clerk.

RESOLUTION
NO. 22-164

AMENDING RESOLUTION 20-123 TO INCLUDE DEADLINES FOR THE
COMMENCEMENT AND COMPLETION OF THE 100 PERCENT
AFFORDABLE LILOA HALE SENIOR RENTAL HOUSING PROJECT IN
ACCORDANCE WITH CHAPTER 2.97, MAUI COUNTY CODE

The recommended action is that Resolution No. 22-164 be referred to the Affordable Housing Committee.

(RESOLUTION NO. 22-164 WAS ADOPTED LATER IN THE MEETING. See pages 250 through 252 for discussion and action.)

RESOLUTION
NO. 22-166

URGING THE DEPARTMENT OF POLICE AND THE
DEPARTMENT OF THE PROSECUTING ATTORNEY TO
WORK WITH THE STATE OF HAWAII DEPARTMENT OF
LAND AND NATURAL RESOURCES TO PRIORITIZE
ENFORCEMENT ACTION AGAINST UNAUTHORIZED
CAMPING ON UNENCUMBERED PUBLIC LANDS

The recommended action is that Resolution No. 22-166 be referred to the Human Concerns and Parks Committee.

(RESOLUTION NO. 22-166 WAS ADOPTED LATER IN THE MEETING. See pages 252 through 254 for discussion and action.)

RESOLUTION
NO. 22-168

SUPPORTING OUR KEIKI, WAHINE, AND
'OHANA IN RESPONSE TO THE SUPREME
COURT VOTE ON OVERTURNING ROE V.
WADE

The recommended action is that Resolution No. 22-168 be referred to the Human Concerns and Parks Committee.

CHAIR LEE: Members, any objections to the, these referrals?

COUNCILMEMBER SINENCI: Chair?

CHAIR LEE: Oh, I see a hand. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair.

MOVE TO ADOPT RESOLUTION 22-168.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Sinenci, second by Member Sugimura, to adopt Resolution 22-168.

Discussion, Member Sinenci.

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

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Thank you, Chair.

(The resolution was read in its entirety.)

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. Members, as you know, this Supreme Court decision was expected for several weeks now. Many in our community around the country are still dismayed with the increasing politicization of our legal and judicial systems.

Since 1970, reproductive freedom has been protected in the State of Hawaii. Governor Ige and others have pledged that these protections will continue.

But no matter what your beliefs are, I hope we can all agree that the priority of good governance is to ensure equality and fairness in how laws and policies are developed and applied. As a teacher and an advocate for children, especially those with special needs, I can attest to the struggles families and communities face when there are insufficient resources, a lack of services, and misplaced priorities in society.

Our focus should be on eradicating poverty and economic inequalities; provide education and employment opportunities; and making housing, healthcare, and children's healthcare services more affordable to those who need them the most. Must look beyond the unhelpful labels and look towards what it truly means to be pono, which is creating the conditions for our keiki, wahine, and ohana to thrive.

And so, Members, if there are no objections, I'd like to add to the resolution that copies also be sent to Senator Scott Saiki, excuse me, Speaker Scott Saiki, Senate President Kouchi, Hawaii Congressional Delegation, and Senator Joe Manchin. Respectfully request the Members support of my motion. Thank you, Chair.

CHAIR LEE: Any more discussion?

Member King.

COUNCILMEMBER KING: Chair, I just want to thank Member Sinenci for bringing this forward, because we've all been dismayed this last week about the decision . . . the last two weeks of decisions that the Supreme Court has been making. And I think it's very apropos that it came from one of our male counterparts on the, on the Council.

I read an article, lot of, lots of articles, but one that pointed out that men have no such legal impositions or mandates on their healthcare, as the Supreme Court is putting on women's healthcare. So, I just wanted to recognize that, and, and thank Mr. Sinenci for bringing this forward. But recognize all of us being, I think all of us are a little bit concerned about this, so I hope this passes. I'm in strong support. Thank you.

CHAIR LEE: Anyone else?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I speak in strong support. And also, echo Member King's sentiments . . . Member Sinenci, I'm so proud to sit on a Council of feminists. Everyone on the Council is feminist. I love it. Thank you.

And just really quickly. As a, as a policymaker, I believe in passing laws that effectively address what it's seeking to address, and effectively reducing abortion is what this resolution is calling for. That's the most effective way; healthcare that's affordable and accessible to everyone, education, childcare, everything that Member Sinenci included in his resolution. And that's how you know that banning abortion isn't about reducing abortions. It's about controlling women, particularly women in poverty that don't have access. And oftentimes, it's black and brown women and, and native women. So, I speak in strong support of the resolution. Mahalo, Chair.

CHAIR LEE: Anyone else? I think the anyone else's all agree with what has been said, and congratulate and commend you, Member Sinenci.

All those in favor of the motion, please raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Alright, so eight "ayes", zero "noes", one "excused"; motion carries.

COUNCILMEMBER SINENCI: Thank you, Members.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Proceeding with agenda item N. Bills for referral.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, Chair?

COUNCILMEMBER JOHNSON: Chair? Chair, I'm sorry.

CHAIR LEE: Member Johnson.

DISCUSSION AND ACTION RELATING TO
RESOLUTION NO. 22-164

COUNCILMEMBER JOHNSON: I think I got skipped for 22-164, beg your pardon.

COUNTY CLERK: Sorry about that.

CHAIR LEE: Well, you did read it, Madam Clerk. Okay, let's go back to 22-164.

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair.

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

CHAIR LEE: Second?

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Okay, moved by Member Johnson, seconded by Member Paltin, to waive the Rules of the Council on this Resolution 22-164.

Discussion, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Approval of my motion by a two-thirds vote will enable the Council to consider adopting Resolution 22-164 today. This matter is time sensitive. The development needs to know whether the Council will extend deadlines for Liloa Hale Senior Rental Housing Project in Kihei, otherwise this project may not . . .

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair.

I MOVE TO ADOPT THE RESOLUTION 22-164.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Johnson, seconded by Member King, to adopt Resolution 22-164.

Discussion, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Resolution 20-123, approving the Liloa Hale Senior Rental Housing Project with modifications was adopted on September 11, 2020. Construction has been understandably been delayed due to the COVID-19 pandemic. And by adopting Resolution 22-164, the Council will be giving an additional year for both the start and completion deadlines, which would be 2024 and 2027, respectively. I respectfully request the Council's support of my motion.

CHAIR LEE: Anymore discussion? If not, all those in favor of the motion to adopt the resolution, please raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

Okay. Madam Clerk.

COUNTY CLERK: Chair, proceeding with bills for referrals. These bills are recommended for referral to the following Committee--

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

COUNTY CLERK: --as noted.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

DISCUSSION AND ACTION RELATING TO
RESOLUTION NO. 22-166

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, I was trying to get your attention earlier. I, consideration on 22-166.

CHAIR LEE: Oh okay. Members, any objections? Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE RESOLUTION 22-166.

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Johnson, to file Resolution 22-166.

Discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair. We received a lot of testimony in opposition, and a lot of concerns. And I'm not exact, I'm not exactly clear on the intent of the, of the resolution. But perhaps instead of taking it to Committee, it can be worked on again to address some of the concerns that were shared in testimony, instead of attracting all the same testimony again in Committee.

(Councilmember Sugimura was excused from the meeting at 11:13 p.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Now that we, we've received some of the feedback, perhaps those can, you know, be adjusted and then proposed again if that would be the pleasure of the introducer.

CHAIR LEE: Any more discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBERS KAMA AND SUGIMURA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, Chair. Member Sugimura, I don't think is there.

CHAIR LEE: Okay then.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I see, I see something moving. Oh, there she is, okay.

CHAIR LEE: Looks like she's on the phone. Okay so, so let's say the vote was seven "ayes"; zero, two "excused", no. What was that? Six "ayes", two "excused", that's still eight.

Six, seven "ayes", two "excused"; motion carries. Okay. The excused were Members Kama and Sugimura.

Madam Clerk.

COUNTY CLERK: Chair, before proceeding, if we can get an inquiry on if there's no other objections to the resos to be referred as read.

CHAIR LEE: Okay. So, repeating this again, cause I said that earlier, any objections to the referrals?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay, so ordered.

COUNTY CLERK: Thank you. And moving forward with bills for referral, recommended for referral to the following Committee as noted:

(Councilmember Sugimura returned to the meeting at 11:15 p.m.)

BILLS

ORDINANCE NO. _____
BILL NO. 111 (2022)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE COUNTYWIDE RESIDENTIAL CESSPOOL CONVERSION PROGRAM

The recommended action is that Bill No. 111 (2022) be referred to the Budget, Finance, and Economic Development Committee.

CHAIR LEE: Any action on this one? If not, proceed.

COUNCILMEMBER KING: Chair, just a question.

CHAIR LEE: Oh, Member King.

COUNCILMEMBER KING: Yeah, on my, on my form, it says GREAT Committee. But I don't know if I have a wrong version of this.

CHAIR LEE: No. No, you don't, you may have the wrong version. The updated version was to the BFED Committee.

COUNCILMEMBER KING: Oh okay.

CHAIR LEE: Yeah.

COUNCILMEMBER KING: This . . . , yeah, I guess I have an old version.

CHAIR LEE: Yeah.

COUNCILMEMBER KING: Thank you.

CHAIR LEE: Okay. Madam Clerk.

COUNTY CLERK: And then, agenda item O. Bills for Second and Final Reading.

BILLS – SECOND AND FINAL READING

ORDINANCE NO. _____
BILL NO. 67 (2022)

A BILL FOR AN ORDINANCE FOR A CHANGE IN ZONING
FROM INTERIM DISTRICT TO B-CT COUNTRY TOWN BUSINESS
DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI,
MOLOKAI, HAWAII, TAX MAP KEY (2) 5-3-002:049

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO PASS BILL 67 (2022) ON SECOND AND FINAL
READING.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Moved by Member Paltin, second by Member, Vice-Chair Rawlins-Fernandez, to pass Bill 67 on second and final reading.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Your Planning and Sustainable Land Use Committee met on May 25, 2022, and discussed the resolution to refer to the Molokai Planning Commission a proposed bill for a change in zoning from Interim Zone to B-CT Country Town Business District for real property comprising 32,068 square feet located at Makaena Place, Kaunakakai, Molokai, Hawaii.

Your Committee notes that the Planning and Sustainable Land Use, Council's Planning and Sustainable Land Use Committee 2019-2021 term met on January 30, 2019. Your Committee notes it previously reported on this matter through Committee Report 19-37.

At its meeting of April 5, 2019, the Council adopted the recommendations in Committee Report 19-37, Resolution 19-75.

Your Committee notes the Molokai Planning Commission met on October 27, 2021, to review and approve the proposed bill with no conditions.

Your Committee further notes the change in zoning would make the zoning consistent with the Molokai Island Community Plan, and supports economic diversification by continuing to allow existing commercial spaces to be used by the island's small businesses.

Your Committee voted 9-0 to recommend passage of Bill 67 (2022) on first reading and filing of the communication. I respectfully ask for the Members support of my motion.

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

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: So, we got eight now. Eight "ayes", zero "noes", one "excused"; motion carries.

Okay. Madam Clerk.

COUNTY CLERK: Chair, proceeding with item P. Unfinished Business.

UNFINISHED BUSINESS

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 22-47 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That Bill 21, CD1 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO PROTECTING SEABIRDS FROM OUTDOOR LIGHTING," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-546, from Councilmember Kelly Takaya King, be FILED.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 22-47.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member King, seconded by Member Sinenci, to approve the recommendations in Committee Report 22-47.

Member King, discussion.

COUNCILMEMBER KING: Thank you, Chair. At this time, if there are no objections, I would like to proceed by introducing a proposed amendment. This amendment combines--

CHAIR LEE: Any objections? Any objections, Members? So, ordered.

COUNCILMEMBER MOLINA: No objections.

COUNCILMEMBER KING: Okay, thank you. This amendment combines changes included in County Communication 22-154 and adds in even more clarification to address voiced concerns. And I want to thank Managing Director Sandy Baz for working with us on these changes. I intend to work from this more current ASF, which is being distributed by the Clerk's Office, or has been, I think you should have it midday, and file County Communication 22-154.

Okay, before getting, I'll go into the ASF next. Does everybody have that?

COUNTY CLERK: Yes.

CHAIR LEE: Okay. Got it.

COUNCILMEMBER KING: Okay, thank you. So, the proposed Bill 21, CD1 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO PROTECTING SEABIRDS FROM OUTDOOR LIGHTING", this, this description, my amendments address three major concerns raised by members of the public and Administration. The availability of compliant lighting fixtures is greatly increased by removing the requirement that the fixtures be FLEDs. Also, the exemptions for portable lighting, including those for, used for emergency services and community events are clarified, and expanded. Finally, the effective date is moved back to January 1, 2023, to allow additional time for compliance.

I MOVE TO AMEND THE BILL AS FOLLOWS:

1. AMEND CODE SECTION 20.35.060(D) BY STRIKING "BE FILTERED LIGHT EMITTING DIODE FIXTURES THAT" FROM THE FIRST SENTENCE.

2. AMEND CODE SECTION 20.35.070(B), LIKE BOY, BY ADDING "OR USED AS PORTABLE LIGHTING" AFTER THE WORD "INSTALLED" AND ADDING "TEMPORARY, PORTABLE LIGHTING USED FOR EMERGENCY SERVICES INCLUDING PUBLIC SAFETY, ROAD CONSTRUCTION OR

EMERGENCY REPAIR, AND ROAD CROSSING AND" AFTER THE WORDS "EXCEPT THAT." ALSO, ADD "EMERGENCY SERVICES AND" AFTER THE WORDS "STANDARDS FOR".

3. AMEND SECTION 6 OF THE BILL BY CHANGING THE EFFECTIVE DATE TO JANUARY 1, 2023.

Amending the bill to allow the use of all light fixture types that limit short wavelength content to no more than two percent of the blue light content will provide people more lighting options. The bill originally allowed Filtered LEDs because they limit blue light and are the most efficient option. Hawaii Island uses FLEDs, Phosphor Converted Amber (PCA), Narrow Beam Amber (NBA), and Low Pressure Sodium (LPS) fixtures that can also meet the two percent blue light standard. If approved, and as a compromise, this amendment will ensure widespread availability of compliant fixtures.

Amending the bill to clarify that the exemptions include existing portable lighting for emergencies and community events like an Obon Festival will ensure a safe and smooth transition for our community.

Further, amending the bill to clarify that temporary lighting used for emergency services is exempt for three years and may be exempted beyond three years if there are no compliant lighting fixtures available that meet industry standards for emergency services.

If my motion is approved:

1. Code Section 20.35.060(D) will read as follows:

All outdoor lighting fixtures, except for neon, must limit short wavelength content to no more than two percent of blue light content. "Blue light content" means the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm."

2. Code Section 20.35.070(B) will read as follows:

All outdoor lighting fixtures installed or used as portable lighting prior to the enactment of the ordinance establishing subsections 20.30.060(D) and (E) are exempt from the provisions of those subsections for a period of three years from the date of enactment of the ordinance establishing those subsections; except that temporary, portable lighting used for emergency services including public safety, road construction or emergency repair, and road crossing and lighting for sports and athletic fields on state of Hawaii department of education properties, private school properties, and County

parks and facilities may remain exempt from subsection 20.30.060(D) beyond the three-year period if, and for only as long as, there are no compliant lighting fixtures available that meet industry standards for emergency services and sporting events.

And then, 3. Section 6 of the bill will read as follows:

This Ordinance takes effect on January 1, 2023.

CHAIR LEE: Any more discussion? Any questions?

COUNCILMEMBER KING: I have a little more discussion in my notes, if that's okay. I know it's getting late, but.

CHAIR LEE: Oh, I thought you reached the end.

COUNCILMEMBER KING: That was the end of the ASF, but I just . . . Committee notes. Before getting into the committee report, I'd like to highlight some important testimony we, we received that reinforces the importance of this legislation. The CARE Committee heard from Earth Justice Senior Attorney David Henkin, who provided testimony stating, "Bill 21, CD1 substantially improves on prior versions of the bill by ensuring that the County addresses the harm that existing artificial light imposes to imperiled birds, seabirds; provides a reasonable phase-in period for the replacement of existing outdoor lighting; and further improves on prior versions of the bill by adopting the definition of blue light content found in Hawaii County's lighting ordinance, specifying that LED fixtures must have "less than 2 percent blue light content".

Using the same definition of blue light content ensures that government agencies, businesses, and individuals of Maui County will be able to secure compliant outdoor lighting, just as their counterparts in Hawaii County have been able to do for more than a decade. And also, just a reminder, I think David Henkin is on this call, but I'm not sure, because he's in California, so it's three hours later for him. But we do have Jay Penniman on, who we asked to be a resource as well.

I'd also like to note a few specifics in response to criticism the bill has received. The bill allows for longer than three years to comply with the ordinance for sports and athletic fields, etc., if no compliant lighting fixtures are available within three years. Emergency lighting services lighting is exempt. The ASF I just introduced makes additional lighting options more widely available. Lighting brightness is not affected by the bill. It applies to shielding and wavelength.

We also received written testimony from Tamara Sherill, on behalf of the Maui Conservation Alliance, stating "Bill 21 is a critical step in the right direction. The ordinance includes provisions related to the direction of lights, shielding standards, and wavelength specifications that are more seabird friendly, and strategies to help eliminate the use of unnecessary lighting. The measures included in the proposed bill are doable. They closely mirror outdoor lighting standards established by Hawaii County in 1988, nearly 25 years ago. Extension, extensive research supports the need for action and the scientific justification for the recommendations".

As to the committee report, your CARE Committee met on June 1, 2022, to discuss Bill 21 (2022), to implement regulation on all outdoor lighting fixtures, including swimming and decorative pool lighting, to be light emitting diode fixtures that are down directed, fully shielded, and mounted as low as physically possible to limit light trespass and reflection off ground surfaces to protect native Hawaiian seabirds from beginning, from becoming disoriented by artificial light.

Your Committee noted that native Hawaiian seabirds are an essential part of Maui's biodiversity and that protection of these seabirds is critical, as their vital connection with mountain watersheds and seashore reefs greatly benefit the health of our ecosystem.

Your Committee further noted that artificial lighting has a major negative impact on various species of animal, but is particularly harmful to birds.

Your Committee expressed concern that residential compliance may be challenging due to the availability of conforming outdoor light fixtures and retail establishments. But the inclusion of a three-year implementation period would help ensure adequate time for the County and residents to comply with the new requirements.

Your Committee agreed to amend Bill 21 (2022) to require the Director of Public Works to establish and maintain a list of compliant outdoor light fixtures, and develop administrative rules that set height restrictions for outdoor lighting.

The Department of Public Works was in attendance, noting that they will be responsible for community education and outreach programs.

I also wanted to note that we did send the bill to the, the Public Works Commission as well.

Your Committee voted 6-1 to recommend passage of Bill 21, CD1 (2022) on first reading and filing of the communication. I respectfully ask for the Council's support of your Committee's recommendations as amended, and the filing of County Communication 22-154. Thank you.

CHAIR LEE: Wow. Member Sugimura.

COUNCILMEMBER SUGIMURA: Good job, Kelly. So, I wanted to, based upon the testimony and just by Public Works, Police, Fire, Parks, who else did I speak to, concerns that, I would either like to request that this go back to Committee to discuss further, or I had an amendment which I would like to . . . I'll just try to add the ASF. Did the ASF get passed out? Please. So, ASF, did you get it? I wanted to add a section, basically, exemptions. And it would be Section 20.35.070. Exemptions. And basically, the exemptions were critically taken from the Big Island bill, and exemptions that are in that bill, if I could. Did you all get the bill? ASF, I'm sorry. May I proceed? You all look so tired. You folks look so tired.

CHAIR LEE: Is it long? Why don't you just read it to us?

COUNCILMEMBER SUGIMURA: You want me to read it to you? Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: No.

COUNCILMEMBER SUGIMURA: It is long.

VICE-CHAIR RAWLINS-FERNANDEZ: No.

COUNCILMEMBER SUGIMURA: What if I read it fast? Okay, what does that mean, no?

COUNCILMEMBER KING: Is there a second on the motion?

CHAIR LEE: Yeah, we did have a second on the motion. I believe it was Mr. Sinenci? On who's, yours, your motion?

COUNCILMEMBER KING: No, on Member Sugimura's motion.

CHAIR LEE: No. She didn't--

COUNCILMEMBER MOLINA: Second.

CHAIR LEE: --really make the motion. You want to make a motion to amend?

COUNCILMEMBER SUGIMURA: I was reading from the ASF . . . see on your faces. Okay, I'm going to proceed then.

I MOVE TO AMEND BILL BY REPLACING SECTION 20.35.070
WITH THE ATTACHED VERSION. AND THE ATTACHED
VERSION IS EXEMPTION--

CHAIR LEE: Well, okay, is there a second to the motion?

COUNCILMEMBER MOLINA:

SECOND, FOR DISCUSSION.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay, now, discussion. Member Sugimura.

COUNCILMEMBER SUGIMURA: I wish I could show you your faces. I propose a new version of Section 20.35.070, Maui County Code, with an updated list of exemptions that includes exemptions from the Hawaii County Code (Article 9, "Outdoor Lighting"), sports, fields, and "special occasions", which includes Obon. Also, includes lighting from First Friday, which would then become illegal, low wattage lighting for holiday and events, such as Obon dances.

The proposal, this proposal responds to testifiers' concerns from members of the public and the County agencies.

So, the attached is a new version of, we added to the bill, of 20.35.070 to be included in an FD1 version of Bill 21, SD1 *[sic]*, I mean, CD1 (2022). How would you like to proceed? Any questions?

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'm not really sure what all things are being said right now. But I had a question, which is like, so now we're doing these exemptions and things and I was wondering what is the difference between what we're doing right now and the bill that Corporation Counsel gave to us in Committee that they said accomplishes the same thing but with exemptions? Cause it feels like we kind of

came full circle to that. But I, I can't even follow the conversation very good, so I'm not sure, so if someone could explain that.

COUNCILMEMBER SUGIMURA: So, I think what happened during the Committee meeting, if I could, Tamara, is that Keola Whittaker, he tried to explain his version of the bill but was not allowed to. So, the bill just proceeded with whatever was presented by the Committee. So, I'm not sure if you were referring to that proposed legislation that Keola had proposed. So, that was never taken into consideration or, or was he able to discuss it. That's my recollection. Kelly has her hand up, Chair.

CHAIR LEE: Yeah. We have a question from Member King.

COUNCILMEMBER KING: Well, I'd like to respond to that. And I, actually if Forrest, if James Forrest is still on the call, I'd ask him to respond too. We had sent the bill to Corp. Counsel asking for them to review it for, for legality and format and to not return another bill. So, we didn't listen, we didn't hear that bill in Committee. That bill was not posted by us.

The, the, what we're looking at for Member Sugimura is most of this is already in the bill, this, before you right now. Most of these exemptions are already in there. I'm a little dismayed that it exempts fossil fuel light. I don't know why that would, we would want to support that. I do not support fossil fuel lighting. I'm not, we already have exemptions for temporary lighting and decorative lighting, and most of the things that are in here. So, I don't support this, this list of exemptions. It's got some of the things that are already in the bill, but then it's got some new things that I wouldn't want to support. . . . are in here, but that would be, I don't know when we ever have them, but that would be related to emergency services, so that's already in there.

COUNCILMEMBER SUGIMURA: So, this extensive list--

COUNCILMEMBER KING: So . . .

COUNCILMEMBER SUGIMURA: Oh, sorry.

COUNCILMEMBER KING: I guess I would, I guess I would ask David to respond to Member Paltin's question.

CHAIR LEE: David, can you respond to Member Paltin's question? And then, we have Deputy Whittaker on the line as well.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair Lee.

CHAIR LEE: David, are you still--

DEPUTY DIRECTOR OF COUNCIL SERVICES: I haven't had a, yeah, I am here. I haven't had chance to, to do a comparison yet of the ASF to the earlier version that Councilmember Paltin referenced. I do see Mr. Whittaker is, is online if perhaps he's able to address that, if you'd like, Chair?

CHAIR LEE: Okay. Keola?

DEPUTY CORPORATION COUNSEL WHITTAKER: Thank you, Chair. So, to answer Councilmember Paltin's question, they're completely different. The ASF that Councilmember Sugimura is putting forward adopts the exemptions that are existing in the Hawaii County ordinance.

And to respond to Councilmember King, your draft ordinance also excludes fossil fuels. It's just that kerosene, you know, it's like the kerosene torches, that's an exclusion in, in your bill as well. So, it's, it exists in the current ordinance.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Oh. Oh, wait, excuse me. Member Paltin, you didn't hear him?

COUNCILMEMBER PALTIN: I heard him. I think, I'm not sure if what question he was answering or if I asked the wrong question. But my question was the ASF that we received today, how is that different than the, the bill that you guys put forward that was supposed to accomplish the same thing of the other bill, but to make it like something okay that you could sign off on. Is the ASF that we got today . . . was my question. But I didn't hear that one answered, I thought what was answered was comparison between the two ASF's we got just now.

DEPUTY CORPORATION COUNSEL WHITTAKER: No, I, I'm sorry, Councilmember Paltin. I know it's late for both of us. So, the answer is, it is different. So, the, the alternative bill that I put forward has completely different language. The ASF that Councilmember Sugimura put forward today just adopts the exemptions that are in the Hawaii County ordinance.

COUNCILMEMBER PALTIN: And, and the ASF that Councilmember King put forward today is completely different than the bill that you put forward as well. Does it have the same meaning?

DEPUTY CORPORATION COUNSEL WHITTAKER: No.

COUNCILMEMBER PALTIN: Or would you sign off on her ASF bill?

DEPUTY CORPORATION COUNSEL WHITTAKER: No. The reason we can't sign off is because of the blue light percentage that is current, in the current bill. No other organization in the country adopts that precise blue light percentage, except for the County of Hawaii. The County of Hawaii adopted it not to save seabirds, but for Mauna Kea, for the visibility of Mauna Kea. So, we haven't found any other organization in the country that adopts this, which is why lights are not available on the general market that meet that blue light percentage. That's why we can't sign it. That's one of the several reasons we can't sign it.

COUNCILMEMBER PALTIN: And we can't support Mauna Kea as well?

DEPUTY CORPORATION COUNSEL WHITTAKER: We certainly can.

CHAIR LEE: Member King. Member King.

DEPUTY CORPORATION COUNSEL WHITTAKER: But that's not the reason for the ordinance.

CHAIR LEE: Okay. Member King.

COUNCILMEMBER KING: Thank you, Chair. So, I, I see what Member Paltin's asking about the, the bill that was put forward by Corp. Counsel addresses kelvin, which is heat. We're not talking about heat measures here. We're talking, and so we had this discussion with OCS, with David Henkin, with Jay Penniman. And if Jay's on, maybe he would like to come on and speak to it.

The, the two percent blue light as, as Mr. Whittaker said is, is being used on, in the Hawaii ordinance, and that's why we adopted it, because it's working over there. So, I don't understand their, their science was not supported by our experts. And I don't understand why there, it's a policy issue, really, is what OCS told me, so I don't understand why Corp. Counsel is taking this position. But I don't know if the, anybody's still awake and on this call, but if you are, Mr. Penniman and . . . maybe you could, you could give us that, that additional insight.

I mean, we talked about this a lot in Committee. We've heard from many, many resources, how available those lights are. I got, I had some on my desk and in the chambers that one of our OCS supporter, or one of our OCS attorney's bought on Amazon that that are very compliant and easily to, easy to screw into any lightbulb fixture. So, I guess there's a difference of opinion on, on whether these people are, know what they're doing, these people who are supplying the Big Island. It's, it's kind

of frustrating to, to have them basically take a different position on the science, because we brought in scientists and experts on the lighting.

So, anyway, Mr. Forrest, if you're there, do you want to step in and address some of these issues that we've been talking about for, since February? Maybe he's not awake either.

CHAIR LEE: Yeah, I see his picture.

LEGISLATIVE ATTORNEY JAMES FORREST: Hello?

CHAIR LEE: Oh there's--

LEGISLATIVE ATTORNEY FORREST: Aloha, Chair, Chair Lee. That's not, that's not exactly common practice, but if you'll allow it, I will proceed.

COUNCILMEMBER SUGIMURA: What? What is not common practice?

CHAIR LEE: What's not common practice?

LEGISLATIVE ATTORNEY FORREST: Just for anyone other than Mr. Raatz to address the Council.

CHAIR LEE: Oh. Well, we're, I don't know, we're not privy to your arrangement with Mr. Raatz. But can, can you just answer the question because we're very, very tired?

LEGISLATIVE ATTORNEY FORREST: I can answer it the best I can for you. I would say that the exceptions from the Hawaii County law are a lot more broad than the exceptions that we approved for the Maui version. However, we did, in the ASF, expand the Maui exclusions to take care of the emergency lighting situation. And we made it clear that all the sporting and community events are perfectly fine.

One of the big differences is that the mau, the Hawaii County law would allow existing fixtures to stay until they burn out, basically. And the problem with that, or the possible problem with that, is that these LEDs might last for decades. And if, if you believe the science that it's harmful for the environment, that would be allowing harm to continue for decades. So, that is a big difference. Our law basically has a three-year phase-in period, so it would limit existing lights to three years. I hope that answers your questions. I think we carefully drafted our exceptions to meet the needs of Fire, and Police, and baseball games.

COUNCILMEMBER KING: And if I may, Chair?

CHAIR LEE: Yes. Member King.

COUNCILMEMBER KING: Thank you. Yeah, can you also, Mr. Forrest, just explain the difference between the bill that came from Corp. Counsel and our bill? Why we did not use that one.

LEGISLATIVE ATTORNEY FORREST: Okay, sure. Chair Lee, if I may?

CHAIR LEE: Sure.

LEGISLATIVE ATTORNEY FORREST: I would state the main difference is that it's based on the kelvin scale, and that's the temperature. And we've been told again and again by the scientist that that's not relevant to protecting the seabirds or the turtles. So, that's the big difference. So, ours is based on a two percent scale.

And by the way, another change in our amendment was to make it so where it's not only the FLEDs that Mr. Bob Adams provides, but it's the amber lights, and there's a couple of other lights that are allowed, such as the gentleman from the LED Hawaii company. So, we expanded the available lighting significantly so that people could comply.

CHAIR LEE: Okay. Member Sugimura, do you have a question?

COUNCILMEMBER SUGIMURA: You know, I just want to add to the discussion that I think it also came up that there's a, a difference between Big Island and the Maui version is Big Island is not residential. And our bill, remember when we were going through this in Committee and I said the word "all" and I stopped? The word "all" means it's all lights, right, except with, now with this ASF. It changed some with what Kelly proposed. And then, I'm trying to, I'm trying to clarify it more with more exemptions. But the big difference between Big Island and ours is that your lights at your house is now subject to this, right? It is residential and commercial, which is all. This is all . . . The bill that Maui is doing is all.

And that was the excitement, I think, is that we heard from, or the concern that we heard from some of the testifiers then and now and the differences. So, and, and I, and you all heard the testimony today, written testimony, even MECO had a, Hawaiian Electric has concern about this bill and in correspondence. And Parks Department had a concern about it. So, I would like to propose these exemptions, or add this to the bill.

But, and really, at this hour, I really would like to send this back to Committee so that we can talk about it when we're clear and sound minds, and not as tired as you all look.

But I would like to add this, the exemptions, if we're going to still continue. But I think what we really need to do is send it back to Committee so that we can talk about it in detail and get everybody who should be at the table to talk about it at length. I think it's important.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Okay, so we did reach out to all the departments. We had the Department of Public Works there at the last meeting and made some of these . . . I don't, I don't think there's, we've been working on this for a long time, I don't think there's a need to bring it back to Committee.

And also, I want to say that we addressed all the concerns. The concerns of Fire and Police were about emergency lighting. I even spoke with the Chief before the meeting, and he was fine with it. And with the concerns of the outdoor lighting for temporary events, for decorative lighting, have been taken care of.

I don't understand why we would even take this back to Committee. But we also, I want to point out too, we also heard from many, many folks who live here who want to protect the seabirds, and the turtles, and whatever other, the various species of birds that are having that fallout. And understand that we're speaking up, we're doing something for biodiversity. Our, our Council passed a resolution to support biodiversity and to protect endangered species. And so, this is what we're doing here. We're taking that action.

So, I, I speak, I think the bill has been worked on extensively. I really appreciate all the work that OCS put into it and the, even beyond just helping write a bill, but researching it and finding the experts who could speak to this bill. And I, I don't know what else to say. I'm just, I'm, I think we should, we should call the question.

CHAIR LEE: Any--

COUNCILMEMBER SUGIMURA: Richelle.

CHAIR LEE: Anybody, okay, Member Molina's hand is up. And then, I see First Deputy Thomson.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Just to get clarification. So, from Member Sugimura, so your amendment is, your proposal is send this back to Committee or is it just to attach your, these exemptions from the Big Island bill? I just want . . . exactly what's on the floor we're going to be voting on.

COUNCILMEMBER SUGIMURA: I actually would like to . . . I think there's a greater discussion that's needed. But if we're going to vote today, the vote on the floor is the amendment to add the exemptions as I read.

COUNCILMEMBER MOLINA: Okay. So, not to send this back to Committee then? It's just to add this, these exemptions. Okay. Alright. Thank you.

CHAIR LEE: First Deputy.

FIRST DEPUTY CORPORATION COUNSEL: Thank you, Chair. We would also really appreciate the opportunity to address the issues that have come up across multiple departments expressing their concerns with the bill, their inability to comply with it, various exemptions that are very necessary for common operations.

The ASF that's being proposed by Councilmember King, while it does address a certain period of time for emergency lights, it does not exempt them from the blue light requirement. And that's a concern that Public Works, the Public Works Director spoke toward the end of public testimony today. And he said that he could not enforce this bill and also could not comply with it. And that compliance would cost a significant amount of money in equipment that they already had in stock. I think Parks has said similar things.

So, from our viewpoint, we would greatly appreciate the opportunity to work with all of you on a bill that achieves the goals, but that is also, you know, works in the real world. There are experts that we have spoken to that do not agree with certain of the things that have been promoted by some of the folks that have . . . And couple of the reasons that we cannot sign off on this bill though, in addition to the inability to comply with the terms of it and to enforce it, as Public Works said, this would put a halt to processing permits, because this would apply immediately to all new lighting fixture, all new lighting fixtures. It's, there are issues with preemption. This applies also to airports and harbors. We don't believe that we can, as a Maui County, regulate airport lighting or harbor light.

There are terms in the bill that are vague, such as non-reflective. There's a, a section in the bill that talks about, about shielded lights, that if a light hits a wall surface, the surface must be non-reflective. That would mean that the surfaces would have to be matte black. And even matte black paint, as the Director of Public Works said, is a reflective paint. So, you know, there are a lot of issues with the bills; safety hazards, you know for worker safety; you know, ocean requirements. So, we, like I said, we're not trying to put the kibosh on the bill. We just want to help you create a bill that's legally sound and then, also, the departments that have to carry out this work actually can do it. Thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yeah, Chair, can I have Mr. Forrest respond to those. I don't understand why they're saying would immediately become noncompliant when we're not even, it's not even going into effect till January 1. And then, there's three years. So, some of this stuff that we're hearing, I, just is beyond why they would even repeat those kinds of things. But I just want, would like Mr. Forrest to address what was just said.

CHAIR LEE: Mr. Forrest.

LEGISLATIVE ATTORNEY FORREST: Thank you, Chair. I would just say that the OCS attorneys have worked collaboratively on this bill. And we support the bill, we, or I guess we stand behind the legality of the bill. I think the easiest thing to say is, you know, Hawaii County does this, they enforce this. I think we're all a little, you know . . . For our departments not to call Hawaii County, that probably be the first step I'd recommend. But the main point is that we do stand behind the bill. It is legally drafted. It's legally enforceable. And that's really all. And, you know, from the Committee bill that was voted on by six majority, we've only broadened the exceptions to, to address other issues from the Police, for example. So, you know, I think that that first bill was perfectly legal. We've improved it by expanding the exceptions and we stand behind our bill. Thank you.

COUNCILMEMBER KING: Chair, if I may, can I ask one more question of Mr. Forrest?

CHAIR LEE: Sure.

COUNCILMEMBER KING: Mr. Forrest, can you speak to the issue of the lights that Department of Public Works has bought that are noncompliant? The, you know, they brought that up that they have \$4 million worth of lights that they can't use.

LEGISLATIVE ATTORNEY FORREST: Yes. Thank you, Chair. I, I understand that that purchase was made a few years ago. There was a problem with installing the lights. There was a legal case involved. Those lights have not been installed. I, I think it was described by a testifier earlier, is that that was a purchase that shouldn't have been made in the first place.

I think you could mitigate your damages. You could maybe sell those lights to someone on the mainland. There is a after-market filter that could go on those lights that could make them compliant. There are options going forward.

What I, I think the difference between this and, and for example, the Hawaii exemptions is that LED lights last a long time. And I don't think the experts would want you to put up an LED light that is not compliant, because it might last for 20 years. And that would mean that you're living with 20 years of environmental damage. So, I think that's for, for those lights in particular, there are ways to mitigate damages. But using them at this point would be contrary to I think what the Committee had decided at the previous meeting and what the public testified today.

CHAIR LEE: I see Member Paltin has a question.

COUNCILMEMBER PALTIN: Thank you, Chair. So, the lights that you said that are still in the boxes are Public Works lights and you think that Parks lights can have a filter or a shield? Or are they the same lights, Parks lights and Public Works lights?

CHAIR LEE: Is this a question for Mr. Forrest?

COUNCILMEMBER PALTIN: Yes.

CHAIR LEE: Okay. Mr. Forrest.

LEGISLATIVE ATTORNEY FORREST: And Chair Lee, thank you. This is coming from the manufacturer Bob Adams. And he has told Public Works that he could make a filter for their lights that would make them compliant. That filter, he estimated would cost \$100 per light. So, that is a significant cost of somewhere around \$500,000. So when you're talking about an investment of \$4 million, maybe that's the way to go. Again, the other option is to sell those lights and buy compliant lights.

For Parks and Recreation, I think Mr. Adams could make an after-market filter for just about any light. But he would also say that the existing lights are still exempt for three years, so you don't have to do this right away. You have, we made that exemption broad for a reason and we do this often. It's like phase-in, you know, a phase-in rule. So, we're giving everyone three years to comply and we're giving suppliers three years notice that, hey, come to Maui and sell your lights.

COUNCILMEMBER SUGIMURA: Mr. Whittaker.

CHAIR LEE: And then, I see Deputy Whittaker.

DEPUTY CORPORATION COUNSEL WHITTAKER: Thank you, Chair. I'm familiar with the litigation and, and the lights, so I can give you a little bit of background. So, the only thing that was established in the litigation is we have to get an environmental assessment, which the Public Works Department has. I encourage Council to wait

until the results of that environmental assessment are public, because I think what it will show is that the lights that we have purchased are fine for an environmental assessment.

Secondly, our Public Works Department likely will not purchase those filters from Bob Adams, who made a lot of money from the Big Island, because they change, they affect the safety of the light. There's no industry standards for these filters. They're not commonly used. He does sell them, but we can't be sure that they're safe and they won't cause a fire hazard, which is why our Public Works Department would have to effectively get rid of what they have and purchase new LED lights.

CHAIR LEE: Comments, anyone?

Member King.

COUNCILMEMBER KING: Yeah. Just to reiterate that the lights that were purchased are harmful to the seabirds. That's what we're trying to change. And, you know, that's the choice we're making. Do we want to throw bad money after good, or good money after bad, whatever the saying is, you know? You, you, the money was spent, they were, those lights are not the type of lights that we want.

You know, if we're going to pass this bill, they're not going to be compliant because they don't protect the seabirds. So, that's kind of the bottom line here is what, you know, it's a policy issue whether we want to move ahead. But, you know, I'm, I'm confident that this is a good bill, that we've given plenty of time, we've, we've given plenty of exemptions. There's time for folks to get through whatever permit issues they have to in the next six months before the bill even goes into effect. So, just like to get the, get to the vote. Thank you, Chair.

CHAIR LEE: Anybody else?

Member Sugimura, for the last time.

COUNCILMEMBER SUGIMURA: Yeah. Cannot ignore what Keola Whittaker has shared about the 2 percent blue light and, and the other, you know, information that he gave us. And I think that if we want to, you know, keep this discussion going, that more discussion is needed than what we have before us for the original bill with the ASF.

And I think this is serious, you know. I, yeah, you know, we all want to protect the environment and everything, but we also have a fiduciary or fiscal responsibility to make sure that, you know, the Departments are going to run safe and they're going to have the right equipment. I think that's part of a big responsibility that we have.

And I'm sorry if I, you know, bringing this up at this time, it's like now midnight. But I believe that it's important enough that it's something that we all need to decide. And if we as a Council are going to decide that we don't, you know, it doesn't matter, whatever, the departments have shared with us, then that's a decision that you will live with.

But I believe that the departments came out strong today and shared with us what they, what their opinion was on this outdoor lighting. So, my amendments are trying to make this bill, which looks like to me, you know, the general sentiment, looks like you want to pass it. But try to, you know, provide the exemptions so that, you know, maybe the departments could live with it and, and the residents could live with it. But I believe that the bill has a lot of, a lot more to go.

CHAIR LEE: Okay, so Member King, would you consider a compromise, like an additional extension to July 1, you know, so that there's enough time to study the results from the EA?

COUNCILMEMBER KING: Well, if that's what folks want to do, Chair. But the EA does not address what we're trying to do, the protection. The EA is just an environmental assessment. It doesn't, it doesn't protect, it's not going to tell you if it's going to protect the seabirds, which is the whole purpose of this bill. So, there's another purpose for the, unless, unless I'm wrong about that Mr. Whittaker. Are you guys, are you guys doing studies on seabirds? Cause I don't know how you could do it in such a short period of time.

CHAIR LEE: Mr. Whittaker.

DEPUTY CORPORATION COUNSEL WHITTAKER: I believe the results of the EA will come out within two weeks. So, if you could wait on this until then, that would be extremely helpful. And it is an environmental assessment, so it indicates it's a scientific study as to the environmental impact of the precise kind of lights that we may throw away. So, I would just wait until you see that.

Secondly, it's weird that we're modeling after the Big Island, because Kauai did a multi-year study to protect seabirds specifically, with the Federal and State government, and they came up with a conservation plan. And they look at Penniman's research and they rejected it. They concluded that there's no scientific evidence that the birds are attracted to the blue light spectrum more than any other spectrum. What they did conclude is that the birds are attracted to bright lights. And so, what they did on Kauai is they developed plans to reduce bright lights through shielding and other policies. And, you know, that's something you may want to look at in Committee. But the

Federal and State governments are not asking us to put in the blue light restriction. That's not what Kauai did. Big Island did it for a different reason.

COUNCILMEMBER KING: Right. So, your EA won't address the, the seabirds. But can I, can I just ask Mr. Forrest to respond to that?

CHAIR LEE: Sure. Mr. Forrest? Mr. Forrest?

COUNCILMEMBER KING: . . . unmuted.

CHAIR LEE: Well, folks, what do you want to do with this?

COUNCILMEMBER KING: Let's see.

CHAIR LEE: Anybody?

COUNCILMEMBER KING: Mr. Forrest, are you there? I know he wanted to respond, so.

CHAIR LEE: James?

Member Sugimura?

COUNCILMEMBER SUGIMURA: So, you know, MIL Joe Balangitao was in the chambers today and he had great concerns about this bill. And, and I think we need that the departments expressed pretty loud and clear, you know, especially Public Works. And that there is a concern from Parks Department.

And interesting, Johnson Control said there's 250 different kind of light, I don't know if it's fixtures, but lights that they have as part of the work that they are doing for us and it would be to our benefit to understand what is the financial impact of what we're trying to do with this light, with this outdoor lighting bill and what is the impact Johnson Controls 250 different light fixtures from all the different departments. I'm not sure when their . . . audit is going to be completed. I think it's still ongoing. But there's all kind of impacts. I think that we still need to discuss this.

CHAIR LEE: I think I saw Mr., what's his name?

LEGISLATIVE ATTORNEY FORREST: Forrest.

COUNCILMEMBER SUGIMURA: James Forrest.

CHAIR LEE: Mr. Forrest, I saw come back. Okay, Mr. Forrest, do you have comments?

LEGISLATIVE ATTORNEY FORREST: Okay, can you hear me now, Chair Lee?

CHAIR LEE: Yes.

LEGISLATIVE ATTORNEY FORREST: Okay. Sorry, I had to switch to my computer. You know, overall comments is a lot of, I feel like pretty much of the discussion between the lawyers is policy and not actual legal issues. We did, we decided to model this after Hawaii because of the Kauai rule and the Kauai settlement is very flawed. I was a Corp. Counsel in, in Kauai and that that, their lighting bill is laughable. It doesn't work. That's the reason why we didn't base it off of Kauai.

And, you know, overall, the lighting for the, for the streetlights is just a very small part of this bill. I, I, it, I don't think it justifies delaying the bill. And again, that environmental study is not a blue light study based on Maui specific birds. . . . whenever the lights were purchased by, you know, Public Works, they should have done that study four years ago. And again, Public Works probably should have contacted Maui County six months ago. I don't see any problem with compliance. We've had manufacturers, we've had distributors, the lights are available. We expanded the exceptions so that other lights can be used.

From the bill that passed, I'm not quite sure what we could actually do if we send it back to Committee. We've already done it. We've expanded it just more than, almost more than makes sense. But we've expanded it to comply with objections from the Police, and the Fire, and the baseball fields, and the football people. We've covered them all.

CHAIR LEE: Okay. Anybody else with, with something that has not already been said?

COUNCILMEMBER KING: Chair? I see Mr., I see Mr. Penniman. So, can we just ask him if he wants to make any comments?

CHAIR LEE: Mr. Penniman? Mr. Penniman?

MR. PENNIMAN: Yes, thank you for the consideration of all these issues. I find it interesting that we're listening to Johnson Controls, who was a vendor. And Member Sugimura complained about vendors that provided to the Big Island making money by selling lights here. Johnson Controls is doing the same thing. I think you have a vendor who has a vested interest in the lights that they provide. It, it's quite clear, worldwide, that we are on a path to eliminating short wavelength light at night, and Maui needs to be a part of that community doing that. It's seabirds that benefit, and its way beyond that. It's the coral reef community. It's the human health issue. It's invertebrates. This, this

ordinance is, it will do exactly as Councilmember King desires, is to build resiliency in our ecological system here.

And, and I don't know how much more we can say to all of you. You are working incredibly late at night. I cannot believe how able you are to keep up these conversations and I honor you for do, doing it. It's been an education, for sure, to see you. And I just, I believe that this is the bill that we should be forwarding to an ordinance. Thank you.

CHAIR LEE: Anybody else? No repetition now, okay.

Member Sugimura. Don't repeat because it's useless.

COUNCILMEMBER SUGIMURA: Yeah, I'm not repeating.

I WOULD LIKE TO MAKE A MOTION TO RECOMMIT THIS BILL
BACK TO COMMITTEE.

COUNCILMEMBER MOLINA:

SECOND.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Wait, didn't you have a motion on the floor already?

COUNCILMEMBER SUGIMURA: Oh, the--

CHAIR LEE: Yeah, to replace--

COUNCILMEMBER SUGIMURA: The exemptions.

CHAIR LEE: The exemptions, right. Do you want to take a, do you want to take a, you want to withdraw that and put your other motion forward?

COUNCILMEMBER SUGIMURA: To continue the discussion, sure.

CHAIR LEE: So, so, can you withdraw your second, Mr. Molina?

COUNCILMEMBER MOLINA:

I WITHDRAW MY SECOND.

CHAIR LEE: Okay, what is your new motion, Member Sugimura?

COUNCILMEMBER SUGIMURA:

I WANT TO MAKE A MOTION TO RECOMMIT THIS BACK TO COMMITTEE SO WE CAN HAVE AN EXTENSION, EXTENSIVE DISCUSSION. THAT'S MY MOTION.

COUNCILMEMBER MOLINA:

SECOND.

CHAIR LEE: Okay. Discussion, Member Sugimura.

COUNCILMEMBER SUGIMURA: Well, I think you can tell that there's, you know, issues out there and we're having Committee work in Council. So, the departments came out strong and, you know, wanted to . . . also in consideration what Corp. Counsel said about the blue light and everything, 2 percent blue light and what their research was, as well as, you know, the work that OCS, Mr. Forrest is talking about, and as well as, and just give it a better, you know, more rounded shot with the departments included.

CHAIR LEE: Okay. Any more discussion?

Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. The reason I would like to at least have one more meeting, you know, any, well, first of all, let me thank my colleague from South Maui Member King. You know, you're taking this bill to a different level. You know, now it's residents, businesses, and so forth. And certainly, the cause is good.

But, you know, apparently, it's causing some discomfort, not only with the department, but some other folks out there. So, sometimes it's good to just, you know, take a, you know, take it back just a little bit. And then, this way, we get all our bases covered, cause whenever you do a bill, you need to always hear both sides. And I've always taken that approach with legislation that I put out, make sure, sometimes it takes a little longer, but sometimes it's worth taking the time too. So, that's just my take.

I mean, if it doesn't go back, so be it. But, you know, because it does take the bill to a new level, so which is why it's important to hear when you have these cultural groups come out or, you know, the Obon with their concerns, maybe we should listen, at least listen. An opportunity one final time and then whatever. But I definitely don't want to take it past one more Committee meeting, that's for sure. But it's up to this body. Thank you.

CHAIR LEE: Any more discussion?

Member King.

COUNCILMEMBER KING: I speak against the motion, Chair. Everybody keeps bringing up the same groups that we've already addressed. We've already addressed the Obon dances. The person who brought that up was fine with the exception. The Fire Department, the Police Department are fine. The Parks Department had an issue with baseballs that might go too high, and you heard what Junya Nakoa had to say about that.

So, you know, we've listened to the concerns and that's what, that's why the bill is the way it is. That's why we expanded the exemptions. So, my, I, nothing, I don't think anything can be gained by taking this back to Committee, except a lot of people are going to be very upset that we didn't do the right thing. So, I'm against that motion. Thank you.

CHAIR LEE: Anyone else? Just to let you know how I'm going to vote, I'm going to vote "no" on the motion, mainly because we've had a lot of discussion on this. However, as this becomes an active and, and implemented, I'm hoping to make the changes. Yeah, I mean, we all should be for every, actually, every ordinance that we pass. So, I feel that this is, gives people some time, some elbow room. So, that's why I'm not overly concerned. And, and I know you've tried. I know, Member King, you've tried today, all day, tried to accommodate the people who have been coming in with their, with their concerns. So, I just want to let you know where I am.

Anybody else? Okay, ready for the--

Yes, Member Molina?

COUNCILMEMBER MOLINA: Sorry. Just so we're clear, so the motion on the floor right now is to send it back to Committee. Now, if that fails, then we gotta take a vote on the bill itself. Am I correct? Okay.

CHAIR LEE: Yes. Yes.

COUNCILMEMBER MOLINA: Thank you.

CHAIR LEE: Anybody else? Okay, let's take a roll call, Madam Clerk.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: NO.

CHAIR LEE: He said "no".

COUNTY CLERK: What was the vote? Oh, no.

CHAIR LEE: He said "no".

COUNTY CLERK: Okay.

Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: NO.

COUNTY CLERK: Councilmember Gabe Johnson.

CHAIR LEE: Louder.

COUNCILMEMBER JOHNSON: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: NO.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: YES.

CHAIR LEE: Aye. Is your vote "aye"?

COUNCILMEMBER SUGIMURA: I said "yes".

CHAIR LEE: Oh okay.

COUNTY CLERK: Council Pro Temp Tasha Kama.

CHAIR LEE: EXCUSED.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: For real? What about now? Can you hear me now?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: ALRIGHT, I, I, I SAID NO.

COUNTY CLERK: And Council Chair Alice Lee.

CHAIR LEE: NO.

AYES: COUNCILMEMBERS MOLINA AND SUGIMURA.

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

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: So, that's six "noes", two "ayes", and one "excused".

CHAIR LEE: Okay, the motion now is to pass this bill.

Member King, did you make the motion before this?

COUNCILMEMBER KING: I did. I did.

CHAIR LEE: Okay. So, the motion on the floor now is to pass this bill. Any more discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER KING: Oh, I think we need a motion on the ASF, sorry. Is that what you were going to say?

CHAIR LEE: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. Yes, I don't know what we're voting on. There's just a bill, there was some amendments, I don't know.

COUNCILMEMBER KING: Okay, so--

CHAIR LEE: Member King.

COUNCILMEMBER KING: I did make a motion on the amendment, so that's what we're voting on first, the ASF.

CHAIR LEE: Okay. Any more discussion? All those in favor of the AS, the amendment, well, wait a minute. Do we need to, I guess we do, roll call. Roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: This is the replacement, right?

CHAIR LEE: Yeah. This is the amendment, yeah.

COUNCILMEMBER PALTIN: AYE. AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: AYE.

COUNTY CLERK: Tasha, Council Pro Temp Tasha Kama.

CHAIR LEE: EXCUSED.

COUNTY CLERK: Councilmember, Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: AYE.

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: That's eight "ayes", and one "excused"; motion carries.

CHAIR LEE: So, the main motion as amended. Any more discussion? All, is everybody going to say "aye".

VICE-CHAIR RAWLINS-FERNANDEZ: No. Chair, I would like to speak. And I see Ms. Thomson. I'll yield to Ms. Thomson.

CHAIR LEE: Alright. Ms. Thomson.

FIRST DEPUTY CORPORATION COUNSEL: Thank you, Chair. I'll make it brief. The ASF exempted sports and certain public safety from the blue light content, but it does not exempt them from the shielding. I don't know if that was a drafting error or if that was intentional, so I wanted to check with Member King to see if she did it, indeed want to not exempt sports and the emergency services from the shielding requirement.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Are you talking about the provision that says, "all outdoor lighting fixtures"? It says, "are exempt from the provisions of those subsections"?

FIRST DEPUTY CORPORATION COUNSEL: Yes. It's down near, farther down to the bottom.

COUNCILMEMBER KING: . . . from the provisions.

FIRST DEPUTY CORPORATION COUNSEL: And the parks and facilities may remain exempt from Subsection 20.30.060(D). D is regarding blue light. E is the requirement that the lights are fully shielded. So, I wanted to make sure that you do not intend to allow those uses to be exempt from the shielding requirement.

COUNCILMEMBER KING: Okay. Well, can I, can I ask Mr. Forrest to speak to that, because he drafted the bill?

CHAIR LEE: Mr. Forrest? Mr. Forrest?

LEGISLATIVE ATTORNEY FORREST: Thank you, Chair. Thank you, Chair. If Corp. Counsel thinks we need to add language to make that clear, we can. I think you could just say that the, those lightings are exempt from this Chapter.

CHAIR LEE: Ms. Thomson? Ms. Thomson, is that satisfactory?

FIRST DEPUTY CORPORATION COUNSEL: Thank you, Chair. Yes. So, rather than referencing Subsection 20.30.060(D), it would just say, "may remain exempt from this Chapter beyond the three-year period". Is that correct, Mr. Forrest?

LEGISLATIVE ATTORNEY FORREST: Yes. Thank you.

CHAIR LEE: Is that okay, Member King.

COUNCILMEMBER KING: That's fine. Do we need a, can we make a friendly amendment, or do we need to make a motion?

CHAIR LEE: I think we're going to need a motion, but let's go to Vice-Chair Rawlins-Fernandez. She had her hand up.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, sorry, I forgot. So, I will hold off on my discussion until after this discussion is finished. And I'll write it down, so I don't forget.

CHAIR LEE: Okay. So, we're not taking the vote on the main motion as amended yet. Okay, so if you can make this other amended, amendment. Can you repeat what you amended?

COUNCILMEMBER KING: Yeah, can you repeat that, Richelle, cause it's getting late. I forgot what you said.

CHAIR LEE: Richelle, Richelle, can you--

VICE-CHAIR RAWLINS-FERNANDEZ: Exempt from this Chapter.

FIRST DEPUTY CORPORATION COUNSEL: Exactly. So, this is from the ASF form, it's about five lines from the bottom. "County parks and facilities, etc. may remain exempt from this Chapter beyond the three-year period".

COUNCILMEMBER KING: Okay.

SO, INSTEAD, SO SUBSTITUTE IN THAT SECTION
20.30.060(D) FOR THIS CHAPTER.

FIRST DEPUTY CORPORATION COUNSEL: Yes.

COUNCILMEMBER KING: Okay, that's the motion to--

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Okay. And it's seconded by Member Johnson. I think there's no discussion necessary. Do we need roll call, everybody? No roll call. Okay. All those in favor of the motion, raise your hand and say "aye".

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

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay, eight, let's see, is everybody on the call? Oh, Tamara is not. Tamara, are you voting "aye"?

COUNCILMEMBER KING: She's there. She's, she's coming in and out of the waves there.

CHAIR LEE: Oh.

COUNCILMEMBER KING: But I see her.

CHAIR LEE: Carissa Moore. Alright, eight "ayes", zero "noes", one "excused"; Member Tasha Kama. Motion carries.

Now, the main motion as amended. Did you say, Member, Vice-Chair, you have a comment, or--

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: --suggestion?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so this is first reading on this bill. And so, the next, second reading is going to be on July 15. And that's, okay, I guess the question is for Mr. Whittaker. Did he request two weeks for us to consider holding off on taking action, well, final action? So, this is an action that we would be taking today if we were to pass it on first reading. But do you anticipate that EA being published before July 15?

CHAIR LEE: Mr. Whittaker?

DEPUTY CORPORATION COUNSEL WHITTAKER: Thank you, Chair. So, I have a meeting with the Public Works Department next week to discuss the preliminary EA. I expect it can be released soon thereafter. I can't guarantee you it will be done by the 15, but it will be released soon.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay, and then, the other thing was regarding all the concerns that we heard from all the departments and others. So, they didn't get to see the ASF before they testified and sometimes, you know, conceptually the idea of a proposal sounds like something you would be supportive of, but you always want to see, you know, the actual language on paper. And so, I'm hoping that Member King will be able to work with, you know, ensure that all the departments have their concerns all addressed.

And then, for second reading, we won't be here till midnight. I know it wasn't only the lighting bill. Cause then, you know, if it, if it, if on second reading we get the same kind of concerns being raised by our departments, then I may feel compelled to send it back to Committee for work so that it can, all the concerns can fully be addressed by, or by us for our departments. Okay. Mahalo, Chair.

CHAIR LEE: Any comments? Okay, if not, ready for the vote? The vote is the main motion as amended. Do we need a roll call?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR LEE: Okay, roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

CHAIR LEE: You said "no".

COUNTY CLERK: Council Pro Temp Kama.

CHAIR LEE: EXCUSED.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Alice, Chair Alice L. Lee.

CHAIR LEE: AYE.

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

NOES: COUNCILMEMBER SUGIMURA.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: That's seven "ayes", one "no", and one "excused".

COUNCILMEMBER KING: Thank you, Members. And thank you, Mr. Penniman, for staying up late with us.

CHAIR LEE: Alright. Let's hit the last one.

COMMITTEE REPORT
NO. 22-52 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending that Bill 82 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT," be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT NO. 22-52.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Paltin, second by Member Sinenci, to approve the committee report, the recommendation in Committee Report 22-52.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Your Planning and Sustainable Land Use Committee met on June 2, 2022, and discussed Bill 82 to include Apartments as permitted uses in the M-2 Heavy Industrial District when certain criteria are met.

Your Committee received written and oral testimony relating to concerns of living in close proximity to noxious fumes, loud noises, and possible unsafe living conditions.

The Planning Director said the proposed bill would help to create housing in areas with existing infrastructure.

Your Committee discussed the Change in Zoning for each parcel separately instead of creating a blanket exemption for residential use in the M-2 Heavy Industrial District.

Your Committee voted 5-4 to recommend filing of Bill 82 (2022). I respectfully ask for the Members support of my motion.

CHAIR LEE: Any more discussion?

Member Johnson.

COUNCILMEMBER JOHNSON: Chair, I appreciate the work that was done in Committee. Unfortunately, I wasn't there. I think that there's still, work could be done on this and I would, I would like to request that it be brought into the Affordable Housing Committee if the body would allow it. I think there's lessons I learned from Helsinki on how to, you know, I hear it all the time, but one more tool in the toolbox. But basically, there's ways to cleanup heavy industrial and make livable communities. I, I got a map here, I didn't want to, it probably won't show up. But basically--

CHAIR LEE: Can't, can't see it.

COUNCILMEMBER JOHNSON: I'll just explain it. I'll just explain it. There is, there was a deep-water harbor that Helsinki had just like, you know, where all of their Matson containers came in. It took them 15 years, they cleaned it up, and now it's got mixed use with affordable housing and market-rate house. It's a very beautiful community.

So, I think that there is ways we could take some of our underused M-2 zones and modify them and take care of them, and then put people there in apartments. So, that's my suggestion up to, but it's up to the body. Thank you.

CHAIR LEE: Member Paltin, do you mind?

COUNCILMEMBER PALTIN: Yes. We've heard pretty consistent testimony, you know, throughout the community planning process. For West Maui Community Plan, we were repeatedly told that Heavy Industrial is where the most noxious uses are. I had talked with Member Kama's aide about pursuing the change in zoning. I repeat my sentiment from last week, that what we're trying to do is, if what we're trying to do is create housing, if we're trying to create affordable housing and people want live, work, play, in the Queen Kaahumanu Center, in the Kaahumanu transit-oriented corridor, the way to do it is not to allow apartments in Heavy Industrial. The way to do it is to speak with the owners of the place.

If they are not doing Heavy Industrial uses now, I don't see what's wrong with taking Heavy Industrial off the table. If we're, if we're talking about making it affordable housing, what message does that send? If, if you can't afford a place to live, we can put you where our noxious uses are. There's other ways. There's like a 1,001 ways to, I don't want to say skin a cat, but something; climb a mountain. And, and I'm, I'm all for apartments at Kaahumanu Center, but not by not taking off Heavy Industrial noxious uses off the table, you know. They want to, if they're open to putting apartments there, then let's have that discussion. Let's do it. But not by not taking Heavy Industrial noxious uses off the table.

Because the way the bill is written, it just says, you know, you can't do it within 500 feet or whatever. But then, you build the apartments and then they say, well, I'm zoned Heavy Industrial, I want to do chemical manufacture. Nothing is stopping them. And, and I'm not saying don't pursue another avenue. There's change in zoning. There's starting a new bill. We're on a Charter deadline on this.

And, and, you know, if we start with our own bill, then we're starting with our own bill. We're not using, like legislation from the Planning Department, who we repeatedly hear they're off their rocker, you know. All day long, every day, they're making bad decisions and we're the ones cleaning it up. If we're going to make a decision, let's make a good decision from the start and not work off their leftovers. That's my gist.

CHAIR LEE: Member Johnson.

COUNCILMEMBER JOHNSON: Appreciate those points, Councilmember. I would counter them with the idea of we, we would modify and rewrite some of the, some of that bill. And I think, you know, if we go back to change in zoning, you are, we are going to extend the timeline. It's going to be taking a lot longer. I know you use the example of Queen Kaahumanu Center but remember there's also the parcel that is in West Maui, in Lahaina, right on Lahainaluna Road, where the school buses park, right by the smokestack that there's no longer Heavy Industrial there now. There's a coffee shop in the parking lot, right?

So, there's, that, I know like, I hear what you're saying is the idea that like, you know, the bill came in and you didn't like it. But my proposal would be, we would take it and we would, we would change it around so it would be protective of our, our, our folks who need housing first, right? Can't have housing first motto with no housing. So, I mean, it's, I'm asking, it's a debate we could have in my Committee. And its, you know, we can vote it, it on it in there if you like. But I think it would be, it could be, there's a nugget in there, you know, in that bill. So, thank you.

CHAIR LEE: Okay, let's not have to, a debate now.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. The coffee production is in use. I have gotten complaints from constituents living across the street from the coffee place that when it's in production it goes all night and the dust flies into their place. There's a junkyard going on. We don't have space for junkyards on the other side of the Heavy Industrial. And we have a lot of abandoned vehicles in West Maui similar to East Maui. And if we change it significantly so that it's amenable, it has to go back to the Planning Commission anyway. So, start from scratch with a new bill and send it to the Planning Commission and then have it come back to us.

CHAIR LEE: Anybody else?

Okay, for the last time, Member Johnson.

COUNCILMEMBER JOHNSON: Certainly. Last, last and final. The, I watched the video on the last meeting and my understanding was it did not have to go to the Planning Commission. I think that was a question Councilmember Keani Rawlins-Fernandez had asked. But that's all I want to say. Thank you, Chair.

CHAIR LEE: Alright, who else had their hand up?

Member King.

COUNCILMEMBER KING: Thank you, Chair. You know, something comes directly from the Planning Department, I guess, and it doesn't have to go through the Council to go to the Planning Department, to Planning Commission, is what I remember. But we have heavy industrial, I really appreciate what you're trying to do, Mr. Johnson, but we have Heavy Industrial areas for a reason, because there is heavy industrial operations that have to happen on our island. And I don't want to see them get pushed out, and I've seen this in other communities. . . . and they start complaining about the Heavy Industrial use and pretty soon everybody just wants them out. Those areas were chosen for a reason to be Heavy Industrial, and that's why I'm not for blanketly rezoning all of them.

I would totally support Queen Kaahumanu Center if they wanted to put some housing around there and they wanted to do a change in zoning for their housing if it's, you know, and they, and they work with the Heavy Industrial that's nearby and don't put it right next to it. But I think it needs to happen on a case-by-case basis and not be blanket. If you wanted to do something like, like Light Industrial, I think that might be more hopeful. And I would probably really appreciate that discussion, but it's just putting Heavy Industrial with housing, it just doesn't, and maybe it's because I've worked, you know, I had a business that was Heavy Industrial and so I've seen this kind of thing happen where housing goes in, and the Heavy Industrial goes out. So, that's why I'm in favor of filing it. And I, I do think there needs to be a new bill, probably try to do something like this with Light Industrial Zoning. That's all. Thank you.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair, and mahalo for the discussion. And I did want to commend Member Johnson for his willingness to, to increase affordable housing in our County. At the last meeting, I did vote against the rezoning. I think, and my reasons were changing all of the Heavy Industrial just for this one project. And that was, that day, we just was the first day that we actually heard that the Queen Kaahumanu Center wanted, or was considering housing. And I too support housing in that area, in its proximity to the, the corridor. But like Member King, I'd like to see maybe more stack, possibly stacked zoning within the Light Industrial first and, and then maybe go from there. So, I know that it would still have to go through a community plan amendment, so I'm open to hearing a new bill at this point. Thank you.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I was open to allowing this go back to, or not go back, but go to the Affordable Housing Committee for proposed amendments. But for me, I just, I don't think there really could be any amendments

that could be made that I would be supportive, that would make me supportive of this bill.

Echoing the comments of Member Paltin, Member King, and Member Sinenci, and adding to that in different words, that I, I said this in the last meeting, I don't want to take away the community's ability to vet project by project. And by changing the permissible use in Heavy Industrial would, would do that, I feel. And I want to make sure that the community has that ability to hold those developers accountable to what the intention was, and not just give, you know, developers the green light by changing the zoning, by changing the permissible use in the zoning. Mahalo, Member Johnson. I'm sorry, but I'll be supporting the motion to file. Mahalo, Chair.

CHAIR LEE: And Member Johnson, I agree with you. I do see a nugget in this as well. If you look at the area, the reason why it was zoned Heavy Industrial, because there was a pineapple cannery there many moons ago. And I can, I can tell you I made history there when I was 16 years old. I led the walkout of all the summer students that were working in the cannery due to long hours and bad conditions. And that was the first and only walkout, so I'm very familiar with the cannery. But since then, it's been torn down, and it's covered with warehouses and offices. So, there's, there's no opportunity for, for Heavy Industrial. Not because of me, but it's just because of the times.

So, anyway, whether, whether its filed or not filed, I'm sure you can, you can pick it up again, take it in your Committee, and make something out of it. Cause I'm sure you learned a lot in Helsinki and it's taking opportunities like this where all the accessories and amenities are close by, you know. And it's very rare that you can have a walkable, workable community like this. So, I, I want to vote with you and hope that you pick this up at a later date.

Anybody else? Are, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, I'm going to, I'm going to vote to support Gabe. And I do think what he's actually saying is that he wants to do something. So, for tonight, we can see where the vote is going. I'm going to stand by you and, and this will get filed, but I will vote with Gabe.

CHAIR LEE: Alright, Members, ready for the vote?

Madam Clerk, roll call.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, wait. Will you repeat the motion?

CHAIR LEE: The motion is to file.

Madam Clerk. This is the last vote for the night.

COUNTY CLERK: One moment.

VICE-CHAIR RAWLINS-FERNANDEZ: Great, cause I was about to organize a walkout; long hours, bad conditions. I'm just kidding. I'm just kidding. I'm just kidding. Kind of.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: NO.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Council Pro Temp Tasha Kama.

CHAIR LEE: EXCUSED.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: NO.

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

NOES: COUNCILMEMBERS JOHNSON, SUGIMURA, AND
CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

COUNTY CLERK: Five "ayes", three "noes", one "excused"; motion carries.

CHAIR LEE: Alright, everybody, it's time to go to bed, yeah. And because, because you folks talked so much tonight, I'm going to play lousy tomorrow. I just know it. My golf game is going to just go south. But I hope all of you have a wonderful time, and especially those traveling to Lanai tomorrow. Hope you have a great time on the Pineapple Isle.

Okay, any, anything else new? Anything coming up for anybody? Okay, so then, if you are back home on Sunday, then we'll see you at the rodeo. Right, and this is a long weekend so, you know, take care, drive carefully.

Okay, so at this time, where is my gavel? Here's my gavel. It is 12:49. And this Council meeting of July, well, it was July 1, 2022, is now adjourned.

ADJOURNMENT

The regular meeting of July 1, 2022 was adjourned by the Chair on July 2, 2022 at 12:49 a.m.



KATHY KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411
June 28, 2022



JOHN PELLETIER
CHIEF OF POLICE

CHARLES L. HANK III
DEPUTY CHIEF OF POLICE

Alice L. Lee, Council Chair
County of Maui
200 South High Street
Wailuku, HI 96793

Dear Chair Lee and Councilmembers:

SUBJECT: BILL NO. 21 (2022), A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35 MCC, RELATING TO PROTECTING SEABIRDS FROM OUTDOOR LIGHTING

This bill, as written, excludes exemptions for temporary emergency lighting which puts at risk the safety of our first responders and their ability to service the public.

Regardless of the time of day, adequate lighting is necessary for us to do our job. We require exceptional lighting to investigate major crimes scenes (such as murder and rape) and fatal/near-fatal traffic accidents in order to properly recreate the scene and collect vital evidence necessary for successful prosecution in criminal matters.

We also use bright lights to search for missing persons and fugitives. The former has a critical need as time is of the essence when initiating the search.

Restricting our lighting will also affect how we conduct effective intoxication and traffic enforcement checkpoints where proper illumination is critical to the operation as well as the safety of our officers and the public.

In addition, this bill would affect all emergency lighting including portable lights such as the strobe lights on our vehicles. We transitioned to the LED technology specifically for its high visibility during all hours, which is a public safety issue.

Please consider including these necessary safety exemptions for the police as well as all our other emergency service providers in the interest of the public we serve.

If you have any questions, please contact Assistant Chief Gregg Okamoto at (808) 244-6415 or by email at Gregg.Okamoto@mpd.net

Sincerely,



JOHN PELLETIER
Chief of Police



RECEIVED

2022 JUN 30 AM 7:57

TESTIMONY IN SUPPORT OF BILL 21, CD 1
A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE,
RELATING TO PROTECTING SEABIRDS FROM OUTDOOR LIGHTING
(CARE Committee Report No. 22-47 (First Reading))

OFFICE OF THE
COUNTY CLERK

Maui County Council
July 1, 2022
9:00 a.m.

Good morning, Chair Lee, Vice-Chair Rawlins-Fernandez, and members of the Council:

My name is David Lane Henkin, and I am an attorney with Earthjustice.¹ Earthjustice submits this testimony on behalf of the Center for Biological Diversity and Conservation Council for Hawai'i *in strong support of Bill 21, CD 1*, which would amend Maui County's lighting ordinance to increase protections for Hawai'i's threatened and endangered seabirds. Bill 21 is consistent with the best available science on how to minimize harm to imperiled seabirds from artificial lights. Bill 21 also provides clear guidance on how to implement these new lighting requirements with minimal burden on the community. For these reasons, the Council should adopt this measure as a win-win for the community and Hawai'i's native seabirds.

Artificial lights in Maui County regularly attract and disorient Hawaiian petrels, band-rumped storm petrels, and Newell's shearwaters as they navigate between the ocean and nesting colonies, resulting in fallout, injury, and death. State and federal wildlife agencies charged with helping to prevent these species from going extinct recognize that artificial light attraction poses an ongoing threat to the species' survival and recovery. Best practices to minimize light attraction, and help prevent extinction, include reducing short wavelength "blue light" in outdoor lighting fixtures, preventing outdoor lighting from shining upward or over the ocean, and eliminating reflective surfaces that bounce light into the sky. Bill 21 would require compliance with these best practices to give our native seabirds the best chance of survival.

To address concerns about increased regulatory burdens for businesses and residents, Bill 21, CD 1 provides a reasonable phase-in period for the replacement of existing outdoor lighting. *See Proposed Section 20.35.070.B* (exempting existing lighting for three years). Bill 21, CD 1 also facilitates compliance with the new lighting requirements by adopting the definition of "blue light content" found in Hawai'i County's lighting ordinance.² Using the same definition of "blue light content" provides consistency for businesses operating in both locations, and also

¹ I am registered as a lobbyist.

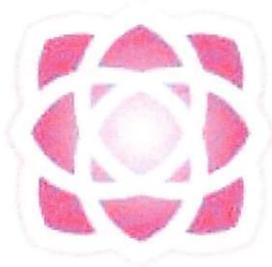
² *Compare Proposed Section 20.35.060.D with Hawai'i County Code § 14-51(a)(9); see also Hawai'i County Code § 14-55, Table 14-A* (specifying that LED fixtures must have "less than 2% blue light content").

provides a template for implementation given that Hawai'i County's blue-light content requirement has been on the books for more than a decade. Finally, the bill provides that the director of public works will maintain a list of light fixtures that comply with lighting requirements. *See* Proposed Section 20.35.060.F. These provisions will ensure a smooth transition to seabird friendly lighting in Maui County and reduce any regulatory burdens on the community.³

Bill 21, CD 1 is a crucial step forward for seabird conservation in Maui County and provides a clear path forward for businesses and residences to install seabird friendly lighting. For these reasons, we respectfully urge the County Council to pass this bill.

Thank you for the opportunity to provide this testimony in strong support of Bill 21, CD 1. I will be available at the Council meeting to answer any questions you may have. I can also be reached via email at dhenkin@earthjustice.org or via telephone at 808-599-2436.

³ The Corporation Counsel's proposal to define permissible outdoor lighting in terms of the Correlated Color Temperature (CCT), measured in degrees Kelvin—rather than the specific percentage of short wavelength light—fails to incorporate the latest science on how best to minimize harm to imperiled seabirds from artificial lighting. The CCT tells you only how yellow or blue the overall color of light emitted from a light bulb appears; it tells you absolutely nothing about what percentage of that light is made up of the short wavelength light that is harmful to imperiled seabirds. Lighting manufacturers can reduce the CCT of their lighting simply by adding more long wavelength light, without reducing any of the short wavelength light that attracts native seabirds, leading to fallout and associated injury and death. Limitations on harmful lighting need to be defined in terms of the percentage of short wavelength light (as the Hawai'i County lighting ordinance currently does and as Bill 21, CD 1 proposes), not in terms of degrees Kelvin.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

TESTIMONY FOR JULY 1, 2022

Dear Chair Lee, Vice-Chair Rawlins-Fernandez, and
Members of the Maui County Council,

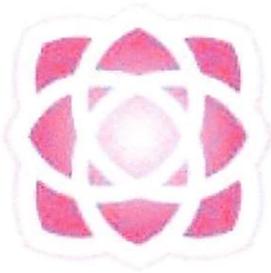
The Maui Chamber of Commerce would like to provide testimony of the
following items for today's Council Meeting.

Resolution 22-119/CR 22-56 – East Maui/Maui County Water Authority

The Maui Chamber of Commerce would like to testify on **Resolution 22-119 and the proposed amendment to expand this to all of Maui County** which proposes an amendment to the revised charter of the county of Maui (1983), as amended, to establish a Maui County Community Water Authority and an East Maui Community Regional Board.

The Chamber would like to request that this resolution be deferred to the next Council term. We are already dealing with a big election year with more candidates due to redistricting as well as many Charter Amendment questions that already had significant community input through the Charter Commission. This is a very complicated issue that needs *significant* vetting, exploration, and community input. We realize that the Board of Water Supply spent a long time on this item, but we feel more discussion from experts on all sides is needed.

Also, there is a charter question on the current ballot that would require a financial analysis of any proposed amendments. This amendment has the potential to be very expensive in creating yet another new county agency and a full fiscal and management (as this is a tremendous amount of water system management that needs to be well understood) impact analysis is important. This analysis should be completed, with the results released to the public so they can understand all aspects of this proposal before considering the Charter Amendment.



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This could also potentially result in expensive legal and eminent domain challenges. Additionally, while we are not water system experts, we understand there is a lot to water system management and we feel you should hear from each of the current water system managers to better understand the annual expenses, upkeep, personnel requirements, experience needed, etc. via a public forum.

Lastly, while we understand that Council can always suggest charter amendments, however, on years where there is a Charter Commission we strongly feel that any proposed amendments should run through the Charter Commission. This is a more transparent system where broader community vetting can occur by the public and commission and items are reviewed over a longer period of time, which is important given the significance of charter amendments and the fact that they have to be placed on the ballot with community education.

For these reasons we respectfully request that Resolution 22-119 CD1 and the proposed amendment to expand it further to all of Maui County be deferred to the next Council term.

Resolution 22-165 / CR 22-55 - Telework

The Maui Chamber has been supportive of telework over the last two years during the pandemic. If it is found that this is more effective and efficient in serving the public and saves the county money versus duplicative offices, we see this as a valuable option. However, we feel more vetting needs to be done to present transparent options for the public to make an informed choice, including the methodologies, cost for telework and other costs associated with this option.

Further, while we all understand the need to address climate change, the language included to protect climate change adaptation is broad, vague, and feels disconnected to the section on telework. We feel this should be separated from the telework question.



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While we feel the option for telework is a worthy discussion, we continue to have concerns about additional charter amendments brought forth now versus in the Planning Commission this year, where significant time, community testimony and vetting occurred on proposed amendments.

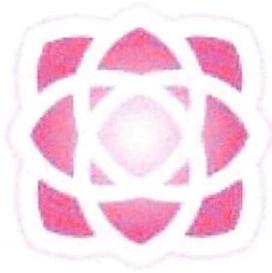
Resolution 22-144 / CR 22-57 – Planning Commissions

The Maui Chamber of Commerce would like to offer our **strong opposition to Resolution 22-144** which proposes to amend the Maui County Charter to establish planning commissions for all community plan areas on Maui, and dissolve the Maui Planning Commission.

The Chamber urges the Council to file this resolution since this issue was carefully discussed and thoroughly vetted in the current Maui County Charter Commission. The Charter Commission amended their original proposal to just require more geographic representation in the Maui Planning Commission, and the Commission then accepted the Council's amended language on this. We feel this current amendment is a much better idea versus creating additional commissions.

We are already dealing with a big election year with more candidates due to redistricting, as well as many Charter Amendment questions that already had significant community input through the Charter Commission. We do not think there is enough time for in-depth public discussion and voter education on this topic, given the current timeline. We believe we should see what the voters decide on the current Charter Commission proposal on the planning commissions before adding another amendment.

We also understood from the reports submitted to the Charter Commission that creating these additional planning commissions would require significant cost and greatly increase the number of volunteers needed to



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serve. This is a time when we need to focus on priority projects.

Lastly, while we understand that Council can always suggest charter amendments, on years where there is a Charter Commission, we strongly feel that any proposed amendments should run through the Charter Commission. This is a more transparent system where broader community vetting can occur by the public and commission and items are reviewed over a longer period of time, which is important given the significance of charter amendments and the fact that they have to be placed on the ballot with community education.

For these reasons we respectfully request that this resolution be filed. Mahalo for the opportunity to provide testimony.

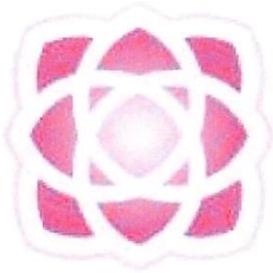
Bill 92/CR 22-59 – Residency Requirement

We feel it is important for our boards and commissions to be made up of Maui County residents and think this bill to establish a residency requirements is a good idea. Therefore, we support this bill.

Bill 21/CR 22-47 – Lighting Ordinance

While we understand and agree with the intent to protect native seabirds, we cannot support this bill as it is currently written as it is ill-informed and could have vast impacts and repercussions, as noted by Corporation Counsel and the Public Works Commission. We agree with the various points made by the Public Works Commission and also understand that Corporation Counsel has drafted a bill that would achieve the goal without causing hardships to businesses and residents.

For these reasons, we ask that this bill be filed and the Corporation Counsel draft be discussed.



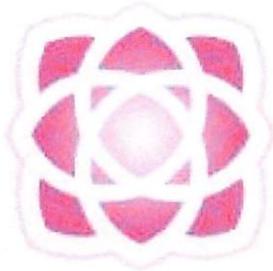
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Bill 82/CR 22-52 – M-2 Heavy Industrial Zoning Housing

When it comes to affordable housing and rentals, we need to look at new solutions for affordability and we learned at both of our housing summits (June 2017 & October 2019) that it is tremendously helpful to have infill projects as infrastructure already exists in these areas. With existing infrastructure, the cost to develop affordable housing and rentals is greatly reduced and therefore, allows the units to be rented at a much lower level.

While we acknowledge that there may be added noise or lights due to the location, there are residents who currently have no rental choices or prospects. This could create safe housing options. We must remember that living in one of these areas is a choice and if someone rents an apartment and decides the lighting or noise is too much, they then have the choice to move, but at least they have a roof over their heads for a time. These locations may actually be desirable as they are close to many jobs, goods, and services. We are hearing from businesses whose employees make good money, but are having to sleep in their cars because of the lack of affordable rentals, which is also clearly known by the Council given that Bill 108 is being discussed.

Additionally, we don't have the same types of industrial areas like they do on the mainland. Since these parcels are in heavy industrial areas, this bill puts protections in place like environmental testing, buffer zones, and landscaping. We are also not looking at areas where affordable homes are built with the intention of homeownership, but apartments that are rented. Because of that, people will not feel pressured to stay if they do not like the area. It is also important to recognize that if apartments are built in these areas, developers will intentionally design the space to encourage rentals and mitigate light and noise, as they do not want the buildings to sit empty.



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Lastly, this bill has the blessing of the Maui and Lanai Planning Commissions and with that approval and our points above, we are highly confused why the Council is recommending filing of this bill and approaching it on a case by case approval basis. We need solutions now and individual approvals take too much time.

This is a much-needed tool in the toolbox to help mitigate our housing crisis and should be passed, not filed. We truly hope people are paying attention to hearings and actions that help move affordable housing and rentals forward and actions that move us backwards, like this one.

Mahalo for the opportunity to provide testimony on these bills.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Tumpap".

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.

County Clerk

RECEIVED

From: mmmmahalo2000@aol.com
Sent: Wednesday, June 29, 2022 7:08 PM
To: County Clerk
Subject: KCA testimony for 7/1/22 on Item 22-57 for Reso 22-144 CD!
Attachments: pslu.committee Tesimony 1-8-2020 (PSLU-34)(PSLU-44)(PSLU-42) (4.pdf)

2022 JUN 30 AM 7:56

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from mmmmahalo2000@aol.com. [Learn why this is important](#)
Aloha Chair Lee and Council.

Mike Moran for the Kihei Community Assoc (KCA) in support of 22-57

As we have testified previously we have long supported a planning commission for our district, so we are seeking support to get this charter on the 2022 ballot. In prior meetings, there was some discussions about district advisory committees to the MPC. We offer this attached doc which was testimony to the PSLU committee over two years ago on such proposed advisory committees which addresses district planning commissions as preferable. John Blummer- Buell explains while he supported the committees being proposed at that time, he addresses the short comings of them & the preference for district planning commissions. He opinion is based on his experiences as a three term Hana Advisory Committee as you see in this doc.

At this same time John contacted me explaining his position & suggested our org pursue the commission in place of the committee. I replied that while we agreed with him, we were going for the committee as a step toward a future commission.

Now 2 1/2 years later we finally have been advised the first meeting of the SMAC is being scheduled for this month, while we have this matter for a area planning commission potentially on this years ballot. So our expectation this is the process we hoped to achieve. We can have this advisory committee in place in S Maui now as we prepare to have our own planning commission soon.

While it is not the same we have experienced our community organization's input to MPC on matters in our district rejected by the MPC not based on laws nor regulations, but because of lack of understanding of proposed matters and their location in South Maui by this commission.

In conclusion we ask your support to get his matter on the ballot so the voters can decide

Mahalo

Mike Moran

County Clerk

From: Eric Miyasato <eric@hawaiianlights.com>
Sent: Tuesday, June 28, 2022 5:23 PM
To: County Clerk
Subject: Full Council meeting - File # CC 22-154 Climate Action, Resilience and Environment Bill 21, CD1 (2022)
Attachments: chapter14 - lighting.pdf; Urmston_et_al_2022_PONE.pdf

You don't often get email from eric@hawaiianlights.com. [Learn why this is important](#)

Dear County Clerk,

I would like to submit the attached for Friday's meeting July 1st, in regards to CC 22-154

Document 1 (Umston_et_al_2022_PONE.pdf)

- Hawaii Pacific University & US Fish and Wildlife Study
 - 8 year study with 4 years of High pressure sodium lamp and 4 years of full cutoff LED in 3000K and 4000K along the coast from Waimanalo to Hawaii Kai.
 - Page 14, Highlighted – “There is no evidence suggesting that the shielded LED streetlights impacted the number of birds affected by fallout overall.”

Document 2 – Chapter 14 of the Big Island lighting ordinance.

- Section 14-52 General Requirements (a)(b)(c)(d)(e)(f) refer to Table 14-A
- Table 14-A covers Class 1, class 2 and Class 3 classifications.
- Section 14.53 (d) Private Residential incandescent light fixtures which are fully shielded or have lumen output of less than eight thousand one hundred lumens for each acre of property that is intended to be illuminated shall be exempt from the requirements of this article.
- Section 14.53 (e) Outdoor Advertising signs, if constructed of translucent material, and illuminated totally from withing and colored with an opaque background using translucent letters or symbols, shall be exempt from the requirement of this article, except that the hours of operation shall be the same as those for the Class 1 outdoor lighting.
- Section 14.51 Definitions (2) Class 1 lighting means all outdoor lighting used for, but not limited to, outdoor sales and eating areas, assembly or repair areas, advertisting or business signs, recreational facilities, and other similar applications in which color rendition is important.
 - Table 14-A – class 1
 - Fully shielded (others above 4,050 lumens / others below 4,050 lumens) OFF from 11:00pm to sunrise.
 - Note: “This is standard LED because color rendition is important.”

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2022 JUN 29 AM 8:41
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- **Section 14-53 Exemptions**
 - **(a) EXISTING LIGHT FIXTURES. ALL OUTDOOR LIGHT FIXTURES PLANNED AND APPROVED BY THE COUNTY OR EXISTING AND LEGALLY INSTALLED PRIOR TO SEPTEMBER 1, 1988, ARE EXEMPT FROM THE INSTALLATION AND SHIELDING REQUIREMENTS OF THIS ARTICLE, EXCEPT THAT WHEN EXISTING OUTDOOR LIGHT FIXTURES BECOME INOPERABLE, THE OUTDOOR LIGHT FIXTURES WHICH REPLACE THEM SHALL COMPLY WITH THE REQUIREMENT OF THIS ARTICLE.**

The current Maui Bill 21 CD1 does not allow exemptions as the Big Island lighting ordinance does. Also, the Big Island ordinance allows the existing fixtures to remain and only changed when it becomes inoperable, whereas the Maui BILL 21 CD1 will require all outdoor lights to be changed 3 years after passage. The Maui Bill will cause financial hardship to businesses and residences of Maui County to comply.

Eric Miyasato
808-226-5973

- (A) All materials which enter into or are produced as part of the nuclear fuel cycle, including milled uranium ore, fissile material, and all fission by-products.
 - (B) Any quantity of radioactive material specified as a "large quantity" by the Nuclear Regulatory Commission in 10 CFR, part 71.
 - (C) Any quantity of radioactive waste, including nonradioactive material contaminated with radioactive material, which has been produced as part of the nuclear fuel cycle.
- (6) For the purposes of this article, the term "radioactive material or substance" shall not include:
- (A) Radiation sources or materials employed in therapeutic radiology, in biomedical research, or in educational endeavors, or medical devices designed for individual application (as for example cardiac pacemakers) or commercial devices, processes, or facilities, as approved by the appropriate regulatory and licensing agencies.

(1981, Ord. No. 665, sec. 1.)

Section 14-46. Transportation of radioactive material, unlawful.

It shall be unlawful for any person to transport radioactive material within or through the County.

(1981, Ord. No. 665, sec. 1.)

Section 14-47. Storage of radioactive material, unlawful.

It shall be unlawful for any person to store radioactive material within the County.

(1981, Ord. No. 665, sec. 1.)

Section 14-48. Nuclear energy facilities, prohibited.

It shall be unlawful for any person to locate or build a nuclear energy facility which utilizes nuclear material for the production of energy within the County.

(1981, Ord. No. 665, sec. 1.)

Section 14-49. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, for each violation.

(1981, Ord. No. 665, sec. 1.)

Article 9. Outdoor Lighting.

Section 14-50. Applicability and scope of article.

- (a) This article shall apply to the installation of all outdoor lighting fixtures within the County.
- (b) The provisions of this article, including provisions for the imposition upon any person of the penalties by fine for any violation of this article, shall not be construed to exclude the operation of applicable State statutes or other County ordinances. In the case of conflict with other County ordinances, the stricter ordinance shall apply.

(1988, Ord. No. 88-122, sec. 3.)

Section 14-51. Definitions.

- (a) As used in this article, unless the context clearly indicates otherwise:

- (1) "Outdoor lighting fixture" means any outdoor artificial lighting device, fixture, lamp, or other similar device, permanently installed or portable, which is intended to provide illumination for either visibility or decorative effects. Such device shall include, but not be limited to, search, spot, and flood lighting used for:
 - (A) Buildings and structures;
 - (B) Recreational facilities;

- (C) Parking lots;
 - (D) Landscape lighting;
 - (E) Business and advertising signs;
 - (F) Roadways;
 - (G) Walkways.
- (2) “Class I lighting” means all outdoor lighting used for, but not limited to, outdoor sales and eating areas, assembly or repair areas, advertising or business signs, recreational facilities, and other similar applications in which color rendition is important.
 - (3) “Class II lighting” means all outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor security, and other similar applications in which general illumination of the grounds is the primary concern.
 - (4) “Class III lighting” means any outdoor lighting used for decorative effects. It includes, but is not limited to, waterfall and pond lighting and architectural highlighting for buildings and landscapes.
 - (5) “Building official” means the director of public works or the director’s designated representative.
 - (6) “Individual” means any private individual, governmental entity, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures, or corporations.
 - (7) “Fully shielded” means the outdoor lighting fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.
 - (8) “Partially shielded” means that the outdoor lighting fixture is constructed so that at least ninety percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.
 - (9) “Blue light content” means the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm.
 - (10) “Traffic color compliant” means the 1931 CIE x y color coordinates of the outdoor light fixture is outside of any of the traffic signal color boxes as defined by ITE ST-052 500/AGS-PM/1105.

(1988, Ord. No. 88-122, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2011, Ord. No. 11-18, sec. 1.)

Section 14-52. General requirements.

- (a) Standard fixture. All class types of outdoor light fixtures shall follow the requirements set forth in Table 14-A.
- (b) Shielding. All outdoor lights shall be shielded pursuant to the requirements set forth in Table 14-A.
- (c) Hours of operation. All outdoor light fixtures shall be subject to the hours of operation as required by Table 14-A.
- (d) Mercury vapor lights prohibited. Mercury vapor lamps shall not be used for any new outdoor lighting installations or for the replacement of any existing installation. All existing mercury vapor outdoor lighting fixtures shall be removed by August 17, 1998.
- (e) Blue light content. The blue light content of the outdoor light fixture shall be pursuant to the requirements set forth in Table 14-A.
- (f) Traffic color compliant. The color of the outdoor light fixture shall be pursuant to the requirements set forth in Table 14-A.

(1988, Ord. No. 88-122, sec. 3; Am. 2011, Ord. No. 11-18, sec. 2.)

Section 14-53. Exemptions.

- (a) Existing light fixtures. All outdoor light fixtures planned and approved by the County or existing and legally installed prior to September 1, 1988, are exempt from the installation and shielding requirements of this article, except that when existing outdoor light fixtures become inoperable, the outdoor light fixtures which replace them shall comply with the requirements of this article.
- (b) Fossil fuel light. All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene and gasoline, shall be exempt from the requirements of this article.
- (c) Holiday decorative lighting. Low wattage fixtures used for holiday decorations shall be exempt from the requirements of this article.

- (d) Residential incandescent illumination. Private residential incandescent light fixtures which are fully shielded or have a lumen output of less than eight thousand one hundred lumens for each acre of property that is intended to be illuminated shall be exempt from the requirements of this article.
- (e) Business signs. Outdoor advertising signs, if constructed of translucent material, and illuminated totally from within and colored with an opaque background using translucent letters or symbols, shall be exempt from the requirements of this article, except that the hours of operation shall be the same as those for Class I outdoor lighting.
- (f) Searchlights. Searchlights used for advertising purposes shall be exempt from the requirements of this article, except that the operation of such lights is limited to the hours of 6:00 p.m. to 10:00 p.m.
- (g) Emergency lighting. Emergency lighting required for public safety is exempt from the requirements of this article.

(1988, Ord. No. 88-122, sec. 3.)

Section 14-54. Submission of plans.

- (a) All outdoor lighting fixtures shall be installed in conformance with the provisions of this article and those of the electrical code of the County as applicable and subject to the appropriate permit and inspection requirements thereof. The applicant for any permit required by the County for work involving nonexempt outdoor light fixtures shall submit to the building official proof that the proposed work will comply with the article requirements. The submission shall contain, but not be limited to, the following:
 - (1) The location of the site where the outdoor light fixtures will be installed;
 - (2) Plans indicating the type(s) of outdoor light fixtures to be used and their location on the premises;
 - (3) A description of the outdoor light fixtures including, but not limited to, manufacturer’s catalog cuts and drawings.
- (b) The plans and descriptions required by subsection (a) sufficiently complete to enable the building official to readily determine whether compliance with the requirements of this article will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices or fixtures proposed, the applicant shall be required to submit further proof of compliance. Furthermore, any design, material, or method of installation not specifically forbidden by this article may be used, provided any such alternate has first been approved by the building official. The building official may approve any such proposed alternate provided:
 - (1) It is at least approximately equivalent to the applicable specific requirements of this article; and
 - (2) It is otherwise satisfactory and complies with the intent of this article.

(1988, Ord. No. 88-122, sec. 3.)

Section 14-55. Tables.

TABLE 14-A

Lamp Type	Shielding Requirement	Operation Restrictions
Class I		
Low pressure sodium	Fully shielded	None
Low pressure sodium	Partially shielded	Existing fixtures only. New installations as of October 2010 prohibited
Others above 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Others below 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
LED fixtures with less than 2% blue light content	Fully shielded	Off at 11:00 p.m. to sunrise*

Class II

Low pressure sodium 90 watts or less	None	Existing fixtures only. New installations as of October 2010 prohibited
greater than 90 watts	Partially shielded	Existing fixtures only. New installations as of October 2010 prohibited
Low pressure sodium LED fixtures with less than 2% blue light content and traffic color compliant	Fully shielded Fully shielded	None None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens		Prohibited

Class III

Low pressure sodium	Fully shielded	None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Neon	None	Off from 11:00 p.m. to sunrise*

*These lights may remain on after 11:00 p.m. if bona fide business or recreational activities are taking place. (1988, Ord. No. 88-122, sec. 3; Am. 2011, Ord. No. 11-18, sec. 3; Am. 2013, Ord. No. 13-60, sec. 2.)

Section 14-55.1. Penalty.

Any person violating any provision of this article shall, upon conviction, be punished by a fine not to exceed \$500. Such person shall be deemed guilty of a separate offense for each and every day any violation of this article is committed. Furthermore, payment of such a fine shall not relieve the individual from the responsibility of correcting the violative condition, nor shall it preclude the County from instituting any action for its removal.

(1988, Ord. No. 88-122, sec. 3.)

Article 10. Exceptional Trees.

Section 14-56. Intent.

In accordance with section 58-2, Hawai‘i Revised Statutes, to safeguard exceptional trees from destruction due to land development, the County desires to enact protective regulations to preserve exceptional trees within the County.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-57. Definitions.

For purposes of this article, “exceptional trees” means a tree or grove of trees with historic or cultural value, or which by reason of its age, rarity, location, size, aesthetic quality, or endemic status has been designated by the council as worthy of preservation. The term exceptional trees does not apply to trees planted for commercial forestry operations. Exceptional trees may be designated generally by biotaxy or individually by location or class.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-58. Arborist advisory committee.

There shall be an arborist advisory committee consisting of six members who shall be appointed by the mayor. The committee shall include the following: the planning director, or the director’s designee; one

RESEARCH ARTICLE

Quantifying wedge-tailed shearwater (*Ardenna pacifica*) fallout after changes in highway lighting on Southeast O'ahu, Hawai'i

Jennifer Urmston ^{1,2*}, K. David Hyrenbach ^{1,2}, Keith Swindle³

1 Hawai'i Pacific University, Waimānalo, HI, United States of America, **2** Oikonos Ecosystem Knowledge, Kailua, HI, United States of America, **3** U.S. Fish and Wildlife Service (USFWS), U.S. Embassy, Nairobi, Kenya

✉ Current address: Migratory Bird Permit Office, U.S. Fish and Wildlife Service (USFWS), Portland, OR, United States of America

* Jennifer_Urmston@fws.gov



OPEN ACCESS

Citation: Urmston J, Hyrenbach KD, Swindle K (2022) Quantifying wedge-tailed shearwater (*Ardenna pacifica*) fallout after changes in highway lighting on Southeast O'ahu, Hawai'i. PLoS ONE 17(3): e0265832. <https://doi.org/10.1371/journal.pone.0265832>

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Data Availability Statement: All relevant data are within the manuscript and its [Supporting Information](#) files.

Abstract

Attraction to artificial light at night (ALAN) poses a threat to many fledgling seabirds leaving their nests for the first time. In Hawai'i, fledgling wedge-tailed shearwaters disoriented by lights may become grounded due to exhaustion or collision, exposing them to additional threats from road traffic and predation. While the timing and magnitude of shearwater fallout varies from year to year, little is known about how changing lighting and environmental conditions influence the risk of grounding for this species. We analyzed 8 years (2012–2019) of observations of road-killed shearwaters along the Kālaniana'ōle Highway on O'ahu to quantify the timing and magnitude of fallout during the fledging season (November–December). Our goal was to compare fallout before (2012–15) and after (2016–19) a transition in highway lighting from unshielded high-pressure sodium (HPS) to full-cutoff light-emitting diode (LED) streetlights. To detect the shearwater response to the lighting regime, we also accounted for three potential environmental drivers of interannual variability in fallout: moon illumination, wind speed, and wind direction. The effects of these environmental drivers varied across years, with moon illumination, wind speed and wind direction significantly affecting fallout in at least one year. Altogether, the interaction between moon illumination and wind speed was the most important predictor, suggesting that fallout increases during nights with low moon and strong winds. The lack of an increase in fallout after the change from HPS to shielded 3000K - 4000K LED streetlights suggests the new streetlights did not worsen the light pollution impacts on wedge-tailed shearwaters on Southeast O'ahu. However, due to potential species-specific disparities in the behavior and light attraction of petrels, similar studies are needed before energy saving LED lights are implemented throughout the Hawaiian archipelago.

Introduction

Light pollution is a concern for burrow-nesting seabirds globally, with documented impacts on over 50 species of shearwaters, petrels, and puffins [1]. While coastal light pollution can

Funding: This work was supported by [Experiment.com](#) (Blinded by the light: reducing shearwater deaths along a coastal highway in O'ahu, Hawai'i) and The Eppley Foundation for Research (Blinded by the Light: Shearwater Deaths Along a Coastal Highway in O'ahu). The funders had no role in study design, data collection and analysis, decision to publish, or preparation of the manuscript.

Competing interests: The authors have declared that no competing interests exist.

disrupt adult seabirds provisioning their chicks on colonies [2–4], fledglings consistently account for the majority (68% - 99%) of the grounded specimens [1]. Fledgling seabird “fall-out” occurs when chicks leaving their nests are disoriented by onshore lighting and become stranded on land instead of flying out to sea [1]. The magnitude of fallout is likely influenced by the number of chicks fledging, the prevailing environmental and celestial conditions [4, 5], and the features of anthropogenic lights, which vary as a function of light fixture design and bulb type [6, 7]. To gauge the effectiveness of light pollution mitigation measures, wildlife managers need to understand the influence of these biological and environmental drivers on the timing and magnitude of fallout.

A conceptual model to explain fallout involves fledging seabirds being drawn toward well-lit coastal areas, especially in the absence of moonlight [4, 5, 8–11] and when strong winds are directed toward shore [10, 11]. Birds are affected by bright light sources from vessels at sea and urbanized areas on shore, including streetlights and sports fields [1, 6, 12–13]. Moreover, collisions with powerlines and other structure can lead to injury and grounding [14, 15]. While our understanding of the environmental drivers of fallout is growing, the influence of specific design features of anthropogenic light sources remains understudied. In particular, lamp color and directionality are two key streetlight features that can affect fallout [7, 16]. Spurred by efforts to improve energetic efficiency, many cities are replacing yellow high-pressure sodium (HPS) lightbulbs commonly used in streetlights with white light-emitting diode (LED) bulbs [17–19]. Although LED bulbs decrease electricity consumption and maintenance costs, these benefits could be costly to wildlife, as shearwaters may be more sensitive to LED lights [7]. A study on the visual perception of Wedge-tailed Shearwaters (*Ardenna pacifica*—previously *Puffinus pacificus*) showed that they experience maximum light absorption of the wavelengths emitted by white LED lights (406–566 nm) and have lower absorption of the wavelengths emitted by HPS lights (560–620 nm) [20]. Moreover, a field-based experiment in Australia showed that Short-tailed Shearwaters (*Ardenna tenuirostris*) show increased attraction to LED lights over HPS lights, although the difference was not statistically significant [7].

Mitigation measures often target light directionality, whereby streetlights are shielded through the use of a “full-cutoff” design, which inhibits light emission above the horizontal plane of the fixture. This approach, when applied to HPS lights, reduced Newell’s Shearwater (*Puffinus newelli*) fallout on Kauai (Hawai'i) [16]. Although mitigation is being addressed through shielding, the common use of optimized LEDs with broad spectra and Correlated Color Temperature (CCT) greater than the maximum recommended value for wildlife (2200 K) may be a cause for concern [17]. While modern LED lights possess the flexibility to give off a range of low to high CCT, short-wavelength light with high CCT is a common choice because of its efficiency [19]. The effectiveness of light shielding coupled with the use of broad spectrum, high CCT LEDs is unknown.

On the island of O'ahu (Hawai'i), Wedge-tailed Shearwaters (hereafter referred to as WTSH) experience fallout during the annual fledging season (November–December) [21, 22]. A three-year study in the early 1990s, revealed that hundreds of chicks become grounded every autumn, with the number varying widely from year to year [22]. Starting in 2002, U.S. Fish and Wildlife Service initiated a program of opportunistic road surveys of the southeast section of O'ahu during the fledging season, which documented a fallout hotspot in the town of Waimānalo, within 5 km from two WTSH colonies on offshore islets [21].

While there is evidence of interannual variability in WTSH fallout, little is known about the influence of environmental (weather and oceanographic conditions) and biological (breeding population size and reproductive success) drivers. To date, only one study has investigated the environmental drivers of WTSH fallout, by comparing a “wreck” year of unusually high fallout (1994), when WTSH groundings increased ten-fold from the two “normal” years prior [22].

This study suggested that anomalous southerly winds likely carried fledglings inland rather than out to sea and scattered them throughout the windward coast of O'ahu. While the southerly winds help explain why many birds were found inland, it is unclear to what extent low ocean productivity during the breeding season and unusual weather conditions during the fledging period caused the high fallout observed that year.

Over a decade later, Friswold et al. (2020) documented an increasing trend in annual fallout numbers between 2003 and 2010, and a two-year cycle of alternating years of high and low fallout. Subsequently, an unusually large fallout event in 2011 was documented during a La Niña year with high ocean productivity [23]. These results are suggestive of the potential influence of breeding population size and reproductive success on fallout.

In 2012, we began conducting systematic road surveys along a 17.3-km section of the Kalaaniana'ole Highway to document WTSH fallout. In 2016, the Hawai'i Department of Transportation changed the streetlights on O'ahu's major roads from unshielded 2200 K HPS lights to shielded 3000–4000 K LED lights, where Kelvin (K) is a unit of measurement for CCT. Lower CCT indicates a warm yellow-orange appearance whereas higher CCT indicates cool blue light [18]. The shift in lights halfway through our study provided a unique opportunity to compare WTSH fallout under different street lighting conditions. To this end, we continued conducting standardized surveys following the established protocol through 2019 and analyzed an 8-year time series with four years before (2012–15) and four years after (2016–19) the change in lighting. This is the first study to compare changes in seabird groundings in response to HPS versus LED streetlights, by repeatedly surveying a fallout hotspot during the fledging season.

The goal of this study is to quantify the magnitude of WTSH fallout under two contrasting lighting regimes, to inform future coastal development and management of light pollution. Although shielding of the LED streetlights may reduce initial WTSH attraction, we predicted that disorientation caused by high intensity/shorter wavelength lights would outweigh the benefits of shielding. Thus, we expected an increase in fallout after the installation of LED streetlights (2016–2019). To detect the fallout response to the lighting regime, we also accounted for three potential environmental drivers: moon illumination, wind speed, and wind direction. Because WTSH rely on wind to take flight and may become disoriented in the absence of moonlight, we predicted higher fallout during windy nights of low moon illumination. In particular, due to the location of our study area, southwest from two breeding colonies, we anticipated that strong northeasterly winds would drive the fledging birds towards shore.

Methods

Study area

This study focuses on the southeast section of O'ahu, where a two-lane coastal highway runs through a rural and developed landscape (Fig 1). The survey route was illuminated with HPS streetlights until 2016, when the Hawai'i Department of Transportation transitioned to LED streetlights. The CCT of the LED streetlights is 3000 K on sections of the highway directly adjacent to the ocean, whereas inland lights are 4000 K.

The WTSH breeding colonies of Mānana Island and Kāohikaipu Island, where approximately 25,000 and 800 chicks were counted in 2019, are located 1.3 and 0.7 km offshore of our study area, respectively [25]. Three additional WTSH colonies on offshore islets (Mokulua Nui, Mokulua Iki, and Popoi'a) lie approximately 6 km north of the study area (Fig 1), with 2019 chick count estimates of 3,500, 5,000, and 900, respectively [25].

Weather patterns on windward O'ahu are dominated by the northeast trade winds, which typically persist for 1 to 2 weeks, interspersed with no-wind periods or southerly storms. Peak wind speeds occur in the afternoon, with lower wind speeds at night [26].

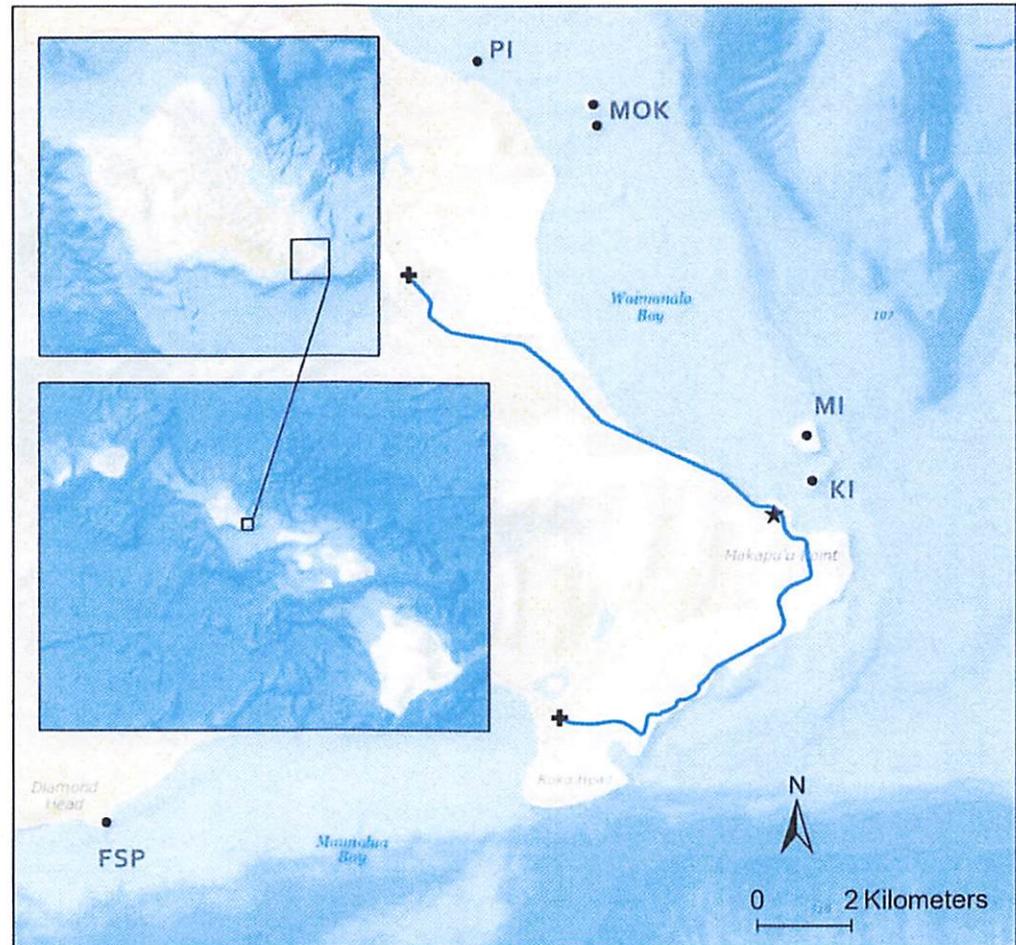


Fig 1. Map of the study area in southeast O'ahu. Blue line shows the survey route, and crosses indicate the start and end points. Black dots indicate WTSH breeding colonies. (PI = Popoia Island, MOK = Mokulua Islands, MI = Manana Island, KI = Kaohikaipu Island, FSP = Freeman Seabird Preserve). Star marks the location of the Sea Life Park seabird rehabilitation center. Inset maps show the island of O'ahu, and the main Hawaiian Islands. Map features are overlaid on an ArcGIS Pro Software Version 2.5 base layer [24].

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Intake records

Members of the public deliver grounded WTSH to Sea Life Park (SLP), a marine life center located along our survey route in Waimānalo, for rescue and rehabilitation. SLP intake records, involving the daily number of rescued WTSH chicks, have been used to document the island-wide temporal variability in WTSH fallout during the fledging season and from year to year [21, 22]. To provide a broader context for our localized surveys of a known WTSH fallout hotspot, we compared the timing and the magnitude of annual fallout documented in the SLP intake records and our surveys.

Road surveys

We used a time series of standardized road surveys along a 17.3-km stretch of the Kalaiana'ole Highway, starting at the Olomana Golf Club, running through Waimānalo, and ending at the Koko Marina Center (Fig 1). While this survey route is a subset of the area surveyed by

USFWS from 2002–2010, it encompasses the main WTSH fallout hotspot in Waimānalo [21]. We conducted morning surveys by car, every 3 days, throughout the WTSH fledging season (November 6–December 21). We began surveys at sunrise (6:15–7:15 AM) and drove the route once in each direction, at speeds between 25–35 mph, while visually searching for dead birds in each lane and along the shoulder. Since these surveys were conducted in the morning, likely a full 12 hours after fledging time, almost all the birds we observed were deceased. In 8 years of surveys, we observed 2 live birds, which were brought to SLP for rehabilitation and not counted in our analysis. All dead birds sighted while driving were included in the surveys, even if they were found on the shoulder, the median, or off the road.

Upon encountering a carcass, we recorded its position on the road, location (latitude and longitude coordinates from a hand-held Garmin e-trex GPS unit), nearest street address, and nearest utility pole using their unique id tags. We also took photos of each WTSH we encountered, showing diagnostic identification features (head and feet).

Environmental variables

We related WTSH fallout to two publicly-available environmental datasets: (i) wind speed (knots) and wind direction (degrees) recorded on Moku Lo'e (Kaneohe Bay) and provided by PacIOOS [27], and (ii) the lunar cycle, quantified using the percent of the lunar disk that was illuminated each night, from the U.S. Naval Observatory [28].

Because WTSH fledge during the night, we averaged the hourly wind data every night (18:00–6:00 local time). To match our surveys to the preceding environmental conditions, we related the number of grounded WTSH documented during a given road survey to the average wind speed (knots), wind direction (degrees), and lunar disk illumination (%) from the three nights prior.

Data analysis

We analyzed fallout across and within years using generalized linear models (GLM) built with R version 3.5.1 and the stats and MASS packages [29]. We developed and fitted nine separate models: a full model (involving all study years) quantified interannual variability, and eight yearly models visualized the interannual differences documented by the full model.

We ran all models using both Poisson and negative binomial distributions. Because the Poisson assumes that the variance equals the mean, the negative binomial is more appropriate whenever there is overdispersion [30]. We used the Akaike Information Criterion corrected for small sample size (AICc) to select the best-fitting distribution for each model [31].

Multi-year model of WTSH fallout. We related the number of WTSH observed during 128 surveys of the entire study area (16 per year times 8 years) to the light regime (unshielded HPS / shielded LED), year (2012–2019), and four environmental variables: moon illumination (% lunar disk illuminated), average wind speed (knots), average wind direction (degrees), and Julian date (the number of days since the beginning of the year).

We used multi-model inference to test all possible combinations of these six explanatory variables. Whenever two of three potentially interacting variables were included in a model, we also considered their interaction ('moon*date', 'moon*wind speed', and 'wind speed*date'). We used the AICmodavg package [29] to assess the model fit using AICc, which prevents over-fitting by penalizing models for each additional variable [31]. AICc assigns a value to each model using the formula, $AICc = -2\log(L) + 2K + (2K(K+1))/(n-K-1)$, where K is the number of parameters, n is the sample size, and L is the maximum likelihood of obtaining the given results with K parameters. We used Akaike weights (w_i) to calculate the likelihood of each

model as follows:

$$\omega_i = \frac{\exp\left(\frac{-\Delta_i}{2}\right)}{\sum_{r=1}^R \exp\left(\frac{-\Delta_r}{2}\right)}$$

where the numerator is the model likelihood with Δ_i showing the change from the lowest AICc model to the given model, and the denominator is the sum of all relative weights, as determined by Δ_r , the change in each contending model from the lowest AICc model. The lowest AICc value indicates the model that best describes the patterns in the observed data without over-fitting [31, 32].

To test the influence of the streetlights, in the context of interannual variability, we built two complementary sets of full models that either included “light regime” (comparing two groups of years: 2012–15 vs 2016–19) or included individual “years”, regardless of their “light regime”. This resulted in a total of 106 models: 36 included “light regimes”, 36 included “years”, and 34 included neither. Individual models ranged from having one to eight predictors (five variables and three interactions) (S1 Table). Following Michael et al. (2014), we assessed the importance of each variable in terms of their scaled average weight, calculated using the models where those variables were included.

Yearly models of WTSH fallout. We related the number of WTSH observed during 16 surveys of the entire study area (every three days during a single year) to the four aforementioned environmental variables: moon illumination, average wind speed, average wind direction, and Julian date (S1 File). We did not consider variable interactions, and calculated pseudo R-squared values based on the standard errors using the ‘rsq’ package [29].

Results

Fallout records

To interpret our road surveys in a broader context, we compared the number of grounded WTSH we documented along the SE corner of O'ahu with the SLP intake records, which provided an island-wide measure of fallout timing and magnitude. The SLP intake records of fledging chicks spanned from November 2 to January 5, and our observations of grounded shearwaters along the Kalaniana'ole Highway spanned from November 6 to December 21. Overall, only 2.3% of the SLP intake records fell outside of our road survey period (November 6–December 21), with yearly proportions ranging from 1.3% to 6.3% (S1 Table).

The total number of rescued WTSH brought into SLP yearly across the 8-year study varied by nearly an order of magnitude, ranging from 74 to 525 birds per year, with an average of 226.1 +/- 170.6 S.D. (median = 159.5) (S1 Table). The number of WTSH carcasses observed on the survey route per year also varied widely, ranging from 7 to 60 birds, with an average of 24.1 +/- 18.7 S.D. (median = 17.5) (S1 Table). There was a positive correlation between the yearly number of road-killed birds (our surveys) and rescued birds (SLP records), with 2012 and 2016 standing out as high-fallout years ($r^2 = 0.85$, $df = 6$, $p < 0.01$) (Fig 2). There were 469 rescued birds in 2012 and 525 in 2016, with both years exceeding the median by over 300 birds. Likewise, there were 60 road-killed birds in 2012 and 45 in 2016, compared to the median of 17.5 birds. The lowest numbers of rescued and road-killed birds occurred in 2018, with 74 and 7 birds respectively.

Fallout modeling

Over the 8-year study, the number of grounded WTSH observed per survey ranged from 0 to 10, with an overall average of 1.5 +/- 2.2 S.D. (median = 1) (Fig 3). Moreover, to account for

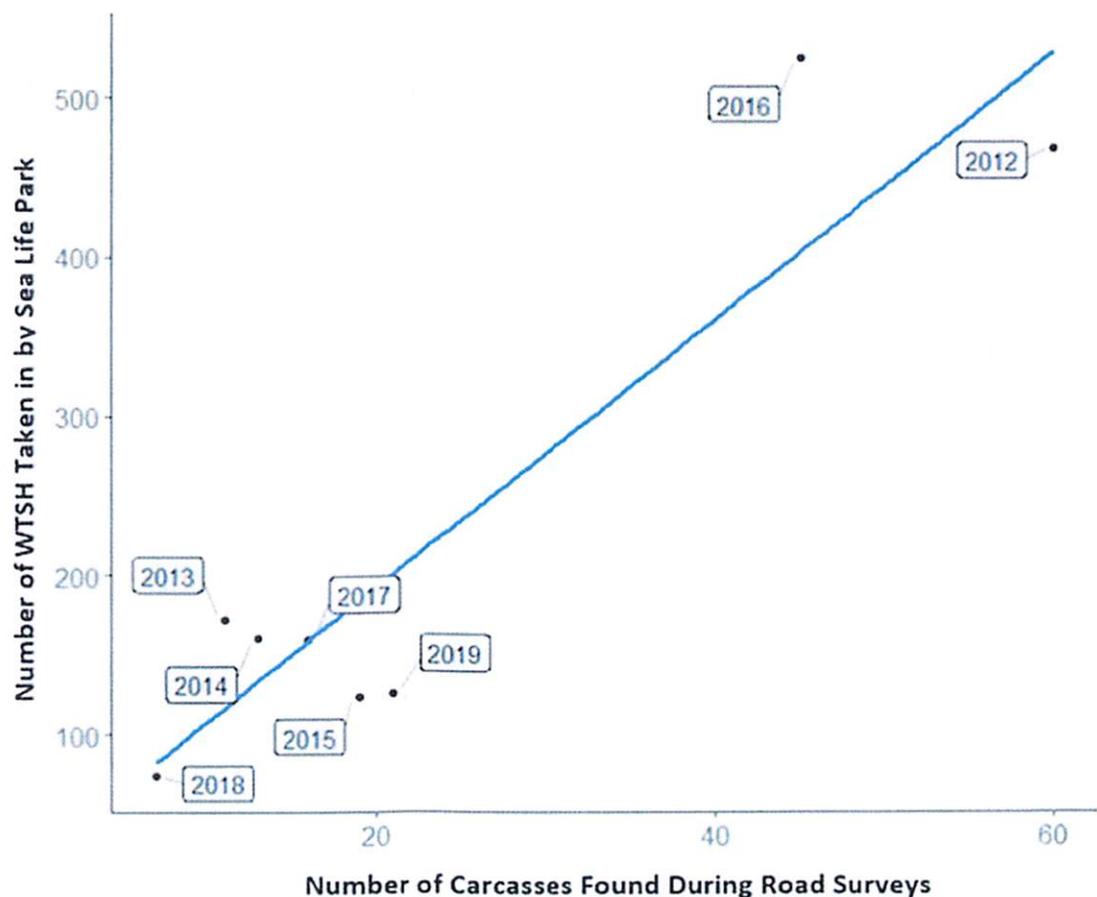


Fig 2. Fallout comparison between Sea Life Park intake records and road surveys. Scatterplot showing the total rescued WTSH per year from Sea Life Park intake records versus the total WTSH carcasses documented per year during road surveys ($r^2 = 0.85$).

<https://doi.org/10.1371/journal.pone.0265832.g002>

the large proportion (46%) of absences (0 WTSH detected during a road survey), we fitted the fallout count data to Poisson ($1 < \text{VMR} < 2$) and negative binomial ($\text{VMR} > 2$) distributions. We developed and fitted a full model and eight single-year models.

Multi-year model of WTSH fallout. Because 9 different model formulations were required to achieve an AICc weight of 0.90, this model set was used to ascertain the importance of the driver variables. Of the 9 variables tested, only the interaction between moon illumination and wind speed (moon* wind speed) achieved a scaled average weight > 1 and was thus deemed an “important” variable (S2 Table). Moon, wind speed, and year all had weights of 1, because they contributed an average amount to each model’s weight. Date, wind direction, (moon* date), and (wind speed* date) had weights < 1 , and contributed less than the average variable to each model’s weight. Light regime had a weight of 0, and did not appear in any of the models required to achieve the AICc weight of 0.90.

The overall best-fitting model had a weight of 0.37 and included four explanatory variables: moon, wind speed, year, and the interaction of moon and wind speed (moon* wind speed) (Table 1). All variables in this model were significant, except wind speed and year 2016 (not significantly different from 2012). The negative coefficient for the moon variable in this model (-2.9) indicates that, across the 8-year period, fewer birds were grounded when a greater percentage of the lunar disk was illuminated. All years except for 2016 were significantly different

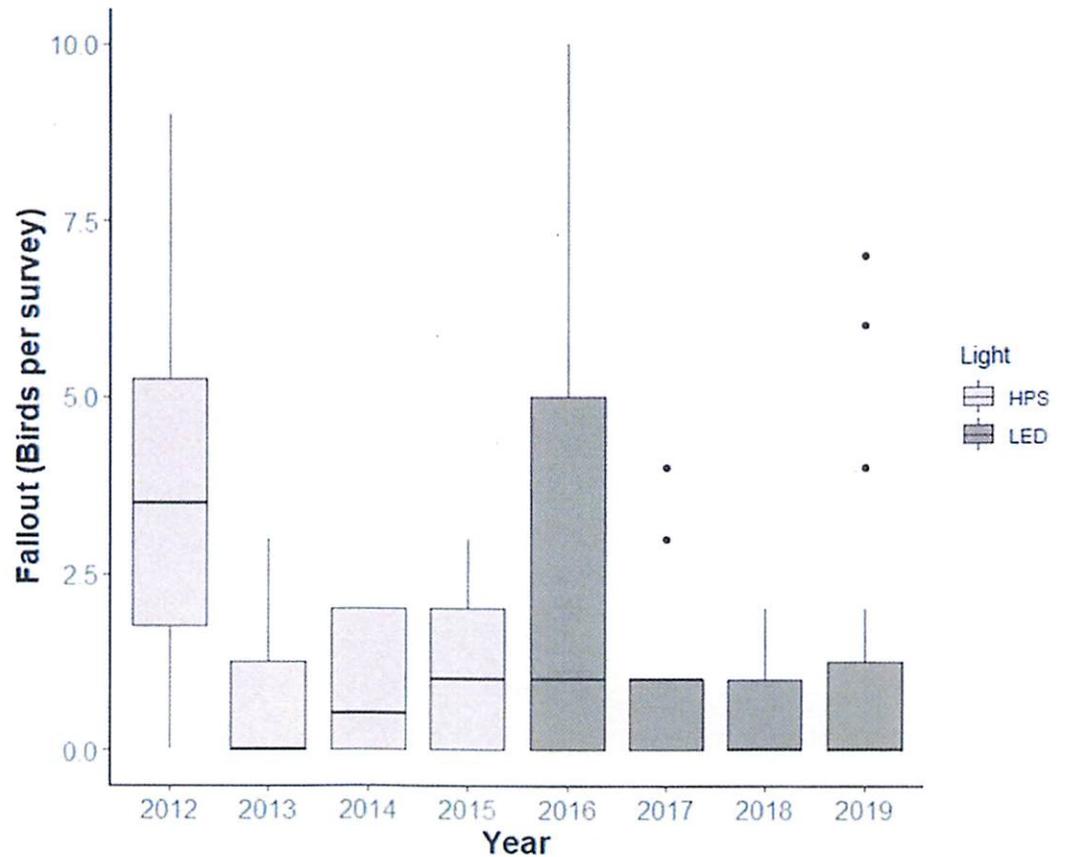


Fig 3. Boxplots of WTSH carcasses observed during road surveys. Distribution (5, 25, 50, 75, 95 percentiles) of the number of grounded WTSH observed each study year (n = 16 yearly surveys). Dots indicate outliers.

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Table 1. Full model output.

Explanatory variable	Estimate	S.E.	Z-value	p-value
Intercept ^a	2.136	0.580	3.709	<0.001
Wind Speed	-0.027	0.046	-0.576	0.565
Moon	-2.884	0.827	-3.485	<0.001
Year2013	-1.711	0.447	-3.825	<0.001
Year2014	-1.685	0.406	-4.148	<0.001
Year2015	-1.490	0.365	-4.082	<0.001
Year2016	-0.373	0.324	-1.148	0.251
Year2017	-1.661	0.391	-4.247	<0.001
Year2018	-2.492	0.483	-5.153	<0.001
Year2019	-1.034	0.366	-2.824	0.005
Wind Speed* Moon	0.225	0.083	2.710	0.007

GLM results from best-fit full model, following a negative binomial distribution. Bold font denotes significance at alpha < 0.05.

^a Reference year (intercept) is 2012.

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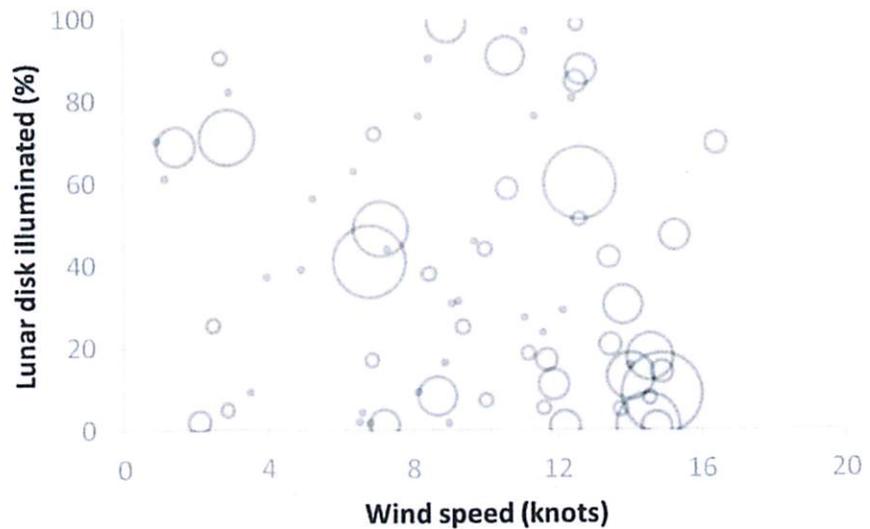


Fig 4. Fallout as a function of moon illumination and wind speed. Scatterplot of the number of grounded WTSH observed per survey, in relation to wind speed, and moon illumination. Open circles indicate the presence of fallout, with the increasing radius ranging from 1 to 10. Small solid dots indicate the absence of fallout (0 birds).

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from the reference year (2012). The interaction between wind speed and moon had a positive coefficient (+0.23) suggesting that fallout was higher during periods of lower lunar illumination and higher wind speed (Fig 4).

Yearly models of WTSH fallout. In addition to the interannual variability in the number of WTSH observed during road surveys (Fig 3), the temporal aggregation of fallout across surveys was also highly variable, as evidenced by the varying dispersion (variance to mean ratio, VMR) observed yearly (1.02–4.03) (Table 2). Moreover, due to the large proportion (46%) of absences (0 WTSH detected during a road survey), fallout counts followed a Poisson distribution ($1 < \text{VMR} < 2$) in every year, except for 2019 (VMR = 4.03), when the negative binomial model yielded a lower AICc value.

Table 2. Yearly model output.

Year	Dis.	VMR	Pseudo Adj. R ²	Estimate					p-value				
				Int.	WS	WD	Moon	Date	Int.	WS	WD	Moon	Date
2012	P	2.11	0.41	-29.293	-0.744	-0.032	-0.065	0.137	0.096	0.236	0.408	0.071	0.054
2013	P	1.50	0.51	-28.120	0.684	0.029	-4.944	0.065	0.146	0.028	0.016	0.006	0.211
2014	P	1.02	0.64	3.055	0.393	0.003	-1.659	-0.020	0.751	0.045	0.782	0.144	0.456
2015	P	1.14	0.33	-3.680	0.03	-0.001	1.993	0.008	0.575	0.818	0.902	0.006	0.720
2016	P	3.89	0.50	-0.169	0.268	0.002	0.439	-0.006	0.979	0.034	0.816	0.507	0.777
2017	P	1.20	0.18	8.690	0.099	-0.002	-0.854	-0.027	0.291	0.273	0.638	0.291	0.309
2018	P	1.20	0.57	-20.160	-0.190	-0.001	-1.592	0.064	0.183	0.546	0.959	0.261	0.178
2019	NB	4.03	0.26	42.940	-0.100	-0.022	-3.305	-0.115	0.056	0.543	0.196	0.004	0.055

GLM output of annual fallout models, based on 16 surveys (Nov. 6–Dec. 21) and clumped data distributions (P = Poisson, NB = negative binomial), as evidenced by the variance to mean ratio (VMR). In addition to the intercept (Int.), four explanatory variables were considered: wind speed (WS), wind direction (WD), lunar illumination (Moon), and Julian Date (Date).

^a The bold font denotes significance at alpha < 0.05, and the pseudo adjusted R-squared quantifies the model fit.

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Overall, the yearly models explained a wide range of the variation in fallout throughout the fledging season, with their pseudo R^2 values ranging from 18% (2017) to 64% (2014). Moreover, different variables were significant in different years (Table 2). Surprisingly, the influence of moon illumination was not consistent across our study, with a significant effect in three years: it was negative twice (2013 and 2019), and it was positive once (2015). Wind speed had a significant positive effect in three years (2013, 2014, and 2016), whereby higher wind speeds led to more fallout. Wind direction had a significant positive effect once (2013), whereby wind blowing from the southwest led to more fallout. Julian date was never significant, suggesting that fallout was variable throughout the survey period (November 6–December 21).

Overall, while fallout was explained well (pseudo $R^2 \geq 0.5$) by wind speed alone in 2014 and 2016, it was explained moderately well (pseudo $R^2 \geq 0.3$) by moon illumination alone in 2015 and 2019. In 2013, about half of the fallout variation was explained by a combination of wind speed, wind direction, and moon illumination. In three years (2012, 2017, and 2018), fallout was not significantly explained by any of the predictors.

Two years (2012 and 2016) showed significantly higher fallout compared to the other study years (Fig 3) and together accounted for 55% of the WTSH found during road surveys. Those same years were also responsible for 55% of all rescued birds brought to SLP, within the time-frame of this study. While none of the predictor variables were statistically significant in 2012, moon and date were marginally significant ($0.10 < p < 0.05$) (Table 2). The highest yearly fallout occurred in 2012, when 60 WTSH were grounded during an early new moon period (Julian days: 317–326, November 12–21), and a later one (Julian days: 344–353, December 11–18) (Fig 5), both of which were accompanied by strong winds (Fig 6). In 2016, a new moon period occurred in the middle of the fledging season, leading to a single peak in fallout (Fig 5), which coincided with a period of high wind speeds (> 12 knots), increasing the number of birds grounding at this time (Fig 6).

Discussion

Timing and magnitude of WTSH fallout

The strong positive correlation between the yearly numbers of grounded WTSH found during our road surveys and rescued WTSH brought to SLP suggests that our small-scale surveys of a fallout hotspot are indicative of island-wide fallout trends on O'ahu. Both the rescue records and the road surveys documented the highest fallout in 2012 and 2016, and the lowest fallout in 2018. Moreover, only 2.3% of the WTSH brought to Sea Life Park during the fledging season between 2012–2019 fell outside of our study period (November 6–December 21), suggesting that our survey window captures most of the fledging season fallout.

Interpretation of model results

Multi-year model of WTSH fallout. Our hypothesis that the LED streetlights would increase shearwater groundings due to higher sensitivity to shorter wavelengths was not supported, as the light regime was not selected as a significant predictor variable in any of the top models. It is possible that shearwater visual perception of LED lights was in fact greater, but shielding reduced initial attraction, thus balancing out overall fallout. However, even if this were the case, our analysis could not distinguish between these two factors, because the changes in bulb type and shielding were not independent. Nonetheless, this finding has useful implications for resource managers since LED lights are a common replacement for HPS lights in Hawai'i and elsewhere. While we encourage managers to seek lighting adjustments that will mitigate fallout, our study shows that the change in streetlights from unshielded HPS to shielded 3000 K–4000 K LED did not exacerbate this problem for WTSH on O'ahu.

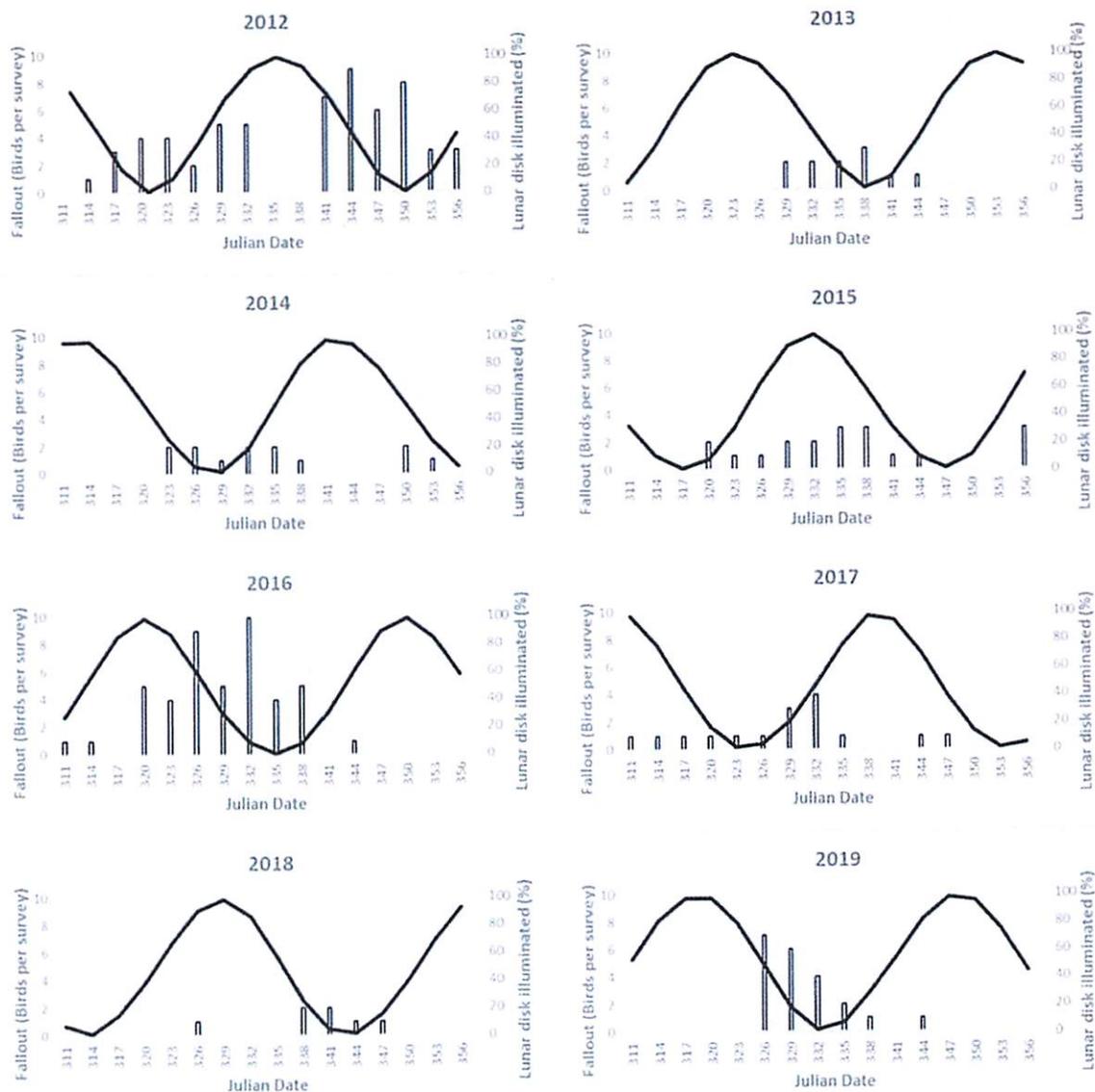


Fig 5. Moon illumination and fallout. Time series of the number of grounded WTSH observed per survey (bars) and nightly lunar illumination (back line). The dates on the x-axis indicate the survey days.

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It is possible that, even if there was an effect of light type on WTSH fallout, its influence was marginal compared to the effect of the other environmental drivers. In particular, the higher than average variable weight of the interaction between moon and wind speed suggests that fallout is a dynamic process, driven by the synergy of low moon illumination and strong winds, more so than by moon or wind alone (Fig 4, S2 Table). While previous studies have identified the importance of moon and wind, this is the first time their interaction has been considered.

This significant interaction underscores a conceptual model, whereby wind speed determines the magnitude of fledging birds departing their colonies, and the moon illumination

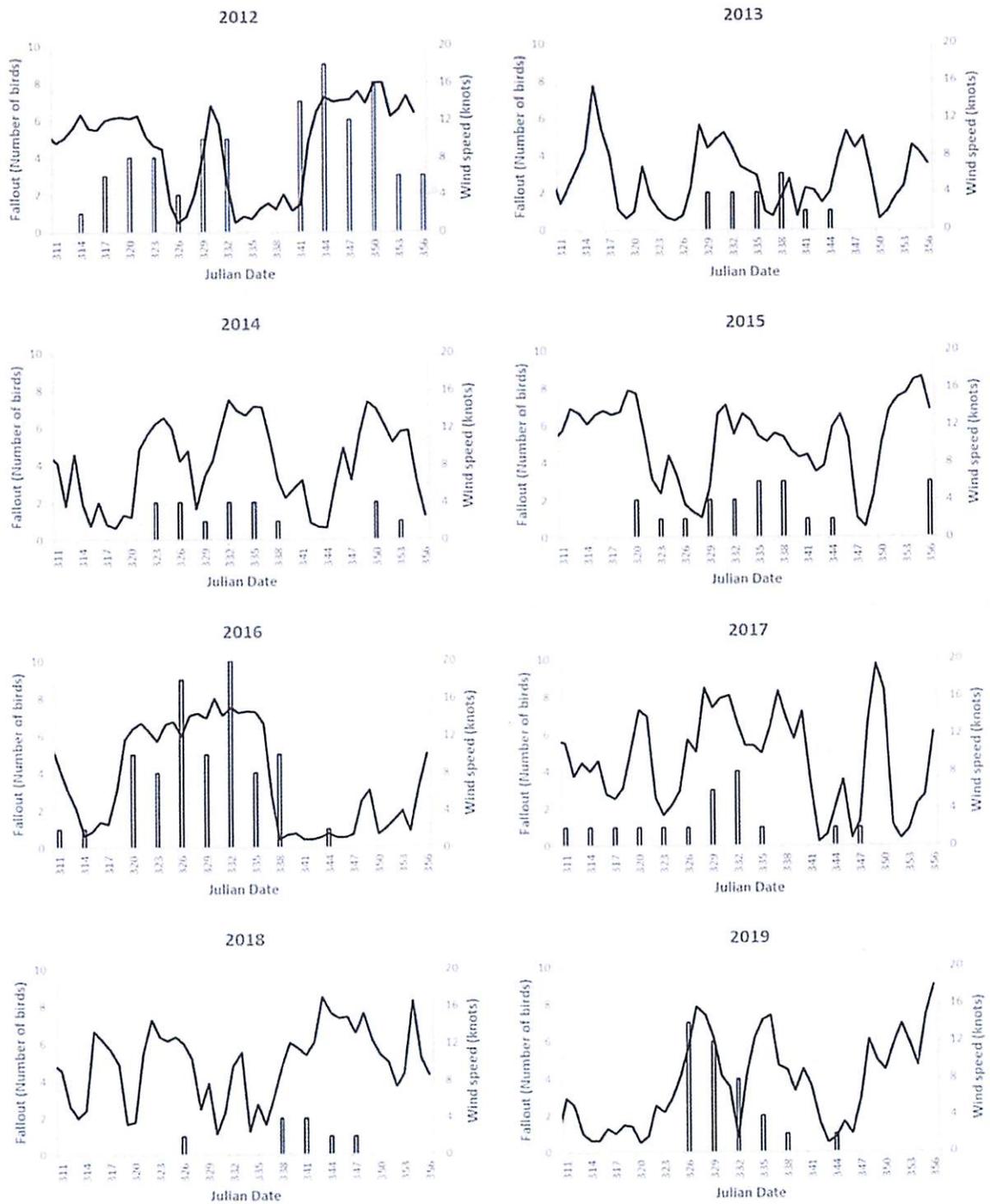


Fig 6. Wind speed and fallout. Time series of the number of grounded WTSH observed per survey (bars) and nightly wind speed (back line). The dates on the x-axis indicate the survey days.

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determines the attraction of those fledglings toward onshore lighting. This conceptual model can explain why years like 2016, when the peak of the fledging season coincided with a new moon and high wind speeds, have greater fallout.

While the interaction of the lunar illumination and the wind speed was critical, the timing of these variables, captured using their interactions with date, were less important. Together, these results suggest that, within the time frame of our study, fallout is most dependent on the temporal overlap of low moon illumination and high winds, rather than on their specific timing.

Yearly models of WTSH fallout. The influence of the four predictor variables (wind speed, wind direction, moon, and Julian date) were not consistent across all 8 study years. While most previous studies have found strong negative relationships between moon illumination and fallout, our yearly models only documented this pattern in 2 years [4, 8, 10, 11, 33]. One possible explanation for this result could be a mismatch between moonrise / moonset times and WTSH fledging. We used an average lunar disk illumination for the three nights prior to each survey, assuming that this would be representative of visible moonlight while WTSH were fledging. However, if most birds fledge shortly after sunset, before the moon rises during waning moon phases, conditions will resemble a new moon [16, 34]. Similarly, if island topography or clouds obscure a rising moon from a given natal colony, the navigational benefits provided by the lunar disk could be compromised until the moon rises over obscuring landscape features. The peak fledging times of WTSH are unknown but could be useful to improve our understanding of the influence of moonrise / moonset times on fallout. Furthermore, the lack of strong lunar trends in the yearly models could be due to small sample sizes, with each year only involving 16 surveys.

Contrary to Rodríguez et al. (2014), who documented a significant increase in fallout as the fledging season progressed, our yearly models did not find a date effect. However, the likelihood of finding an effect of date depends partly on the timing and the duration of the study period. While opportunistic studies using intake records and citizen-science programs sample a wider temporal window, spanning before and after the fledging season, our surveys spanned a narrow temporal window during the WTSH fledging season. Thus, our results suggest that, due to interannual variability in the timing and magnitude of fallout, on average it is distributed evenly throughout our study period (November 6 –December 21). Fledging primarily occurs during this 6-week period, and is likely modulated by a variety of factors, including breeding phenology, chick development, and environmental conditions [10, 33, 35].

The positive relationship between wind speed and fallout is likely related to the fledglings using this environmental cue for fledging and relying on wind to take flight. One possible explanation for why we observed more fallout with higher windspeeds is that intermediate to strong windspeed enable WTSH to take flight, however a lack of flight experience and muscle development may make it difficult for fledgling birds to navigate in strong winds, thus leading to more fallout under higher wind speeds [36, 37].

Although the model results suggest that wind speed is more important than wind direction, an exception to this general pattern was observed in 2013, when peak fallout coincided with a period of moderate to weak southerly winds (S1 Fig). A previous study on O'ahu suggested that winds from the southeast were more common during a year of very high fallout and hypothesized that birds were advected to the northwest and deposited along the entire windward coast of the island [22]. The lack of significance of wind direction in years other than 2013 may be related to the prevailing wind patterns on windward O'ahu, which rarely switch from the northeast direction, thus limiting the comparison of different wind directions. Furthermore, because south-westerly winds during the study are characterized by lower speeds, any potential influence of direction is not independent from the wind speed effect discussed previously (S2 Fig).

Previous studies show an increase in fallout when prevailing winds are directed toward brightly lit coastal areas [10, 11]. Yet, the influence of wind direction is difficult to interpret since headings are circular (0–360 degrees) and should be carefully considered on a case-by-case basis. Because the prevailing winds in our study area are the northeasterly trade winds or southern (Kona) storms, these bi-directional wind headings facilitated the analysis and simplified the interpretation. With the exception of 2013, peak fallout occurred during trade winds (Fig 6).

Although our study did not show a significant effect of Julian date on fallout, previous road surveys from O'ahu spanning ten years (2002 to 2010), revealed that November 25 was the peak fallout date, with 67% of the grounded WTSH found during a one-week period (21–27 November) [21]. We hypothesize that the timing of the moon phase, in relation to this peak fallout period could explain the interannual relationship of moon illumination and fallout. Namely, higher fallout occurs in years when the new moon overlaps the peak fallout week (21–27 November).

In 2015, the full moon occurred on November 28, whereas in 2013 and 2019 the moon phase was closer to a new moon on that date. It appears that when peak fallout coincides with a new moon, a single fallout peak occurs, thus causing a negative correlation with moon illumination. However, if peak fallout coincides with a full moon, the unimodal pattern breaks down, resulting in two smaller fallout peaks. Previous work yielded a quadratic relationship between the timing of the full moon and the number of Newell's shearwater (*Puffinus newelli*) fallout, with fewer total groundings when the full moon occurred during the middle of the month [5]. When we replicated this analysis for WTSH, the quadratic model was not significant ($R^2 = 0.038$, $F_{2,5} = 1.140$, $p = 0.39$), suggesting that annual fallout did not follow the same pattern with the timing of the full moon. Although, other variables such as the timing of moon rise, cloud cover, and topography blocking the moon were not taken into account and may play a role in the moon's influence on fallout. Demographic factors, involving the size of the breeding population and the reproductive success likely influence the yearly supply of fledging chicks [5].

Implications for fallout mitigation

Our results are reassuring because they suggest that the shielded LED streetlights did not increase WTSH mortality due to fallout, as we hypothesized. Given the strong correlation between the dead birds observed in our road surveys and the live birds brought to SLP, there is no evidence suggesting that the shielded LED streetlights impacted the number of birds affected by fallout overall. However, because these new lights did not reduce fallout, wildlife managers may consider modifications such as dimming, wavelength alteration or motion sensors, to mitigate negative impacts to fledging WTSH on O'ahu [6, 19].

A recent survey of lighting experts suggests that while LEDs can be adjusted to reduce light pollution and minimize wildlife impacts, yet municipalities rarely capitalize on those benefits [19]. For instance, although new-technology LED streetlights can filter out lower wavelengths [17], full spectrum white LED lights maximize brightness, and are commonly chosen to replace HPS streetlights. Furthermore, LEDs come in a variety of CCTs with options as low as 2200 K, the maximum temperature experts recommend for wildlife [17]. However, municipalities commonly implement 3000–5000 K LED streetlights because of their efficiency for human use [19]. Future studies should compare different LED lighting options in areas where seabird fallout occurs to determine the characteristics that best mitigate negative impacts to seabirds and other wildlife.

While it may be unfeasible to reduce light pollution wherever fallout occurs, areas near breeding colonies could be targeted for localized management [21]. In addition to diminishing

light pollution during the fledging season, we also encourage community-based rescue efforts for WTSH to target fallout hotspots on O'ahu on nights with low moon illumination and strong winds. Further documentation of fallout hotspots could help guide lighting management and rescue efforts throughout the Hawaiian Islands.

Finally, predictive fallout models are limited by the lack of comprehensive annual population estimates, which might have explained some of the interannual variation in the number of grounded birds. Thus, annual WTSH breeding population sizes and reproductive success would likely improve our understanding of fallout interannual variability and trends in Hawai'i. The findings and conclusions in this article are those of the authors and do not necessarily represent the official views of the U.S. Fish and Wildlife Service.

Supporting information

S1 Table. Annual data from sea life park and road surveys. Comparison of annual WTSH fallout magnitude (total number of grounded birds) and timing (date ranges) from Sea Life Park intake records and road surveys (this study). Summary statistics (mean, median, and range) refer to the number of grounded birds encountered yearly, based on 16 standardized surveys spanning November 6 to December 21.

(TIF)

S2 Table. Variable importance in AICc analysis. Scaled average variable weights. (> 1 values indicate greater than average weight when variable was included in model; weights = 1 are average, weights < 1 less than average).

(TIF)

S1 Fig. Wind direction and fallout in 2013. Wind direction and fallout during the 2013 fledging season. Black line is wind direction and white bars are number of birds per survey.

(TIF)

S2 Fig. Wind speed and wind direction. Scatterplot of wind speed and wind direction during the fledging seasons 2012–2019 ($R^2 = 0.71$).

(TIF)

S1 File. WTSH fallout data from road surveys. Data from road surveys (total = 128) including variables year, Julian date, moon illumination (%), wind speed (knots), wind direction (degrees), light regime (HPS = high pressure sodium, LED = light emitting diode), and number of grounded WTSH observed.

(XLSX)

Acknowledgments

We would like to thank Jeff Pawloski for providing Sea Life Park intake records, David Field and Susan Carstenn for input on the analysis and writing, and Pelagicos lab members who assisted with the road surveys: Sarah Donahue, Michelle Hester, Angelica Moua, Anessa Musgrove, and Dan Rapp.

Author Contributions

Conceptualization: K. David Hyrenbach, Keith Swindle.

Data curation: Jennifer Urmston.

Formal analysis: Jennifer Urmston.

Funding acquisition: K. David Hyrenbach.
Investigation: Jennifer Urmston.
Methodology: Jennifer Urmston, K. David Hyrenbach, Keith Swindle.
Project administration: K. David Hyrenbach.
Supervision: K. David Hyrenbach.
Visualization: Keith Swindle.
Writing – original draft: Jennifer Urmston.
Writing – review & editing: K. David Hyrenbach, Keith Swindle.

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**COUNTY OF MAUI
WASTEWATER RECLAMATION DIVISION**
2200 Main Street, SUITE 610
WAILUKU, MAUI, HAWAII 96793

RECEIVED

2022 JUL -1 AM 7:45

June 30, 2022

**OFFICE OF THE
COUNTY CLERK**

TO: COUNCIL CHAIR LEE AND COUNCIL MEMBERS

FROM: SCOTT ROLLINS, CHIEF

**SUBJECT: TESTIMONY REGARDING COMMITTEE REPORT 22-47 BILL 21, CD1 (2022)
RELATING TO OUTDOOR LIGHTING
COUNCIL MEETING JULY 1, 2022 - ITEM J.1. No. 22-154**

The Wastewater Reclamation Division (WWRD) opposes the proposed bill in its current form as it will impact our construction projects, reduce the safety for our employees, decrease security at our facilities, increase energy consumption, and may hinder our ability to fully perform our jobs during non-daytime hours. The Division requests that the bill be recommitted for further discussion. Details on proposed changes are as follows:

1. WWRD recommends that the proposed bill be amended to allow for an exemption for temporary lighting for wastewater or other utility/roadway projects.
 - a. Construction Projects – Several Capital Improvement Projects (CIP) or portions of projects each year are scheduled during night-time hours in order to avoid traffic congestion or are required to be performed during low wastewater flow periods to avoid potential sewage spills. Without temporary lighting, night work is no longer a viable alternative for managing traffic or conducting critical connections or upgrades during low flow hours.
 - b. Spill response and emergency repairs: Line breakages, blockages and emergency repairs are not limited to daytime hours. In order to help assure worker safety and timely response, temporary lighting is sometimes necessary to perform work.

2. WWRD recommends that the proposed bill be amended to delete the requirement for wall surfaces hit by light to be non-reflective surfaces. This hinders operations in several ways:
 - a. Break-in's and theft from our County base yards and treatment facilities costs us tens of thousands of dollars each year. Recently we have had catalytic converters stolen, vehicles broken into resulting in tools/supplies stolen, vehicles stolen/vandalized, gas tanks damaged and drained etc. Security lighting is a deterrent and is needed to identify people on surveillance video. Security lighting and the energy consumed at WWRD facilities can be minimized when reflective light is considered.
 - b. Non-reflected light is absorbed. Thus, when buildings are painted with dark colors or matte paint, sunlight will further heat buildings resulting in increased energy use and the associated expense to keep equipment and/or occupants cool.

3. WWRD recommends that the requirement for short wavelength content to no more than two percent of blue light content be eliminated.
 - a. The State Department of Land and Natural Resources Division of Forestry and Wildlife, the state authority on wildlife management and seabird fallout does not mention any recommended changes to lighting in relation to blue light. (<https://dlnr.hawaii.gov/wildlife/seabird-fallout-season/>)
 - b. WWRD was unable to find any studies that correlated a lower seabird fallout due to these proposed LED fixtures.
 - c. This limitation will result in fewer lighting options.

4. WWRD recommends that exemption H in section 20.35.060 include major Maui County facilities such as Wastewater or Water Treatment facilities.
 - a. These facilities are large in nature and typically require perimeter lighting and lighting of treatment basins/ponds/channels for monitoring the treatment process, safety and security.
 - b. Night time callouts for staff answering alarms or retrieving equipment for emergency repairs requires adequate lighting in order to see the surrounding areas and avoid any possible hazards (intruders, spills etc.)

We appreciate the ability to comment on this bill and thank you for your consideration of these changes. Please contact our Department/Division or myself (270-7427) should you have any questions or require any additional information.

Sincerely,



Scott R. Rollins, P.E.
Wastewater Reclamation Division Chief

xc: Eric Nakagawa, Director Dept. of Environmental Management
Francis Asiu, Wastewater Operations Program Superintendent

Honorable Michael P. Victorino
For Transmittal to:
Honorable Alice L. Lee, Council Chair and
Members of the Maui County Council
June 29, 2022
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It will take time for the Department to establish the training and expertise necessary to determine whether a lighting fixture is compliant, particularly as it relates to measuring blue light content according to the bill's definition. Unless projects opt for the removal of all outdoor lights associated with their projects, the projects must be stopped or be subject to enforcement action for non-compliance until such time when the Department is prepared to make compliance determinations.

The Department recommends the proposed bill be amended to exempt residential properties from complying with the new lighting standards, which is consistent with the Hawaii County ordinance.

2. Current energy efficiency projects involving lighting must be abandoned and the associated material costs and energy savings will be immediately lost.

The County spent \$3.8 million to purchase 4,800 brand-new streetlight fixtures as part of its Streetlight Conversion Project (the "Project"). None of these fixtures comply with the filtered or blue light content requirements of the proposed bill. For the Department to continue the project, another 4,800 streetlight fixtures must be purchased at a cost that will be significantly higher than the initial \$3.8 million already spent.

Additionally, the conversion from high-pressure sodium to light emitting diode (LED) light fixture is estimated to save the County \$660,000 per year in electricity costs. Completion of the Project has already been delayed by three years resulting in lost energy savings of approximately \$2 million. The Project will need to be entirely restarted to ensure compliance with the proposed bill. This will cause an additional three years of delays and result in the loss of an additional \$2 million in electricity savings.

The Department recommends the proposed bill be amended to allow for a limited exemption for streetlights to allow the County's current streetlight conversion project to proceed and require that subsequent streetlight replacements to comply with the new lighting standards.

3. Emergency operations and CIP projects will be hindered.

Events and activities conducted at night require the use of temporary lighting. Unlike the Hawaii County ordinance, the proposed bill does not provide an exemption for such temporary lighting and there are no readily available alternatives that would comply with the proposed bill's requirements. Any current or proposed night activities would need to be suspended until compliance can be determined.

Impacted activities include emergency operations and capital improvement projects. Without temporary lighting, night work is no longer a viable tool to managing traffic impacts in situations where concurrent roadway projects and post-disaster cleanups are occurring in the same vicinity.

The Department recommends the proposed bill be amended to allow for an exemption for temporary lighting.

4. The requirement for wall surfaces to be “non-reflective” is unenforceable and contrary to the purpose and intent of the County’s Energy Code.

The proposed bill requires any wall surface hit by light to be “non-reflective”, but does not define what this means. The bill attempts to provide examples of non-reflective surfaces, such as the use of matte paint. However, by definition, matte paint does not comply with the requirement of being non-reflective. The Merriam-Webster dictionary defines “non-reflective” to mean not capable of reflecting light. The least reflective paint developed to date, named Singularity Black, still reflects 1.5% of light that hits the surface. Typical matte black paint reflects about 20% of light that hits the surface. No surface can be non-reflective except in the absence of light.

Additionally, requiring building surfaces to be black or dark colors undermines the benefits that the County’s Energy Code seeks to achieve. A consequence of the reduced reflectivity provided by dark colors is an increase in heat absorption. Building cooling systems have to work harder and expend more energy to counteract the additional heat loads absorbed by the dark-colored surfaces. The added heat that dark surfaces will absorb reduces the energy efficiency of the building. The Department recommends the proposed bill be amended to delete the requirement for non-reflective surfaces.

5. The requirement for “filtered“ LEDs is unenforceable.

The proposed bill requires outdoor light fixtures to be a “filtered LED”. A light filter is an accessory device and is not an integral part of a light fixture. The proposed bill would require light fixtures to be filtered even if the light fixture alone complies with the blue light content requirement. Residents and business would not be able to find compliant lighting because filters are not a commonly available accessory for outdoor lighting.

The Department recommends the proposed bill be amended to delete the requirement for “filtered” light fixtures.

6. No evidence supports less blue light will result in less seabird fallout.

The Department recognizes that artificial human activities have the potential to impact natural processes in the environment. However, the Department is not aware of any evidence showing that reducing the blue light content of outdoor lighting results in any measurable reduction to seabird fallout. Therefore, it is unclear whether the purported benefits of the proposed bill will outweigh its unintended consequences.

The State Department of Land and Natural Resources, who is the State’s authority on wildlife management and seabird fallout, maintains a Seabird Fallout Season webpage (<https://dlnr.hawaii.gov/wildlife/seabird-fallout-season/>) that provides information about seabird-friendly lighting. The strategies presented on the webpage for reducing light

Honorable Michael P. Victorino
For Transmittal to:
Honorable Alice L. Lee, Council Chair and
Members of the Maui County Council
June 29, 2022
Page 4

attraction focuses on controlling the direction and intensity of light. Nowhere on the page does it recommend prohibiting blue light.

In May 2022, Hawaii Pacific University and the U.S. Fish and Wildlife Service published a study conducted on Oahu that evaluated the impacts on wedge-tailed shearwater fallout caused by converting streetlights from high-pressure sodium to LED fixtures. It was found that the conversion to LED fixtures had no observable impact on fledgling fallout. The Department recommends the proposed bill be amended to delete the requirement relating to blue light content so that the County's efforts can be better directed at implementing the bill's more meaningful mitigations relating to controlling the direction and intensity of outdoor light installations.

Thank you for your consideration of this matter. You may contact me at 270-7845 with any questions.

Sincerely,


JORDAN MOLINA
Director of Public Works

JM:jso

s:\jordan\transmittals\alee_bill 21 cd1 2022 re outdoor lighting comm report 22-47 06.29.22

**MAYOR ALAN M ARAKAWA
407 S. KAMEHAMEHA AVENUE
KAHULUI, HI 96732**

RECEIVED

2022 JUL -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

July 1, 2022

Chair Alice Lee
Maui County Council
200 South High Street
Wailuku, HI 96793

**RE: TESTIMONY OF MAYOR ALAN M ARAKAWA
County Communications 22-151, Resolution 22-119 Entitled: Proposing an amendment to the revised charter of the County of Maui, as amended to establish a Maui County Community Water Authority and an East Maui Community Regional Board.**

Aloha Chair Lee and Members of the Maui County Council,

As the former Mayor of the County of Maui, I am testifying in strong opposition of the Charter Amendment that is being proposed that would authorize the County to establish a Countywide Water Authority and an East Maui Community Regional Board.

Please find below a long list of questions/comments that should be reviewed and addressed prior to Council passing for inclusion in the ballot. As you can see from the list below, there are too many questions about the measure to talk about within one testimony. Here are my questions:

- 1. PRIMARY MESSAGE: Please defer this so that the appropriate agencies and experts can be consulted to avoid pre-emption, duplication of services, public confusion and government inefficiency.**
- 2. The language of the charter amendment (item 7) does not contemplate a feasibility analysis—it says the Water Authority is to manage water collection and delivery systems, including East Maui—where’s the feasibility study?**
- 3. Why is there no cost analysis of this proposal before it is put on the ballot? Doesn’t the public have a right to know the true cost of what they are being asked to vote on?**
- 4. Currently, water is overseen at the State level (i.e. CWRM, BLNR). Section 8-19.5.3 clearly states that this County Authority is a middle-man to the DWS—hiring an administrator and necessary staff to manage water collection and delivery systems acquired, owned or operated by the County. This is a lot of money for a middleman. Why is there no delineation of the respective powers of the Authority, BWS, CWRM and DWS?**

5. This is a radical departure from the current DWS as a department of the County managing county water systems and their lands. In the last 30 or so years, we have seen DWS go from a County department, to oversight by the BWS as a semi-autonomous agency, back to being a county department. This yo-yo'ing of public policy has had an overall negative effect on DWS not having a stable structure to operate under, with each change taking years to fully implement.
6. The sudden request to now consider a Countywide Water Authority as a Charter change begs some significant questioning as to the motivation and need. Is it to bid on the water leases? Couldn't DWS do that if they saw fit to do so?
7. Conflicts
 - a. with 8-11.6 of the Charter, Director of Water Supply powers, duties, and functions:
 1. "responsible for the day-to-day management and control of all water systems of the county." Conflict with 8-19.5(1)
 2. "prepare long-range capital improvement plans" Conflict with 8-19.5 (7 & 8)
 3. "implement enacted long-range capital improvement plans and water use and development plans" Conflict with 8-19.5 (7 & 8)
 - b. with 7-5 (11) and (16) of the Charter, Mayor's powers, duties, and functions. 8-19.5(3) seems to give certain powers to the Administrator.
 - c. Hawaii Supreme Court has held that "repeal by implication is disfavored". Richardson v. C&C of Honolulu, 76 Hawaii 46, 868 P.2d 1193 (1994).
8. Last sentence in 8-19.2, establishes the East Maui Community Regional Board, is that appropriate in the Charter? Language already states that members should reside in the applicable community plan area.
9. Has DHHL/HHC been consulted? If they are required to participate, shouldn't they be consulted in regard to creation?
10. Boards won't be created until acquisition or control of a water collection and delivery system. What about existing systems under control of DWS?
11. Hawaii State Water Plan is required by HRS 174C-31, what will be the relationship between the Hawaii State Water Plan and the plans required by 8-19.5 (7&8)? Has there been any thought to any duplication of work or other inefficiencies?
12. What exactly will the "water lease" in the recitals cover? In preparation of the application for the lease, has there been a review of DLNR's general terms and conditions? What additional oversight is anticipated to be required of a new "department"?
13. 8-19.5(2) is a charter provision, will there be a violation of the Charter if the Administrator fails to acquire the State water lease agreements?

14. The recitals recognize that the water is a public trust resource and cites the Hawaii Constitution, Article XI, Section 7; however it fails to note that the legislature was charged with providing for a water resources agency, which is the Commission on Water Resources Management. The duty to protect the public trust is held by CWRM – not the County. This responsibility was recently made clear in the Lahaina Aquifer Water Management Designation.
15. 8-19-5(4) references initiation of eminent domain proceedings, but it is unclear as to what this means or how it would be triggered; while Section 4-2(7) of the Charter requires a resolution to authorize eminent domain proceedings.
16. The Charter Commission never looked at the issue because no one brought it up to them. If this was an issue back in January of this year that caused the Council to write to DLNR, why didn't the Charter Commission look at it?
17. The Water Use & Development Plan (WUDP) is not mentioned in the "Whereas" clauses. The WUDP, passed by this Council, with a committee report from January 21 of this year mentions the concept of water authorities or public company as something to look at "in the future". Specifically, it says it is a second stage priority to look at in the next 5-20 years, with a study to fully understand its ramifications – a study that should be undertaken by DWS, the Council and the Administration. See recommendation 92 on page 270 of the WUDP. Why is the WUDP not being followed?
18. Hasn't the issue of water allocation been dealt with in East Maui by the CWRM? If so, then why do we need a county authority to run an aging, intricate water delivery system when a competent private company who built the system over 100 years ago can do the job for us?
19. What is DLNR's response to the letters noted in the Whereas clauses? Not part of the public record. If there is no reply, what was the county's follow up?
20. The authority will take years to be fully operational. Where are the draft ordinances and rules that would be required of the authority to be operational? Has anyone even looked at what would be required? What is the authority's annual budget just for administration? What revenues are there currently out of this water system?
21. The authority could not allow water to leave E. Maui leaving Upcountry high and dry. What public policy interest is there in regional fiefdoms controlling resource distribution and the cost of that water?
22. Who will pay when a system breaks down and there is no water or money to fix it? Here's the answer: the County taxpayer.
23. When is the effective date of this charter amendment?
24. Is the charter amendment supported by State law?

Page 4

25. Why hasn't Corporation Counsel signed off as to form and legality?

As responsible Council Members, it is your job to address and put forth a fully vetted measure for inclusion on the ballot for the residents of Maui County. I urge you to do the right thing.

Mahalo,

**Alan M Arakawa
Former Mayor of Maui County**

County Clerk

From: Tamara A. Paltin
Sent: Friday, July 1, 2022 8:47 AM
To: County Clerk
Subject: Fwd: Bill 21 Testimony on for July 1st hearing, 9 AM - on behalf of Maui Hongwanji Temples
Attachments: Bill 21 Hongwanji Testimony.pdf

Sent from my iPad

Begin forwarded message:

From: Kallie Keith <kalliekeith@gmail.com>
Date: July 1, 2022 at 5:18:39 AM HST
To: "Alice L. Lee" <Alice.Lee@mauicounty.us>, "Tasha A. Kama" <Tasha.Kama@mauicounty.us>, "Tamara A. Paltin" <Tamara.Paltin@mauicounty.us>, Kelly King <Kelly.King@mauicounty.us>, "Mike J. Molina" <Mike.Molina@mauicounty.us>, Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>, "Shane M. Sinenci" <Shane.Sinenci@mauicounty.us>, Gabe Johnson <Gabe.Johnson@mauicounty.us>, Diane.shimizu@mauicounty.us, Dawn Lono <Dawn.Lono@mauicounty.us>, "Evan P. Dust" <Evan.Dust@mauicounty.us>, "Mona A. Perry" <Mona.Perry@mauicounty.us>, maria.ornellas@mauicounty.us, trinette.furtado@mauicounty.us, mikiyokouchi@mauicount.us, Kate Griffiths <Kate.Griffiths@mauicounty.us>, mikiyokiuchi@mauicounty.us, "Keani N. Rawlins" <Keani.Rawlins@mauicounty.us>, "Angela R. Lucero" <Angela.Lucero@mauicounty.us>
Subject: Bill 21 Testimony on for July 1st hearing, 9 AM - on behalf of Maui Hongwanji Temples

Some people who received this message don't often get email from kalliekeith@gmail.com. [Learn why this is important](#)

Dear Council Members and Staff,

Please find attached written testimony for Bill 21 on behalf of the four Maui Hongwanji Temples. I will attend this morning's hearing to present a statement orally.

In summary, the Maui Hongwanji Temples are concerned about the potential impact of Bill 21 on our major summer fundraisers, which are the Bon Dances.

We cannot comment on the contents of the bill because we've not had enough time to learn the technology, the changes being proposed, and how they will impact each of our four Maui temples, in Kahului, Lahaina, Makawao and Wailuku. Therefore, we have commented on the process, which we believe would better serve the goals of the bill and the public if it included some form of public outreach.

We suggest that before holding a final vote on this bill, you consider outreach that includes education and opportunity for input. We feel this will improve public acceptance of the proposed changes particularly among smaller non-profits and businesses as well as those holding family and community center-based events.

We believe outreach will minimize public fear/discontent over the changes, and improve mutual support within and between groups and families affected by the bill. We also suspect outreach will improve compliance, and thereby minimize the need for enforcement. It will certainly help us in our individual temple planning and decision making processes.

Thank you for your kind attention, and efforts on behalf of Maui County, our environment, and wildlife.

Sincerely,

Kallie Keith-Agaran
808-280-1926
kalliekeith@gmail.com

Written Testimony on Maui County Bill 21
Kallie Keith-Agaran on behalf of Maui Hongwanji Temples
June 30, 2022

I am a member of the Kahului Hongwanji Board of Directors.

We learned about this bill last week and circulated it and the Corporation Counsel revision of the bill, through leaders at the Wailuku, Makawao and Lahaina temples for their input. I was asked and agreed to speak for that group today.

First we fully support protection of the environment and wildlife preservation. Especially sea birds, as they're an abundant source of wildlife diversity in Hawaii, and they connect us to other parts of the world. **Our support comes directly** from a brief pledge recited in unison at every weekly Hongwanji service in Hawaii, called the "Golden Chain of Love". The relevant passage is:

"I will try to be kind and gentle to every living thing
and protect all who are weaker than myself."

Unfortunately, before we can support this bill, we face 3 challenges, mostly related to the process of this legislation, not the aim and not necessarily content.

1. We're concerned the regulations may affect our largest annual fundraisers, the outdoor "bon dances" that are hosted throughout the summer, by all the Buddhist temples on Maui, and across Hawaii. For example, **Kahului Hongwanji brings in almost half its operating budget during Obon**. Usually each of the roughly 15 temples on Maui hosts at least one night of bon dancing every summer.
2. Understanding the proposed changes and how they will affect us requires technical knowledge that is beyond most of our membership. To be able to make an informed decision, we need those who can understand it to learn about the bill, then discuss it among our temple boards and leadership.
3. We only learned about the bill last week. We were surprised and a little concerned to know the vote on the bill was scheduled to follow first reading by about 10 days. We feel this is a premature and short decision time. For the follow reasons we hope you will consider revising that plan and schedule.

All the Buddhist temples on Maui depend on bon dance revenue for financial stability. That is true this year more than ever, as we've had little to no public revenue for the last two years.

At a time when we're vulnerable due to loss of revenue and manpower over the last two plus years, we're not only facing uncertainty about the success of our major fundraiser this year, we are learning of proposed lighting regulation that may affect our ability to hold these events as well. **This compounds uncertainty, and discourages our members.**

We haven't had enough time to digest the bill, or learn about the technology and proposed changes. We certainly haven't been able to discuss it ourselves or even ask questions of experts or county officials. Most of us simply don't know enough yet to be able to do so.

We cannot support any proposed lighting regulation until we understand it in relation to each of our facilities. We cannot even comment on the legislation until we have an estimate of the effort and expense required for each Maui Hongwanji temple to comply.

At the very least, our boards need to a) spend time with people who can explain various and new aspects of lighting, b) discuss it among ourselves, and c) discuss with County officials and/or legislators who can confirm or clarify our understanding about how the new regulations will affect us. **We must have clarity on what will be required for compliance.** For our temples, that takes PREPARATION AND TIME.

I personally know of many other small organizations and businesses, and regular private events held in homes and community centers, that will worry after this bill passes whether they can comply. In my opinion, **passing or trying to implement regulations like this with so little community input could create a significant PR challenge.** At the very least, the current schedule seems likely to create a wave of unhappy surprise in the public.

Maui Hongwanji leadership believe it's important for our temples to be able to participate in some sort of public process that **educates us about the regulation technically before the bill is voted on. It should also provide time for discussion among ourselves to reach consensus. Ideally it would include a chance to confirm our conclusions with well-informed public officials, who have looked at and understand each of our facilities.** This will significantly improve the acceptance of the regulations by groups like ours.

We suggest the council plan an educational presentation that includes images, videos, and a display of the various types of lighting, and fixtures with brief explanations about what would be required or prohibited. This could be done on a YouTube video, advertised on radio, TV and social media, and circulated for a month. Following that if there are a significant number of groups unhappy or confused about it, you can hold a few public meetings for those who have questions or feedback, revise the bill if needed, then vote.

We believe something like this will result in much less public consternation and political pressure than quick passage without significant public knowledge or input. If the costs for most small businesses and organizations are not too burdensome, public outreach will increase the chances of public acceptance, implementation and compliance, over what we think you will experience by passing the bill in the absence of outreach or public input.

Sincerely,
Kallie Keith-Agaran

For those Unfamiliar with Obon or Bon Dances

During Obon (August in Japan) Buddhists express their gratitude to deceased ancestors who have made their lives and conditions possible. The Japanese celebrated in dance for nearly 800 years before the festivals died out there. In Hawaii we celebrate Obon with dance, food and family fun. Bon Dances are usually held every weekend from early June through the end of August.

Each temple requires months of planning, extensive manpower for the event, and a full week of intensive, hands on preparation. The dances, games, food and other sales bring in hundreds of guests to most temples, even the small ones. Bon Dances are among the oldest public events of cultural significance still being held in Hawaii. They attract Japanese tourists in large numbers. Prior to the pandemic, DBEDT reported that tourists from other parts of the US and elsewhere were attending in Bon Dances in increasing numbers. So through tourism, they are an indirect and growing revenue generator for the County and State.

Until about 8 or so years ago bon dances had died out in Japan. They were reestablished because so many Japanese tourists in Hawaii were delighted to see and participate in their historical culture, a group of them made the effort to revive it.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



RECEIVED
TIMOTHY J. GOMES
DEPUTY COUNTY CLERK

2022 JUN 29 PM 2:49
TIMOTHY J. GOMES
LT. GOVERNOR
STATE OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P. O. BOX 1879
HONOLULU, HAWAII 96805

OFFICE OF THE
COUNTY CLERK

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE MAUI COUNTY COUNCIL
MEETING ON JULY 1, 2022 AT 9:00 AM

RESOLUTION NO. 22-119 (2022)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the County Council:

The Department of Hawaiian Home Lands (DHHL) submits the following comments on this proposed resolution that would place on the next General Election ballot a proposed amendment to the County Charter to establish water authority with regional community boards.

DHHL has been actively following the development of this and related proposals. We recognize both that concerns over the financial and operational implications of this proposal have been raised, and also that the measure currently only proposes for enactment, rather than obligates, County acquisition and operation of non-potable water systems.

We support and are grateful for the inclusion of the language in the proposed measures which specify that:

- "WHEREAS, as a government agency, the Maui County Community Water Authority would have an unambiguous obligation to uphold the public trust doctrine and the legal obligations of the Hawaiian Homes Commission Act and the State of Hawai'i Constitution"; and
- A member of any established boards would include "...one member who is a representative of the Hawaiian Homes Commission, and is nominated by the Department of Hawaiian Home Lands."

The availability of water is one of the key barriers DHHL faces in the development and delivery of homesteads across Hawai'i. This proposal could meaningfully help DHHL and the County implement the Hawaiian Homes Commission Act, a Constitutional mandate and a condition of statehood.

Thank you for your consideration of our testimony.

RECEIVED

JOHN BLUMER-BUELL
Post Office Box 787, Hana, Hawai'i 96703 JUN 30 AM 7: 56
Email blubu@hawaii.rr.com

OFFICE OF THE
COUNTY CLERK

January 7, 2020 (Testimony for January 8)

Maui County Council Planning and Sustainable Land Use Committee,
Tamara Paltin, Chair

Sent Via Email to pslu.committee@mauicounty.us with Request for
Confirmation of Receipt

**Public Testimony for January 8, 2020, Meeting Regarding Agenda Items
PSLU-34, PSLU-44, and PSLU-43.**

Aloha Chair Paltin and Committee Members,

I support the creation of the proposed Advisory Committees to the Maui Planning Commission. **However, INSTEAD, I suggest creating a Planning Commission for each community.** This will save time, taxpayer funds and be more accessible to the communities. Legal options and due process for participants will remain the same.

The Lanai and Molokai Planning Commissions demonstrate the practical application. **In contrast, the Hana Advisory Committee to the Maui Planning Commission demonstrates a wasteful duplication of time and expense. And, demonstrates how a good, legal decision in Hana can be totally corrupted by the Maui Planning Department and Planning Commission. The recent example of the proposed Nahiku Community Center demonstrates how the Hana Advisory Committee to the Planning Commission made a community supported legal decision only to be **TOTALLY IGNORED** by the Maui Planning Commission. Several**

commission members had never been to Nahiku and clearly did not comprehend the applications or situation.

IT IS WAY PAST TIME FOR A HANA PLANNING COMMISSION.

I make these recommendations having served three terms on the Hana Advisory Committee to the Maui Planning Commission. I was asked by Mayor Hannibal Tavares to serve on the initial committee.

The Hana Advisory Committee was initiated by Council Member Velma Santos during a very controversial land use case. Mahalo Velma!

Read the context in the July 30, 1987, Maui News story "Hana Apartment Plan Debated", page 2, last two paragraphs. Attached as Exhibit.

Mahalo for your careful consideration.

John (Blumer-Buell)

County Clerk

RECEIVED

From: Boisvert-Jorgensen <infofordenise@yahoo.com>
Sent: Wednesday, June 29, 2022 1:29 PM
To: County Clerk
Subject: Charter Amendment testimony

2022 JUN 29 PM 2 25

OFFICE OF THE
COUNTY CLERK

You don't often get email from infofordenise@yahoo.com. [Learn why this is important](#)

I fully SUPPORT the charter amendment because now is the time to finally be on the right side of history when it comes to water management in Maui County.

The establishment of a Maui County Community Water Authority, administered by members of the community, is critical to independence from the self-serving, water-hogging, corporate powers that have essentially controlled the island's water and daily life for almost 200 years.

The time has come for the residents of Maui to make their own decisions that will protect and benefit their island's farmers, the ability to fish, the safety of the environment, and ultimately the community.

Mahalo for your understanding and kind consideration.
Denise Boisvert
Honolulu

June 29, 2022

RECEIVED

2022 JUN 30 AM 7: 56

The Honorable Tamara Paltin
Chair, and Members, Maui County Planning & Sustainable Land Use Committee
RE: PSLU-3; PSLU-2; and PSLU-53 Relating to the South Maui Community Plan Update

OFFICE OF THE
COUNTY CLERK

Aloha Chair Paltin and Councilmembers,

Mahalo for the opportunity to review the Implementing Actions contained in the Countywide Policy Plan, Maui Island Plan and, specifically, the South Maui Community Plan. Ma`alaea Village Association (MVA) eagerly awaits the South Maui Community Plan update process and appreciates the chair's initiative.

MVA applauds this Council for realizing the importance of protecting and restoring Ma`alaea Bay – not only for Ma`alaea residents and visitors but for all of Maui. Your support for purchasing Ma`alaea Mauka with County Open Space funds, funding for Ma`alaea regional wastewater solutions in the SRF request, and funding coastal erosion research in Ma`alaea Bay begun last year all address important Implementation Actions in the Countywide Policy Plan, Maui Island Plan, and South Maui (K-M) Community Plan.

Maui Island Plan:

Heritage Resources/Scenic Resources is a major item in the MIP but most tasks have yet to begin. This is a major weakness. Maui's quality of life and future sustainability, including the 'right' kind of visitor who will respect and support Maui Nui, depend on protecting and preserving what makes Maui 'no ka oi'.

MIP priorities include the 'development of a master plan for the preservation and enhancement of the Ma`alaea Beach recreation area and Kealia Pond National Wildlife Refuge to include the possible mauka realignment of North Kihei Road.'

Ma`alaea was identified as one of the locations for a Transit Corridor due to its location at the crossroads to Lahaina and frequent road closures due to traffic accidents. Future solutions to highway traffic congestion must be found, including locating rental car facilities in resort areas rather than all at Kahului Airport.

Another priority under Agricultural lands deals with water reuse and recycled stormwater runoff. Ma`alaea wwtr solutions address this ongoing need to preserve Maui's precious water supply. Mahi Pono has pledged 10 acres for the Ma`alaea regional system. The water can be reused for numerous purposes.

South Maui Community Plan Update:

The 'planning and design of the Ma`alaea -Kealia bypass highway' is a major priority for connecting South Maui with West and Central Maui through Ma`alaea and alleviating some of the area's traffic issues. This item should be pursued by the Metropolitan Planning Organization. Mahi Pono may be a willing partner.

Sadly, major items in the 2012 Countywide Policy Plan relating to promoting "Sustainable Use and Growth Management" have not been implemented and Maui is suffering for it. I hope this and future Councils will strongly encourage the Planning Department to tackle this challenging but important task.

It's not too late. I hope that the South Maui Community Plan update process will pay attention to these key plans and find ways to manage Maui's future growth for the benefit of Maui citizens and visitors.

Mahalo for your time and leadership.



Lynn Britton
Immediate Past President and Government Affairs Chair, Ma`alaea Village Association

Ma`alaea Village Association
P. O. Box 2122, Wailuku, HI 96793
maalaeavillageassociation@gmail.com

DOREEN CANTO
GRANT CHUN
DAVID DELEON
PAUL DESLAURIERS
KAREY KAPOI
KELSON KAUANOE BATANGAN
KEONI KUOHA
DOUGLAS MARDFIN
ASHLEY OLSON
GEORGE PURDY IV



CHARTER COMMISSION
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January 20, 2022

To: Maui Charter Commission

From: Sherry Broder, Charter Commission's Legal Analyst
Richelle M. Thomson, First Deputy Corporation Counsel
Keola R. Whittaker, Deputy Corporation Counsel

Subject: Draft Charter Commission Report

This memorandum provides important information on your recently released draft report. Due to the large numbers of proposals, the report required the work of an entire team of people, including your analyst, legal advisors, and staff.

After reviewing the many proposals in the context of their interaction and effect on the charter as a whole, we want to bring to your attention those proposals which raise serious legal, practical or other issues. These concerns were addressed in our presentation at the Commission's January 11, 2022, meeting and are summarized below.

The County Charter functions as our county constitution. For that reason, the charter is, by design, difficult to change. If an amendment is approved that contains significant legal or practical issues, the voters of the County will not be able to change it for another two years or will have to hold a special election. It may also require legal action in order to obtain a court's interpretation of the amendment.

In its coming meetings, the Commission will have the opportunity to consider changes to the draft report before it is transmitted to the Council, using all information available to the Commission, including public testimony, information from the administration, and input from the Commission's Analyst and Corporation Counsel. We are available to assist you in drafting changes to

the proposals that will reduce the risk of creating unnecessary legal, practical or other problems while meeting your desired policy outcomes.

I. Number of Ballot Questions

The draft report includes 40 separate ballot questions. We are not aware of any prior charter commission including this many proposed amendments on a single ballot. By comparison, the 2012 charter commission approved 11 ballot questions and the 2002 charter commission approved 14 questions. The two charter commissions prior to 2002 asked voters to consider the approval of an entirely new charter in a single ballot question.

We kept in mind the goal of reducing the number of ballot questions when we drafted the Commission Report to the Council. Several of the 85 approved proposed amendments were able to be combined into single questions. While it may still be possible to make a few further combinations, however, because the current draft of proposals spans across the entire charter and address many different policy issues, combining many of them further will likely be difficult without making individual ballot question unwieldy and confusing. There may still be ways to combine some of the ballot questions either with a few adjustments to the current wording of the amendments or otherwise.

Ballot questions are legally required to communicate the proposed amendment accurately and in words that the average voter can understand. Combining unrelated amendments into a single ballot question may require that questions include multiple subparts, could lead to confusion or, worse, be impossible to defend in court should someone mount a legal challenge.

The Hawai'i Supreme Court set out in *City and County of Honolulu v. State*, 143 Hawai'i 455, 431 P.3d 1228 (2018) the principles for the legal sufficiency of ballot questions:

1. The ballot question must generate "a knowing and deliberate expression of voter choice."
2. The "broad authority" to propose amendments for ratification "is subject to the limitation that the ballot must enable the voters to express their choice on the amendments presented and be in such form and language as not to deceive or mislead the public."
3. Proposed amendments and their corresponding ballot questions are both constitutionally and statutorily required to be phrased in clear language that is not likely to deceive voters as to their nature and effect.

Reducing the number of ballot questions will likely require eliminating or rewording certain proposals. Taking such actions at this stage of your process is not unusual. The 2012 charter commission, for example, approved amendments that were combined into 21 ballot questions. That commission subsequently cut back on the number of proposals that ultimately went to the voters. They were able to remove enough proposals to go from 21 ballot questions to 11.

II. Proposals With Minimal Legal Effect

Some proposals will have a minimal legal effect on how the county currently functions because they don't require any specific action that differs from current practice. Other amendments address a subject matter that is currently addressed by state law or county ordinance, meaning this subject matter can be amended through legislative action by Council or the state legislature. Those proposals are listed below.

- Proposal 2 – Open Government (addressed by state law)
- Proposal 6 – Cost of Government Commission (minimal legal effect)
- Proposal 10 – Friendly Culture (minimal legal effect)
- Proposal 20 – Cultural Resources Commission (addressed by County ordinance)
- Proposal 36 – Electronic signatures (addressed by state law)
- Proposal 40 – Removal of transitional provisions (minimal legal effect)

III. Effective Date of Amendments

Charter amendments are effective the day they are ratified by the voters, unless indicated otherwise. For County government to operate effectively, it is essential that all of the amendments requiring either the appointment of a board that does not now exist or a budget to hire staff are given a later effective date.

The following amendments require budgeting and the hiring of staff. We recommend they be given an effective date of **July 1, 2024**:

- Proposal 15 – New Planning Commissions
- Proposal 21 – Bifurcation of the Department of Housing & Human Concerns
- Proposal 22 – Semi-Autonomous Board of Water Supply
- Proposal 26 – Department of 'Ōiwi Resources;
- Proposal 27 – Director of Ethics
- Proposal 29 – Community Commission & Community Boards

- Proposal 30 – County Hearings Officer

The following amendments require the appointment of a board that does not yet exist, and once empaneled, the boards/commissions will need to adopt administrative rules. We recommend that they be given an effective date of **July 1, 2023**:

- Proposal 34 – Independent Nominations Board
- Proposal 35 – Independent Selection Commission
- Proposals 4, 7, 11, 12, 27, and 33 insofar as they reference the boards created by questions 34 and 35.

IV. Incomplete or Conflicts Amendments

There are several amendments that need attention because they are incomplete or create conflicts with other provisions of the charter or state law. We strongly recommend that you review the following amendments for significant legal issues that need to be addressed:

- Proposal 1 – Council Elections (incomplete/internal conflict)
- Proposal 2 – Open government (conflict with state law)
- Proposal 4 – Auditor (incomplete)
- Proposal 15 – New Planning Commissions (incomplete / significant legal problems)
- Proposal 16 – General plan (internal conflict)
- Proposal 18 – Automatic approval (internal conflict)
- Proposal 21 – Bifurcation of Housing & Human Concerns (incomplete)
- Proposal 22 – Semi-Autonomous Board of Water Supply (incomplete/internal conflict)
- Proposal 28 – Ethics Code (serious legal issue)
- Proposal 30 – County Hearings Officers (incomplete/conflict with state law)
- Proposal 35 – Independent Selection Commission (incomplete/ethics issues/conflict with judicial ethics)
- Proposal 39 – Police Commission (internal conflict)

V. Other Legal Concerns

There are other amendments that we highly recommend you review for consistency and clarity. Some of these amendments are in tension with, but may not directly conflict with, other portions of the charter or existing law. Others may cause confusion. These include the following amendments:

- Proposals 11 & 12 – Corp Counsel/Prosecutor
- Proposals 15 & 29 – New Planning Commissions/Community Boards
- Proposals 33 – Board Qualifications
- Proposals 34 & 35 – Nomination Board / Selection Commission
- Proposals 16 through 19 – Planning

VI. Financial Impact

The Commission requested an assessment of certain of the amendments. We forwarded that request to the County Auditor, and will transmit that information upon receipt. The following amendments are anticipated to have a significant financial impact, which may factor into the Commission's decision making:

- Proposal 15 – New Planning Commissions
- Proposal 26 – Department of 'Ōiwi Resources
- Proposal 27 – Ethics Director & Staff
- Proposal 29 – Community Commission & Boards
- Proposal 30 – County Hearings Officers

VII. New Planning Commissions

One specific proposal – Proposal 15, New Planning Commissions – has a significant number of legal and practical issues that should be addressed. We recommend continued study and consideration of the following:

1. Procedures to transition from one Maui Planning Commission to six separate Planning Commissions that consider deadlines for the Maui Planning Commission and development of new processes for each of the six new commissions.
2. Whether decentralization would produce duplication and inefficiencies and how many additional staff members will be required.
3. Whether having differing Special Management Area boundaries or administrative rules within each of the separate planning areas on the Island of Maui would lead to confusion or legal issues.
4. Whether having differing approval processes for Special Management Area and other permits or approvals would create

inequities between planning areas on the same island, and between neighboring properties.

5. How the six different commissions would address island-wide planning issues including zoning changes, changes to the island-wide plan, and island-wide land-use ordinances.
6. Whether there are any examples of communities the size of Maui Island with decentralized planning approval processes and what benefits or challenges those communities have faced.

The planning department and existing planning commissions and advisory commissions may be able to assist in this effort.

VIII. Conclusion

A number of your proposals require a rigorous review of the legal, policy, and practical implications of reforms, with further input and analysis from experts and stakeholders, prior to finalization and transmittal to the County Council. The Council has only 30 days to consider the Commission's Final Report and proposed amendments and ballot questions, so transmitting a document that is as accurate and complete as possible will enable that body to perform its review. The final decision on the number, combination and language of ballot questions is the responsibility and kuleana of the Commission.

Additionally, consideration of various changes – from elections to planning to appointment of individuals to key positions in government – should include an assessment of how these discrete changes affects the ability of county government to operate efficiently and effectively. We therefore highly recommend that you invite the public, experts, and those currently working in government to provide further comments and proposals regarding important but complex work.

If the Commission concludes that any proposed amendments require additional consideration and study, it has the option of forwarding the proposal to the Council to include on a future ballot after thorough review.

Mahalo nui loa for your excellent, dedicated, and hard work, and we look forward to continuing to work with you to meet your objectives.

No.	PROPOSAL	Has <u>Must-fix</u> legal and/or conflict issues	Has highly-recommended legal fixes	Minimal Legal Effect / Could be Accomplished by Ordinance	Addressed by Ordinance or State Law	Suggested later effective date for budgeting/ legal/ practical reasons	Expected to cost over \$500,000 annually
1	Council Elections	X					
2	Open government/video conference	X			X		
3	Office of Council Services						
4	County Auditor	X				X	
5	Fiscal Impacts to Charter						
6	Cost of Government			X			
7	County Clerk					X	
8	Appoint and retain admin dept heads						
9	Mayoral residency requirement						
10	Friendly culture			X			
11	Corporation Counsel		X			X	
12	Prosecutor		X			X	
13	Appropriation						
14	Good Standing						
15	New Planning Commissions	X	X			X	X
16	General Plan / Land Use Ordinances	X	X				
17	Review Community Plans		X				
18	Automatic approval of general plan/ordinances	X	X				
19	Island-wide Plan		X		X		
20	Cultural Resources Commission				X		
21	Bifurcate Depts of Housing & Human Concern	X					
22	Semi-Autonomous BWS	X					
23	Dir of Water Supply and EP						
24	Police Chief						
25	Liquor Control Commission / Adjudication Board						
26	Oiwi Resources					X	X
27	Ethics Board / Director of Ethics					X	X
28	Ethics Code	X					
29	Community Commission & Boards		X			X	X

No.	PROPOSAL	Has <u>Must-fix</u> legal and/or conflict issues	Has highly-recommended legal fixes	Minimal Legal Effect / Could be Accomplished by Ordinance	Addressed by Ordinance or State Law	Suggested later effective date for budgeting/ legal/ practical reasons	Expected to cost over \$500,000 annually
30	County Hearings Officer	X		X		X	X
31	Initiative						
32	Recall						
33	Board Qualifications					X	
34	Independent Nomination Board		X			X	
35	Independent Selection Commission	X	X			X	
36	Electronic Signatures				X		
37	Remove Cap on Penalties						
38	Bilingual Government						
39	Police Commission Reports	X					
40	Unnecessary Transitional Provisions			X			

County Clerk

RECEIVED

From: Tria Cabral <vibrantliving11@gmail.com>
Sent: Wednesday, June 29, 2022 11:18 PM
To: County Clerk
Subject: Water Authority

2022 JUN 30 AM 7:56

**OFFICE OF THE
COUNTY CLERK**

 You don't often get email from vibrantliving11@gmail.com. [Learn why this is important](#)
Aloha!

I am in Full Support of the Maui Community water Authority.

Maui county must do better to ensure the sustainability of our resources.

**Private and or Corporate control should never be given
over our waters or any of our natural resources.**

We NEED this Community water Authority Now!

Sincerely,

**Tria Cabral
Haiku, 96708**

County Clerk

RECEIVED

From: HLOH Hana Dialysis <huilaulimaohana@gmail.com>
Sent: Thursday, June 30, 2022 10:03 PM
To: County Clerk
Subject: EAST MAUI WATER AUTHORITY

2022 JUL -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

|| You don't often get email from huilaulimaohana@gmail.com. [Learn why this is important](#)

I am supporting our East Maui to take full control over the East Maui water Authority. It is only right that this kuleana be placed in its proper hands. There is no better Entity but East Maui folks who truly knows the history and well being of its resources for the benefit of our lifestyle, cutural and history of East Maui Waters. Why bring in outsiders to maintain this kuleana when are not even from our precious Aina.

Mahalo,
Lehua Cosma
Active Kupuna and Advocate of the East Maui

County Clerk

RECEIVED

From: HLOH Hana Dialysis <huilaulimaohana@gmail.com>
Sent: Thursday, June 30, 2022 10:23 PM
To: County Clerk
Subject: East Maui Water Authority

2022 JUL -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

| You don't often get email from huilaulimaohana@gmail.com. [Learn why this is important](#)

My name is Lehua Cosma, a Kupuna, and a strong active advocate for my East Maui Community of Hana. I truly support the bill before you introduced by our East Maui Coun IL member, Shane Sinenci. We are frustrated that an outsider is willing to take full control over our East Maui water. They comes to our community as a threat because they do not have a clue of how our East Maui community knows its history, cultural lifestyle and the importance of water we rely on to sustain our tradition of surviving. Wai is water, if we as a community do not come together as one, we lose its essential purpose and livelihood. Wai is our way of life. With that being said, keep our East Maui Water in the right hands!
Mahalo,
Lehua Cosma

County Clerk

From: Alex Detrick <radalohamaui@gmail.com>
Sent: Friday, July 1, 2022 11:42 AM
To: County Clerk
Subject: Please support the creation of the Maui Community Water Authority

[You don't often get email from radalohamaui@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Sincerely,
Robert A Detrick
211 E Ikea Moku Pl
Kihei, HI 96753

Sent from my iPhone

County Clerk

RECEIVED

From: Mauianakai <dave@mauianakai.com>
Sent: Thursday, June 30, 2022 6:47 AM
To: County Clerk
Subject: Right of Entry Keawakapu No 22-58

2022 JUN 30 AM 7: 57

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from dave@mauianakai.com. [Learn why this is important](#)

I own unit #215 at the Mana Kai and have for over 20 years. It is at the end and on the second floor.

I think I am the closest residential owner near the proposed parking lot.

Since the beach there is one of the best in the world, no matter how much additional parking is provided, it will never be enough.

Right now the Mana Kai Homeowners Association pays for the portable toilets at the entrance and for their cleaning. Sometimes the security from the Mana Kai deals with the lots. The new lot is even further away and will be more difficult to patrol.

Additionally, the Mana Kai pays for and maintains lawn care, tree care, shower, and trash containers including recycling and sweeps, and picks up litter even though this is state property.

However, if this is done, these are some additional issues that should be considered:

Water Erosion

Right now water runoff to the beach from upcountry flows through the existing gravel lots to the lawn area and out to the ocean along the path people take from the parking lots to the beach. When it rains a small lake forms. A water management program should be put into place to mitigate this.

Noise

The two lots for parking (Along the Mana Kai access road and the Ocean Front Inn lot) are currently gravel which creates a lot of noise to interrupt sleeping especially late a night or very early in the morning. I have been woken many times from car traffic and parties in those lots.

There should be noise mitigation measures undertaken, perhaps paving, perhaps time limits on using, perhaps increased Police patrols.

Foot Access

Right now the footpath from the lots to the beach is overstressed. The grass has been worn through due to traffic and at the exact beach access is but a sandy drop-off which is dangerous. This path and access should be improved prior to increased parking like other access points to this beach from public lots south of this location.

Rats

A few years ago when some of the same areas were cleared, the resident rats took up homes in the basement of the Mana Kai including my storage locker. Before any clearing occurs some kind of rat control should be implemented.

Immediate Need

Both restaurants at the Mana Kai and the Ocean Inn I understand are closed so parking pressure from it is currently missing.

Consideration

Since the addition of 50 more parking spaces say turning over three times a day and with an average of four people per vehicle will increase traffic by 600 round trips perhaps the County should consider compensating the Mana Kai Homeowners Association for its increased costs of lawn maintenance, beach access maintenance, tree care, shower maintenance, trash collection and disposal, and security patrols if the County does not provide?

I estimate the new lot will increase the use pressure by about 40% of the current situation.

Mahalo for your consideration.

David Fradin, Owner High Tech Condo Rental on Maui!

Email: dave@mauimanakai.com

Web Site: <http://www.mauimanakai.com>

Cell: 408-892-5025

To find activities to do when you go to Maui, go to: <http://www.mauiactivitiestodo.com/>



TO THE MAUI COUNTY COUNCIL:

RE: July 1, 2022 Meeting on Committee Report No. 22-47.

I waited 4 hours to testify and could not wait due to another appointment so am submitting my testimony in writing.

From prior testimony this morning, there may be some amendments being considered and I would like to suggest changes to the current bill 21 to exempt events that are of a short-term nature.

I am representing the twenty-year old Maui Matsuri Festival which is sponsored by the Japanese Cultural Society of Maui and is usually held on two evenings at the UH Maui College. We rent tower lights for security and safety to illuminate parking lots and pathways to them. We also use string lights around our temporary musician's tower structure for illuminating the obon dancing area.

Secondarily, I am part of Maui Taiko and we perform at all the obon dances on the island. Each temple uses various temporary lighting for their needs which are primarily for security and safety. The obon is traditionally enjoyed by many kupuna and families with young children so it is important to keep them safe. Falling for a senior is normally the most common way for their health to deteriorate so helping them to see paths and dancing areas is important.

Obon has been on Maui for over a hundred years and has occurred during the evenings with the ambiance of chochin string lights. This bill would greatly affect the traditional element of the yearly events on the island if non-profits cannot make large financial investments into new lighting. These organizations are still recovering financially from the pandemic.

May I suggest that events that only use lighting for a limited period of time be exempt from these rules. The Maui Matsuri only occurs on two evenings and lights would be turned on for 4 hours on each night. The temple obons are also in this category with some temples having obon on one night and others having it for two nights. Assuming that there is an average of 11 hours of darkness each day, that calculates to 4000 hours of darkness in a year. Eight hours of lighting for these events is 0.2% of the total darkness times. Please consider an exemption for festivals and events that occur only during a short period of time during darkness.

Kay Fukumoto
Maui Matsuri Co-Chair for
Japanese Cultural Society of Maui

Maui Taiko President



Kaanapali Land Management Corp.

275 Lahainaluna Road • Lahaina, Maui, HI 96761 • t: (808) 661-9652 • f: (808) 667-9658 • www.KaanapaliLand.com

*Honoring our roots.
Preserving our spirit.*

June 30, 2022

Maui County Council Members
Kalana O Maui Building, 8th floor
200 S. High St.
Wailuku, Hawaii 96793

**RE: Amendment to Resolution 22-119, CD1, Proposing a Charter Amendment to Create a Water Authority,
Kaanapali Land Management Corp Written Testimony**

Dear Council Chair Alice L. Lee and Council Members,

On behalf of Kaanapali Land Management Corp I respectfully request that the Council postpone any approval of Resolution 22-119, CD1, proposing a Charter amendment to create a Water Authority.

What is the reason for this very sudden request to consider a Countywide Water Authority? It is unreasonable to add changes of such significance to the Charter amendment at such a late date, without proper financial analysis related to the costs associated with the Countywide Water Authority and who will ultimately pay these costs (most likely the end user), and without discussion and input from those directly impacted. It seems quite contradictory to good government practices.

The unintended consequence of this action has the potential to result in significant, unnecessary, increased costs, reduced operating, delivery and storage efficiencies, costly legal proceedings and the Water Authority absorbing liabilities that have not yet been studied. Any such consequences would be cumulative to the burdens already placed on our struggling community, and another reason why many of our local families and young professionals seek employment and life opportunities outside of Maui.

The consequences of rushing to get this wrong is likely to yield a greater detriment than the time allocated to properly study and vet this action with all stakeholders.

Respectfully submitted,

Chad Fukunaga
Vice President
Kaanapali Land Management Corp

RECEIVED

2022 JUN 30 PM 3:27

June 30, 2022

OFFICE OF THE
COUNTY CLERK



Gerard C. Gibson
President

The Honorable Alice L. Lee, Chair
The Honorable Keani Rawlins-Fernandez, Vice-Chair
Maui County Council
Kalana O Maui Building
200 South High Street, 8th Floor
Wailuku, Hawaii 96793

RE: Hawaii Hotel Alliance Opposition to Bill 21, CD1 (2022)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and Members of the County Council,

Mahalo for this opportunity to provide testimony in advance of the County Council's June 21, 2022 meeting. Maui's lodging industry is deeply committed to its stewardship role for the local environment—including the protection of Hawaii's native seabird species—but if enacted Bill 21, CD1's outdoor lighting fixture requirements would impose impractical, ambiguous and unsafe requirements on businesses (and residents) throughout the County which run counter to the guidance of state and federal agency experts in this space.

For the reasons our testimony will expand upon below, the Hawaii Hotel Alliance must regretfully oppose Bill 21, CD1.

Bill 21, CD1 Conflicts with Prevailing Expert Opinion:

State and federal agencies with expertise on what constitutes appropriate measures to protect endangered seabirds have developed corresponding light minimization guidelines. Importantly, these guidelines were included in Appendix E to the Kauai Seabird Habitat Conservation Plan (KSHCP, or Plan)¹—a Plan prepared in 2020 by the U.S. Fish and Wildlife Service (USFWS) and the Hawaii Department of Land and Natural Resources (DLNR). This Appendix includes requirements relating to the placement, angling and shielding of lights, as well as other key lighting mitigation measures. At the time the KSHCP was prepared, several groups asked the agencies to also impose light spectrum requirements similar to those found in Bill 21, CD1. It is important to underscore the experts at these agencies declined to do so.

Bill 21, CD1 Ignores Established Safety Parameters:

The wellbeing of our lodging guests and employees alike is of the utmost importance, and something that should not be unduly compromised in anything adopted by the County via Bill 21, CD1. There are human safety benefits of lights with shorter wavelengths, including that they create greater contrast and enhance

¹ See Attachment, "KSHCP Appendix E."

peripheral vision—yet Bill 21, CD1 does not properly account for this critical dynamic. Conversely, recognition of human safety needs is present within state and federal agency light minimization guidelines for protecting endangered seabirds, and the KSHCP itself requires appropriate lighting level stipulations for particular light functions—recognizing the standards prepared by the Illuminating Engineering Society of North America (IESNA). More specifically, the IESNA standards provide light level recommendations for several applications, including parking lots, walkways and roads—again, something for which Bill 21, CD1 does not properly account. The County should not be requiring light levels be less than these recognized and patterned illumination standards for human safety, which Bill 21, CD1 would concerningly do.

Exacerbating these concerns is the fact that Bill 21, CD1 would newly apply its provisions to “[t]emporary hotel and condominium beach security lighting” and “[s]afety and security lighting for water features,” which were previously exempt in broad scope. This could increase safety hazards for hotel guests and make it impossible for security staff to implement safety or security lighting at their hotels and resorts, even temporarily to resolve pressing safety matters.

Bill 21, CD1 Contains Unworkable, Unsubstantiated Provisions:

A critical requirement within Bill 21, CD1 would be that all outdoor lighting fixtures must “*limit short wavelength content to no more than two percent of blue light content*” (with “*blue light content*” defined as “*the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm*”). Such a standard would be impossible for most—if not all—residents and businesses to adhere to.

The short wavelength content measurement specified in Bill 21, CD1 is not something that is typically provided by light bulb and fixture manufacturers, nor is it included on the labels for their products, so one would be unable to determine if new lights they purchase effectively comply with the law. Most businesses and residents lack the equipment and expertise that would be necessary to perform the calculations necessary to determine compliance, all while state and federal agencies have yet to determine if there is scientific support to suggest this requirement is beneficial for seabirds. State and federal agencies knowledgeable about endangered seabird protection have not recommended adopting this for all outdoor lighting, which means Bill 21, CD1 is again a troubling outlier.

Moreover, requiring all (except neon) outdoor lights to be filtered light emitting diode bulbs (LEDs) is concerning on added grounds, as LED filters are not commonly used and are not widely available. Per the County’s Deputy Corporation Counsel,² there is only one vendor who arguably sells such filters, yet every outdoor light in the County would require one—presenting cost trepidations, supply anxieties, and even worries over such a product voiding light manufacturer warranties given this alteration of intended use. All for a practice outside of what experts would constitute as necessary.

Further, Bill 21, CD1 would take effect immediately for all new or newly replaced lighting fixtures, and provide only a three-year grace period for existing fixtures. Given the numerous compliance challenges present, this would create immediate difficulties for businesses such as hotels and resorts with large

² See Memorandum, “*Ordinance on Protecting Seabirds from Outdoor Lighting Bill No. 21 CD1 (2022)*” (May 24, 2022).

The Honorable Alice L. Lee, Chair
The Honorable Keani Rawlins-Fernandez, Vice-Chair
Maui County Council
Page 3

numbers of outdoor lighting fixtures. And even a three-year period may not be enough time to comply, particularly with stipulations like those for blue light content and filtering that are stymied by present manufacturer specifications and availabilities.

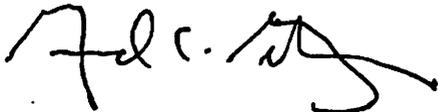
Concluding Remarks:

In sum, the lodging industry on Maui is steadfastly committed to protecting Hawaii's native seabird species, including by minimizing lighting. When one minimizes lighting though, it is also important that human safety—namely the safety of our guests and employees—is not compromised, especially with impractical and burdensome requirements that do not hold demonstrated, expert-validated benefits.

Bill 21, CD1 is simply not a sensible approach to the important protection of Hawaii's native seabirds, especially given that alternative options are available. One logical option would be for Maui to adopt requirements similar to those included in the KSHCP's Appendix E, which reflects mindful policies established by subject-matter experts from USFWS and DLNR. Another option would be to impose a correlated color temperature requirement, as the State imposes on its own agencies (this measurement is typically included on LED light bulb labels).³ Any new requirements should also preserve existing exemptions and allow enough lead time for compliance.

For the many reasons articulated in our testimony, the Hawaii Hotel Alliance urges the County Council to reject Bill 21, CD1 and instead pursue an alternative conservation pathway. Without such action, the risks and harms brought about by Bill 21, CD1's requirements—to residents, businesses, guests and more—will greatly exceed any benefit that may possibly be attained.

Mahalo Nui Loa,



Gerard C. Gibson
President
Hawai'i Hotel Alliance

³ See Hawaii Revised Statutes Section 201-8.5.

APPENDIX E: Guidelines for Adjusting Lighting at Facilities

1. Guidelines for Adjusting Lighting at Facilities

This appendix provides detailed guidelines to inform minimization measures that can be customized to address an array of possible lighting issues at Participant facilities. A lighting minimization plan to achieve the maximum extent practicable will be included in each Participant PIP.

These guidelines represent best available science at the time of KSHCP permit issuance. Over the life of the plan, likely new information and new technologies will be available, and this appendix may be updated accordingly.

Not all lighting guidelines are appropriate for all types of facilities. Some represent long term, infrastructure solutions, and others may be implemented on a seasonal basis.

1.1. Deactivate Non-Essential Lights

Prioritization of seabird and honu light attraction minimization measures involves evaluating light needs to determine if non-essential lights can be deactivated during the seabird fallout season (September 15 to December 15) and turtle nesting season (May 15-December 15). Deactivating the lights avoids the potential for light attraction that those lights could otherwise cause. Turning off a subset of lights, both unshielded and shielded, during the fallout season (September 15 to December 15) can assist with minimizing the risk of seabird light attraction, if those lights are not necessary. In their PIPs, Applicants must provide rationale for any facility lights that cannot be deactivated during seabird fallout season, and detail what other minimization practices will be implemented on lights that will remain illuminated. The regulatory agencies will review the evaluation and justification as provided in applicant PIPs.

Similarly, turning out lights that shine directly on beaches during the turtle nesting season (May 15-December 15) can prevent hatchling disorientation. Avoid use of the following lamp styles on beachside or shore perpendicular to sides of a structure: private balcony lights, up lights; decorative lighting, not necessary for human safety or security; pond lights; and beach lighting. Timers or other similar devices should be used to ensure the selected lights remain off during the turtle nesting season. This measure may require the installation of independent light switches. Conversely, to prevent accidental activation, light fixtures can be removed for lights that will no longer be needed at a facility.

1.2. Install Full Cut-off Light Fixtures

A full cut-off fixture refers to a light fixture which does not shine light above a 90 degree horizontal plane. For lights necessary to be activated, full cut-off fixtures provide an effective measure to achieve light minimization because they prevent light from shining directly upward.

These types of lights house the light bulb up within the fixture so that no bulb protrudes below (Figure 1). Such fixtures must be mounted at appropriate angle so they point directly down to the ground. Many light manufacturers provide light fixture information along with the light specifications to indicate if a fixture is a full cut-off design. The International Dark Sky Association (www.darksky.org) is a good source for information on full cut-off lights and provides additional references to light engineering resources and light manufactures.

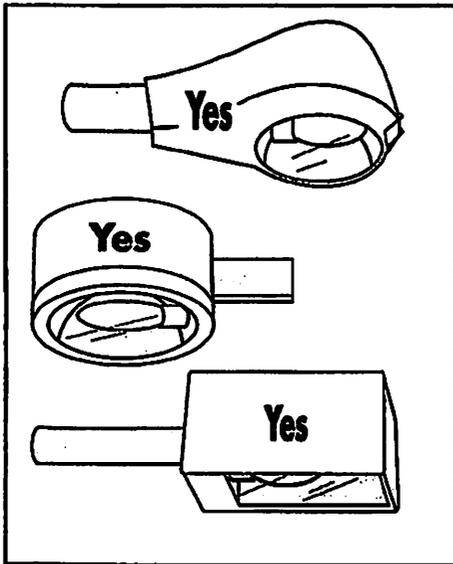


Figure 1: Examples of full cut-off light fixtures. Source: www.darksky.org.

Along shorelines, exterior fixtures on the seaward (makai) and the shore perpendicular sides of the building (and on the landward side of the building if they are visible from the beach) should be down-lit fixtures, fully shielded and full cut-off, louvered, or recessed fixtures that do not have reflective inner surfaces. These fixtures should use low wattage bulbs (e.g., < 50w). All exterior fixtures on the landward (mauka) side of the building should be directed downward only (Witherington & Martin 2003).

1.3. Shielding Light Fixtures

This minimization measure aims to achieve the functional equivalent of a full cut-off light fixture by installing a shield, visor, hood or similar on an existing light fixture to prevent light from shining upward and reducing trespass. In addition to the shielding, to achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture (Figures 2 & 3). Reed

et al. (1985) suggest that in areas where other light sources are rare, the shielding of principal lights would likely have a larger effect in decreasing seabird light attraction.

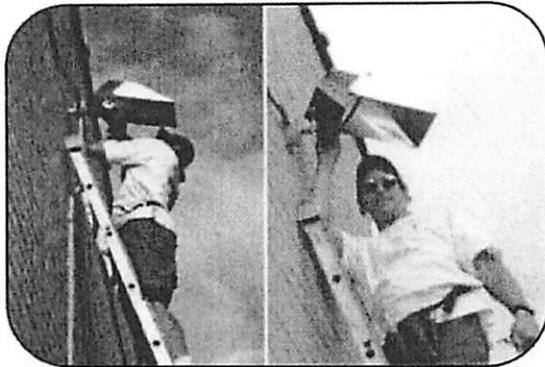


Figure 2: Installation of an appropriately sized floodlight shield. Source: www.darksky.org.

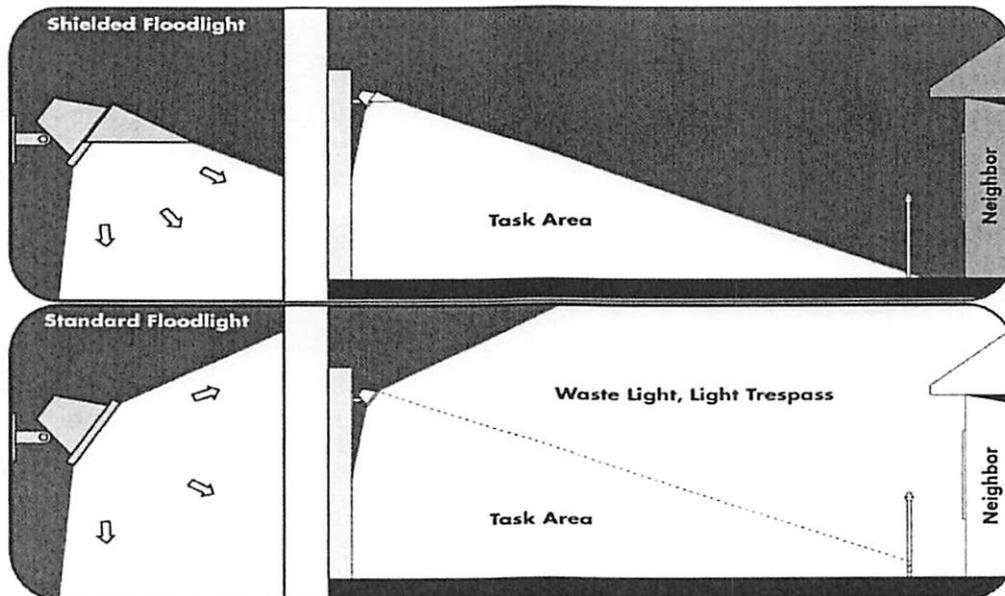


Figure 3: Before and after effects of shielding and light management designed to minimize light attraction risk to seabirds and to decrease light pollution. Source: www.darksky.org.

1.4. Angle Lights Downward

Angling and repositioning lights presents a potential alternative to shielding or replacing light fixtures and may be sufficient to make lights fully cut-off and eliminate light shining horizontally and vertically (Figure 4). To achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create

a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture. Tree strap downlights may be used to minimize seabird light attraction unless turtles may be present on the adjacent beach.

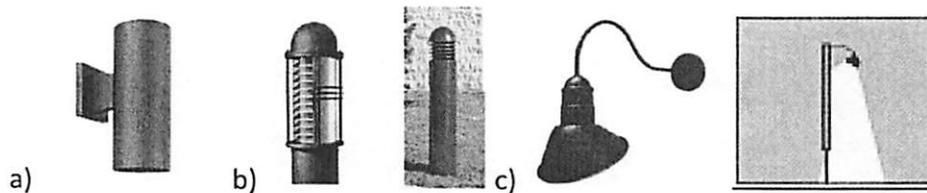


Figure 1:- (a) Wall mount cylinder down-light, (b) bollards with downward-directed louvers, and (c) sign lights angled downward. From http://myfwc.com/media/418417/SeaTurtle_LightingGuidelines.pdf (FWC 2011).

1.5. Place Lights Under Eaves

Light fixtures placed under building eaves can achieve the functional equivalent of a full cut-off fixture. The architectural eave acts as shield to prevent light from shining directly upward.

1.6. Shift Lighting According to the Moon Phase

This minimization measure addresses lighting for which the need, or purpose, for the lighting can be shifted in timing each year to coincide with the moon phase. Because a reduction in light attraction has been correlated with the full phase of the moon (Reed et al. 1985; Telfer et al. 1987) lights for essential functions, and for which that function can be shifted in timing, should coincide with the full phase of the moon and avoid the dark phase of the moon. It is important to note that a full moon that is obscured by heavy cloud cover could simulate the dark phase of the moon. By not activating those lights during the dark phase of the moon the effect of those lights is reduced. Examples of activities that could be minimized with this measure include scheduling of night time events, such as festivals or sporting events.

1.7. Install Motion Sensors for Motion-activated Lighting

Motion sensors switch lights on only when triggered, thereby limiting the time that the light stays on and reducing its potential for seabird light attraction. If a sensor light is required for security purposes, the light equipped with the sensor should be at low light levels. For example, Light Emitting Diode (LED) streetlights and parking lot lights can be activated when needed and dim when no activity is detected nearby. However for those fixtures, full cut-off designs or the functional equivalents are recommended because of the possibility of light attraction occurring when the motion-sensor light is activated or in the event that the motion sensor equipment malfunctions and the light remains on.

Where motion sensors are impractical (eg at sporting events), stadium lights should be turned off as soon as the public leaves the stadium.

1.8. Decrease Lighting Levels

This measure addresses lowering light intensity levels (e.g., measured in lumens) while still meeting the need to safely complete tasks and serve the purpose of the light. Guidance on standards for the appropriate lighting level for a particular light function should be followed as provided by the appropriate agency or professional and technical organization. For example the Illuminating Engineering Society of North America (IESNA) provides recommendations for light levels for several applications including parking lots, walkways, and roads. In addition individual entities may have standards and best practices for lighting needs.

For many applications where lighting is needed, brighter lighting may not always provide the best lighting for the needed function. It is often the case where reduced lighting levels can provide for the needed function of the lighting. For example, for security purposes overly bright lights tend to create blind spots, or very dark shadows, outside the lit area that preclude effective visibility. Well placed, but reduced lighting can provide for more effective security. Therefore, when Participants seek to enhance onsite visibility for security, while reducing risk to seabirds, the appropriate reduction of light levels (along with shielding and re-angling lights) forms a starting point to accomplish both purposes.

1.9. Decrease Visibility of Interior Lights

Facilities with large and/or numerous windows, tall building profiles, or large glass facades may also pose a risk of light attraction to Covered Seabirds on Kaua'i. The following measures are based, in part, on efforts in cities in Canada and the mainland USA to decrease harmful effects of buildings on birds and apply to seabirds in that they can decrease the amount of light escaping from within buildings (City of Toronto 2007; Evans Ogden 2002):

- Install screens or shades over large windows that are lowered nightly during the fallout season;
- Modify buildings and decrease or eliminate light glow from within a facility;
- Create glass opacity to prevent the escape of internal light. Tinted glass or film with a visible light transmittance value of 45 percent or less should be applied to all windows and doors within line of sight of the beach;
- Install physical screens outside a building;
- Install landscaping in front of large windows;
- Close all window blinds after daylight hours until sunrise;
- Stagger the operation of lights in the evening or morning hours so that not all lights are turned on at once; and
- Maximize the number of offices or indoor rooms that turn off all lights after sunset;

- Place reminder notices on switches to turn out lights or draw curtains/blinds in oceanfront rooms. This should include coastal areas that are on the perpendicular sides of the structure;
 - a. Turn off room and lanai lighting that are not needed;
 - b. Relocate moveable lamps away from windows that are visible from the beach; and
 - c. Close opaque curtains or blinds after dark to block inside light from shining outside.

1.10. Use Light-less Technologies

Where conditions and facility needs permit, technologies that do not use light, such as closed-circuit television (CCT) with infrared illuminators, may be effectively employed to “see” at night thus enabling some of the lights to be turned off. For example, any fenced areas or the dark sides of facilities can be monitored with CCT so that lights do not need to be used or installed.

1.11. Plant Vegetation Around Lights to Reduce Light Visibility

Trees and shrubs can be planted so that they over-arch lights or shield side visibility of lights along the coast or along a ridge, for example. Whether the lights are mounted on 20-foot poles, walkways, or within landscaped areas, having adjacent or overarched vegetation would further reduce the risk of seabird light attraction that any residual light scatter may pose. Long-term planning and maintenance of screening vegetation is encouraged, where appropriate to the uses and needs of the affected lights.

1.12. Lower Height of Lights

Light that is low in height has potential to reduce the effect of light attraction because lower lights may be less visible to passing seabirds. Installing ground-level lighting, such as along walkways, and reducing pole height can decrease light waste and trespass.

1.13. Use Longer Light Wavelengths

In coastal areas, use of acceptable lights such as: LPS 18w, 35w, red, orange or amber LEDs (true red, orange or amber diodes, but not filters), true red neon, and other lighting sources that produce light wavelengths of 560 nm or longer (Witherington et al. 2014). Long wavelength lights, e.g., those that produce light that measures greater than 560 nanometers on

a spectroscope, are required for all construction visible from and adjacent to sea turtle nesting beaches. Turtles are most sensitive to short wavelengths of light, probably because they live in a marine environment that filters out long wavelengths. Green turtles are least attracted to longer wavelength light in the yellow-orange to red end of the spectrum (630 to 700 nm) (Witherington and Martin 2000). In the absence of other light sources, however, turtles may still be attracted to long wavelength light.

Filters designed to exclude transmission of short wavelengths (<570nm) can be fitted to high pressure sodium (HPS) vapor lights. Such filters have been found to be effective at avoiding disruption of nesting females (Salmon, 2006) but even filtered HPS light has been found to attract hatchlings, although not as strongly as unfiltered HPS lights (Sella et al, 2006). Filtering alone is thus not sufficient to avoid attraction and disruption of hatchling orientation. Bright white light fixtures, such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps, are not approved for beachside or shore perpendicular sides of a structure. Limited use of shorter wavelength lights may be approved in areas where direct and indirect light or glow could not possibly be visible from the beach due to installation of opaque "light fencing" (see below).

From: Tara Grace <taragrace808@gmail.com>
Sent: Wednesday, June 29, 2022 11:38 AM
To: County Clerk
Subject: Upcountry Water

RECEIVED
2022 JUN 29 AM 11:41

You don't often get email from taragrace808@gmail.com. [Learn why this is important](#)

OFFICE OF THE
COUNTY CLERK

Please support the creation of the Maui Community Water Authority

Mahalo

Tara Grace

808.870.1006

County Clerk

From: steve g <steveg0606@gmail.com>
Sent: Wednesday, June 29, 2022 9:36 AM
To: County Clerk
Subject: East Maui and Upcountry water

You don't often get email from steveg0606@gmail.com. [Learn why this is important](#)

Hello,

I would like to add my voice to the many who support establishing a county-wide community water authority. For too long large corporations, such as Mahi Pono, have had too much sway in distribution and use of our water resources. Too much water that could be used by upcountry farmers and residents is being diverted or dumped to suit the needs of a corporate few.

I implore you to help create the Maui County Community Water Authority.

Sincerely,
Steve Grimes

RECEIVED
2022 JUN 29 AM 10:37
OFFICE OF THE
COUNTY CLERK

Dear Councilmembers,

I represent Lahaina Jodo Mission and have questions about how this bill would affect the lighting for our Bon Dances, which is a traditional religious observance that has been held in Hawaii for over a hundred years. Each temple on Maui organizes a Bon Dance on one or two nights each weekend from about 6:30 p.m. to 10:00 p.m. for a period of two and a half months.

We appreciate what the ordinance is trying to accomplish to protect our natural environment and sensitive species. Our question is whether changing our Bon Dance lighting will really help native birds and sea life. If it does, how do we change our lighting? As you may know, most of our lighting is already filtered because it is covered with paper and/or plastic *chochin* lanterns and our wiring is done all under the supervision of a professional electrician.

We do care about protecting endangered species, native birds, and sea life but perhaps it makes more sense to address permanent light fixtures that likely have a larger impact on these creatures and the natural environment.

If the bill passes, may we request for more and specific details on what kind of lighting to use and how to implement these lighting.

Respectfully,

Maya Hara



Lahaina Jodo Mission Bon Dance, Lighting covered with lanterns

County Clerk

RECEIVED

From: Alexa Hatton <alexahatton33@gmail.com>
Sent: Wednesday, June 29, 2022 5:11 PM
To: County Clerk
Subject: Support for Maui community water authority

2022 JUN 30 AM 7: 56

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from alexahatton33@gmail.com. [Learn why this is important](#)
Please support the creation of the Maui Community Water Authority.

***Mahalo, Alexa Hatton
1670 Olinda Rd
Makawao, HI***

Sent from my iPhone

County Clerk

RECEIVED

From: Ralph Hendrickson <write-maui@hawaii.rr.com>
Sent: Wednesday, June 29, 2022 10:46 PM
To: County Clerk
Subject: Maui Community Water Authority...

2022 JUN 30 AM 7: 56

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from write-maui@hawaii.rr.com. [Learn why this is important](#)

Please support the creation of the Maui Community Water Authority!

*Ralph Hendrickson
P.O. Box 331
Kihei, HI 96753*

Sent from my iPad

County Clerk

From: Beth Hird <bethpaints@gmail.com>
Sent: Wednesday, June 29, 2022 9:50 AM
To: County Clerk
Subject: Creation of the Maui Water Authority

You don't often get email from bethpaints@gmail.com. [Learn why this is important](#)
Please support the creation of the Maui Community Water Authority!

Elizabeth Hird
14 Kupalaiki Loop
Kihei, HI 96753

RECEIVED
2022 JUN 29 AM 10:37
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Sarah Hofstadter <skhof@comcast.net>
Sent: Wednesday, June 29, 2022 12:46 PM
To: County Clerk
Subject: Resolution 22-119, 7/1/22 Agenda Items CC22-151 and CR22-56

You don't often get email from skhof@comcast.net. [Learn why this is important](#)

Aloha. I am writing to express my support for creating a county-wide Community Water Authority, as proposed by Council Member Sinenci, or at a minimum, an East Maui Community Water Authority, as originally proposed by the GREAT Committee.

Fresh water is a critical necessity for human life, for agriculture, and for our islands' ecosystems. It is considered a public trust under Hawai'i law. It should be managed by the community for the benefit of everyone, not by a private entity for profit. Our existing privately held water capture, storage, and distribution systems are vestiges of the colonial plantation era.

It is well past time to establish public ownership and control of this finite, infinitely valuable resource, so that our limited water supply can be shared equitably in the public interest, and our infrastructure can be upgraded to better handle the droughts and floods that are likely to increase in frequency and severity as climate change intensifies.

I urge the Council to allow Maui's voters to establish a county-wide Community Water Authority, or, at a minimum, an East Maui Community Water Authority that can act to prevent the East Maui water system from remaining in private hands for the foreseeable future.

Respectfully,
Sarah K. Hofstadter
Kihei resident

RECEIVED
2022 JUN 29 PM 12:56
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Waikiki - Hawaii Condo <hawaiicondo@yahoo.com>
Sent: Wednesday, June 29, 2022 1:50 PM
To: County Clerk
Subject: Testimony in Support of a Maui County Community Water Authority

You don't often get email from hawaiicondo@yahoo.com. [Learn why this is important](#)

Aloha. As someone who lives on O'ahu where the island's primary sole-source aquifer has been at the mercy and under control by an omnipotent and deceitful entity for decades, I am writing from personal understanding of how important it is for residents to have control of the most valuable resource.

The creation of the Maui County Community Water Authority is the fairest way for decisions to be made about the county's water. **Please approve this charter amendment.**

Kim Jorgensen
Waikiki

RECEIVED
1877 JUN 29 PM 2 25
OFFICE OF THE
COUNTY CLERK

County Clerk

From: carol lee kamekona <hynmahi@yahoo.com>
Sent: Thursday, June 30, 2022 10:59 PM
To: County Clerk
Subject: East Maui

RECEIVED

2022 JUL -1 AM 7: 47

OFFICE OF THE
COUNTY CLERK

[You don't often get email from hynmahi@yahoo.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Aloha e Kathy!

This is Carol Lee Kamekona. I am not a paid lobbyist.

I am writing in support of establishing a Maui County Community Water Authority.

Mahalo! 

Sent from my iPhone

County Clerk

RECEIVED

From: Mia Sado-Magbual <mauiwahine54@gmail.com>
Sent: Friday, July 1, 2022 6:22 AM
To: County Clerk
Subject: cc 22-151 & cr 22-56

2022 JUL -1 AM 7: 47

**OFFICE OF THE
COUNTY CLERK**

 You don't often get email from mauiwahine54@gmail.com. [Learn why this is important](#)
Aloha Chair Lee & Council Members,

My name is Mia Kaulana Sado-Magbual and I am in full support of establishing a Maui County Community Water Authority and an East Maui Community Regional Board and I support putting it on the ballot to let the people decide. It's been too long that our water has been run by outside Private Corporations or I do not wish to see a Private Foreign Investment company deciding where our water goes or make up your own.

Mahalo,

Mia Kaulana

County Clerk

From: Mary L Keller <islandharpist@comcast.net>
Sent: Wednesday, June 29, 2022 1:37 PM
To: County Clerk
Subject: Please support the Maui Community Water Authority

RECEIVED

2022 JUN 29 PM 2 25

OFFICE OF THE
COUNTY CLERK

[You don't often get email from islandharpist@comcast.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I believe it's vitally important to support the creation of the Maui Community Water Authority. I am a resident of Paia and follow the water issues closely.

Thank you!

Mary Keller
41 Meha Place
Paia, HI 96779

County Clerk

From: Toni Lawson <tonialawson.esq@gmail.com>
Sent: Wednesday, June 29, 2022 10:03 AM
To: County Clerk
Subject: Maui county water authority

[You don't often get email from tonialawson.esq@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I am a resident of maui county and am kanaka maoli. For whatever reason the water in Maui has been terribly mismanaged and priority has been given to outsiders and not the indigenous people. Additionally and shamefully consideration of sustainable use of the water is not taken into account.

I support having a maui county water authority to help correct the water situation. Water is life. Our water is not unlimited unless you have a way we can drink ocean water that is also being contaminated by greedy ignorant people.

Sent from my iPhone

RECEIVED
2022 JUN 29 AM 10:37
OFFICE OF THE
COUNTY CLERK

County Clerk

RECEIVED

From: kathydeelewis@gmail.com
Sent: Thursday, June 30, 2022 8:10 AM
To: County Clerk
Subject: Support the Maui County Community Water Authority

2022 JUN 30 AM 8:14

OFFICE OF THE
COUNTY CLERK

You don't often get email from kathydeelewis@gmail.com. [Learn why this is important](#)

 Aloha-

I have farmed my land in Peahi/Haiku for 37 years.

I support this historic charter amendment that creates a **Maui County Community Water Authority** to manage East Maui stream waters – and eventually other old plantation systems – for the benefit of our local farmers, kuleana users, residents, and watersheds!!!

It's about time!!
Kathy Lewis

Sent from my iPhone

County Clerk

RECEIVED

From: Suzette Marlowe <suzettemarlowe@gmail.com>
Sent: Wednesday, June 29, 2022 2:15 PM
To: County Clerk
Subject: Maui Community Water Authority

2022 JUN 29 PM 2:49

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from suzettemarlowe@gmail.com. [Learn why this is important](#)

Please support the creation of the Maui Community Water Authority

Sincerely,
Suzette Marlowe
P.O. Box 593
Kula, HI 96790
suzettemarlowe@gmail.com

From: Matt McDonald <mattmcdon@gmail.com>
Sent: Thursday, June 30, 2022 8:47 AM
To: County Clerk
Subject: Testimony in Support of Maui County Water Authority

2022 JUN 30 AM 8:48

OFFICE OF THE
COUNTY CLERK

You don't often get email from mattmcdon@gmail.com. [Learn why this is important](#)

Dear Council Members,

I write to strongly urge you to support the creation of the Maui County Community Water Authority. As the years have gone by, I have become increasingly concerned about our uncertain climate, private control, and lack of accountability surrounding our watersheds. The County is not currently in a position to understand our water supply, keep it maintained, invest in its future, nor control it to benefit Maui's citizens who are in dire need of this most precious resource – wai. Water is life.

Additionally, our current system of private water control violates the Public Trust Doctrine, putting commercial users ahead of conservation, kuleana users, and domestic water supply. Not only do you have a moral imperative to implement a water supply system that benefits our local communities and wildlife first, you have a legal imperative to do so. Not creating a Maui County Community Water Authority would further disregard the Hawaii Constitution and local laws. We are counting on you, as a concerned electorate, to do the obviously right thing, and take this first step to control our water for the benefit of our local communities, not private users (the largest of which is a foreign pension fund).

A Maui County Community Water Authority would allow us to invest in watershed restoration and repairs and maintenance to old wasteful infrastructure, develop transparent, efficient, and culturally and environmentally responsible systems of management, provide local jobs in resource management, and ensure water security for all of Maui's current and future residents. Regional community boards incorporate the indispensable knowledge from local communities who have an intimate understanding of their watersheds and water systems. It's a win for everyone.

I am incredibly concerned about the alternative – private, corporate control over Public Trust resources with no guarantee of good stewardship or equitable distribution of water or water rates. And we see this example on large display in East Maui – our largest source of public water. Mahi Pono and PSP are already wasting over half of their daily allocation of 25mgd (stated in public records) and yet they want 88mgd guaranteed for 30 years. The consequences of this are unthinkable, especially as our community already faces a stage 1 water shortage. Our County should absolutely be in the position to reduce the water supply to a non-essential foreign corporation when water supplies are low, rather than taking from our own community of residents.

The decision is obvious. We cannot afford to perpetuate the status quo. Maui County must do better to ensure the sustainability of our resources, our 'āina, and our communities. Please vote to support the Maui County Water Authority.

Thank you and Aloha,
Matt McDonald

--
808.500.8054

County Clerk

From: marla mervis <marlamervis@me.com>
Sent: Wednesday, June 29, 2022 2:58 PM
To: County Clerk
Subject: Water

RECEIVED

2022 JUN 29 PM 3:08

OFFICE OF THE
COUNTY CLERK

 You don't often get email from marlamervis@me.com. [Learn why this is important](#)
To whom it may concern,

"Please support the creation of the Maui Community Water Authority",

Thank you!
Marla mervis-Hartmann

1007 Calasa Drive
Kula, HI 96790

www.LoveYourBodyLoveYourself.com

County Clerk

From: Hanna Mounce <mounce@mauiforestbirds.org>
Sent: Tuesday, June 28, 2022 2:25 PM
To: County Clerk
Subject: Support the passing of Bill 21 CD1 Outdoor Lighting Ordinance for Seabird Protection

|| You don't often get email from mounce@mauiforestbirds.org. [Learn why this is important](#)

Aloha Maui County Councilmembers and Chair,

My name is Dr. Hanna Mounce. I am the coordinator of Maui Forest Bird Recovery Project, the founder of Na Koa Manu Conservation, a mother, a longtime resident of Pukalani, and a local small business owner.

I strongly support Bill 21 CD1, seeking to regulate the impact of outdoor lighting on wildlife and dark skies by requiring outdoor lighting to be fully shielded, down directed, mounted as low to the ground as possible, and limited to 2% blue light content.

Safer lighting is readily available for businesses and this is a small change to make in our human activities that will make a big change for our native wildlife. I would like to ensure that Hawaiian seabirds are still here for my children and my grandchildren. Without them, we will not have the nutrients we need for our forests to flourish and provide the water that humans also so greatly rely upon.

Mahalo,

Dr. Hanna L. Mounce
Coordinator - Maui Forest Bird Recovery Project
2465 Olinda Road, Makawao, HI 96768-7138 USA
www.mauiforestbirds.org

808-573-0280 MFBRP Office
808-421-7483 Cell

RECEIVED
2022 JUN 28 PM 3:55
OFFICE OF THE
COUNTY CLERK

Ke Welina Mai Nei e Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Maui County Council:

My name is Kyle Nakanelua and I am testifying in support of Resolution No. 22-119 (2022) with strong reservations.

I am a Taro farmer from the moku o Ko'olau; the ahupua'a of Wailuanui; the 'ili kūpono and makawai of Lakini; fed by the punawai of Ama'u and Ka'akeke through the kahawai of Waiakamilo. I have been farming taro since 1989. My grandparents have been farming taro all of their lives, and their parents and grandparents and their grandparents all the way back to Haloa.

We have all cared for and fed our 'ohana from these lands and continue to do so. We believe that it is essential to continue our work to care for and protect these mo'o (descendants), 'āina, wairua (spirit) of the Maui Hikina area and all of the natural and cultural resources they are located, especially for our hanauna e hiki mai ana, our future generations.

Though this resolution is well intended and a good idea in theory, my concern is that normally when these critical items go to the ballots, the political hand takes control and the original intent seems to be lost in the making. In doing so, often times, Kānaka Maoli are shut out of the process and dismissed from having a seat at the decisionmaking table.

We are grateful that our laws are steeped in Hawai'i's unique public trust doctrine that is rooted in Kānaka Maoli custom and tradition. We pray that it be acknowledged and applied whenever policy is formed and that the voices of ancestral knowledge of the mo'o from Maui Hikina, be sought after, heard, listened to, and used to implement restorative justice on the ground and in our communities.

Mahalo nō,

Kyle K. Nakanelua

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2022 JUL -1 AM 7:47
OFFICE OF THE
COUNTY CLERK

From: John Naylor <johnnaylor@kula.us>
Sent: Wednesday, June 29, 2022 11:52 AM
To: County Clerk
Subject: Maui County

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2022 JUN 29 PM 12:04

OFFICE OF THE
COUNTY CLERK

[You don't often get email from johnnaylor@kula.us. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Aloha,

I am writing in full SUPPORT of a Maui County Water Authority.

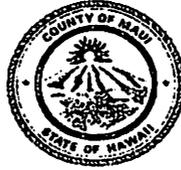
Nuff said,

John Naylor Makawao

MICHAEL P. VICTORINO
Mayor

HELENE KAU
Director

SHAYNE R. AGAWA, P.E.
Deputy Director



BOARD OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/water

RECEIVED
2022 JUN 27 PM 2 51
OFFICE OF THE
COUNTY CLERK

June 27, 2022

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

SUBJECT: RESOLUTION 22-119, PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH THE EAST MAUI COMMUNITY WATER AUTHORITY

On June 16, 2022, the Board of Water Supply unanimously voted to approve this letter in support of Resolution 22-119, and to have this charter amendment placed on the ballot to let the people of Maui County decide on the establishment of the East Maui Community Water Authority.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Buddy James Nobriga".

Buddy James Nobriga, Chair
Maui County Board of Water Supply

cc: Michael P. Victorino, Mayor
Sandy Baz, Managing Director
Helene Kau, Director
Shayne Agawa, Deputy Director

BJN:sco

"By Water All Things Find Life"

County Clerk

RECEIVED

From: Lucrezia Oddie <lucreziacreation@gmail.com>
Sent: Wednesday, June 29, 2022 4:37 PM
To: County Clerk
Subject: Support the Maui County Community Water Authority

2022 JUN 30 AM 7: 55

**OFFICE OF THE
COUNTY CLERK**

You don't often get email from lucreziacreation@gmail.com. [Learn why this is important](#)

Hello. I am in favor of this resolution.

Being a 38 year resident of Maui I have seen years of mismanagement resulting in copious waste of fresh water and diversions operated without consideration of residents' and farmers' uses, as well as wildlife habitat. I would appreciate your attention to this very important matter of ensuring equitable water distribution.

Aloha.

Sincerely,

Lucrezia Oddie

Kuiaha stream riparian resident

700 East Kuiaha Road

Haiku, HI.

96708

808-495-0104 (landline)

County Clerk

RECEIVED

From: Mavis Oliveira-Medeiros <mavisoliveira@gmail.com>
Sent: Friday, July 1, 2022 1:59 AM
To: County Clerk
Subject: CC 22-151, CR 22-56 & CR 22-57

2022 JUL -1 AM 7:47

OFFICE OF THE
COUNTY CLERK

You don't often get email from mavisoliveira@gmail.com. [Learn why this is important](#)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez & Council Members:

My name is Mavis Oliveira-Medeiros. I am an employee of Councilman Sinenci, but personally have always advocated for our water.

We know the harm that have been done to our water from especially the Plantation era up to the present time. My ohana of five are in full support of We think it's beyond time that the management of our wai is taken out of private for profit corporations or LLC's and put into a Water Authority entity and be put on the ballot for the people to decide. In support of both CC 22-151 & CR 22-56.

We are also in support of CR 22-57.because Hana needs its own Planning Commission. We have seen projects being done & when we call to find out about it, we find there's so many exemptions. We found out that none of the projects in the SMA area has to go through the Hana Advisory Board, so others are putting through all these projects & businesses, unbeknownst to Hana. If not exemptions, then there's variances. It just seems like there's loopholes for everything if a person really wants to start some type of development. Last but not least, Community Plans seem to be ignored.

A private owner was allowed to dig up the road himself to install a large pipe to his property to subdivide, none of the neighbors were notified to our knowledge. Businesses are springing up all over in Ag zoned land below the road (SMA areas). Two houses are being built clearly stating for vacation rentals in an area where the ocean or a fishpond surrounds two sides & the ocean has risen so much over the period from when the permit was applied for 20 years ago, really it should be re-done because of climate change, the waves at high tide constantly enters the property.

Im just saying it seems things are being built without consideration for the areas & zoning, etc. This needs to be changed.

Much mahalo,

Mavis Oliveira-Medeiros
PO Box 215
Hana, HI. 96713
(808)866-7409

Testimony of
Pacific Resource Partnership

Council of the County of Maui
Regular Meeting
Friday, July 1, 2022

RECEIVED

2022 JUL -1 AM 7:49

OFFICE OF THE
COUNTY CLERK

Re: 1) Amend Resolution 22-119, CD1 to provide the proposed Water Authority with countywide jurisdiction; and 2) Resolution 22-144, CD1 establish planning commissions for all community plan areas on Maui, and dissolve the Maui Planning Commission.

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Council:

Pacific Resource Partnership strongly opposes 1) Resolution 22-119, CD1 and 2) Resolution 22-144, CD1.

We strongly oppose Resolution 22-119, CD1 (proposes a Charter Amendment authorizing the County to establish a countywide water authority and allow for regional boards in any relevant area of Maui County) for the following reasons:

- The Maui Island water use and development plan adopted by the Council specifically states under exhibit A of Ordinance 5335, on page 270: that a study should be conducted to study "water system ownership and management models, such as water authority..." There is no evidence that a formal study by a reputable research company has been completed to investigate and analyze the implementation and impacts of a countywide water authority for Maui County.
- Concerned that the ratepayer will be required to pay for a countywide water authority at a time when Maui residents are struggling with Maui's high cost of living and lack of affordable housing. The following includes some of the costs that the ratepayer or Maui resident may have to pay for:
 - Hiring of staff, salaries, and fringe benefits:
 - Office space and equipment.
 - Maintenance and operation of water systems.
 - Upgrades and the rebuild of water systems.
 - Potential acquisition or condemnation of lands to retain control of water systems
- It is premature to pass this charter amendment when the roles and responsibilities between the proposed water authority and Maui's Department of Water Supply are unclear.

As such, we respectfully recommend that the Council defer this measure.



(Continued From Page 1)

We strongly oppose Resolution 22-144, CD1 (proposes a Charter Amendment establishing planning commissions for all community plan areas on Maui, and dissolves the Maui Planning Commission) for the following reasons:

The Maui Charter Commission had previously included a similar proposal in their January 18, 2022 Draft Report to the Council, which would have eliminated the Maui Planning Commission and replaced it with six new Planning Commissions for each of the Community Plan areas on the island of Maui; no changes were proposed for Lanai and Molokai Planning Commissions.

- o In a January 20, 2022 memo to the Charter Commission, the Corporation Counsel identified legal and practical issues to be addressed for the proposed new Planning Commissions (See page 5 of memo dated January 20, 2022 attachment)
- o The Department of Planning submitted written testimony in opposition and recommended an alternative proposal that the Maui Planning Commission be comprised of at least one member of each of the Community Plan areas. (See Department of Planning Testimony dated January 24, 2022).
- o The Charter Commission's Final Report dated February 18, 2022 included a version of the Department of Planning-recommended alternative, which would require the Maui Planning Commission to have representation from each Maui Community Plan district. (See attached).

As such, we respectfully recommend that the Council defer this measure.

DOREEN CANTO
GRANT CHUN
DAVID DELEON
PAUL DESLAURIERS
KAREY KAPOI
KELSON KAUANOE BATANGAN
KEONI KUOHA
DOUGLAS MARDFIN
ASHLEY OLSON
GEORGE PURDY IV



CHARTER COMMISSION
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
EMAIL: CHARTER.COMMISSION@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

January 20, 2022

To: Maui Charter Commission

From: Sherry Broder, Charter Commission's Legal Analyst
Richelle M. Thomson, First Deputy Corporation Counsel
Keola R. Whittaker, Deputy Corporation Counsel

Subject: Draft Charter Commission Report

This memorandum provides important information on your recently released draft report. Due to the large numbers of proposals, the report required the work of an entire team of people, including your analyst, legal advisors, and staff.

After reviewing the many proposals in the context of their interaction and effect on the charter as a whole, we want to bring to your attention those proposals which raise serious legal, practical or other issues. These concerns were addressed in our presentation at the Commission's January 11, 2022, meeting and are summarized below.

The County Charter functions as our county constitution. For that reason, the charter is, by design, difficult to change. If an amendment is approved that contains significant legal or practical issues, the voters of the County will not be able to change it for another two years or will have to hold a special election. It may also require legal action in order to obtain a court's interpretation of the amendment.

In its coming meetings, the Commission will have the opportunity to consider changes to the draft report before it is transmitted to the Council, using all information available to the Commission, including public testimony, information from the administration, and input from the Commission's Analyst and Corporation Counsel. We are available to assist you in drafting changes to

the proposals that will reduce the risk of creating unnecessary legal, practical or other problems while meeting your desired policy outcomes.

I. Number of Ballot Questions

The draft report includes 40 separate ballot questions. We are not aware of any prior charter commission including this many proposed amendments on a single ballot. By comparison, the 2012 charter commission approved 11 ballot questions and the 2002 charter commission approved 14 questions. The two charter commissions prior to 2002 asked voters to consider the approval of an entirely new charter in a single ballot question.

We kept in mind the goal of reducing the number of ballot questions when we drafted the Commission Report to the Council. Several of the 85 approved proposed amendments were able to be combined into single questions. While it may still be possible to make a few further combinations, however, because the current draft of proposals spans across the entire charter and address many different policy issues, combining many of them further will likely be difficult without making individual ballot question unwieldy and confusing. There may still be ways to combine some of the ballot questions either with a few adjustments to the current wording of the amendments or otherwise.

Ballot questions are legally required to communicate the proposed amendment accurately and in words that the average voter can understand. Combining unrelated amendments into a single ballot question may require that questions include multiple subparts, could lead to confusion or, worse, be impossible to defend in court should someone mount a legal challenge.

The Hawai'i Supreme Court set out in *City and County of Honolulu v. State*, 143 Hawai'i 455, 431 P.3d 1228 (2018) the principles for the legal sufficiency of ballot questions:

1. The ballot question must generate "a knowing and deliberate expression of voter choice."
2. The "broad authority" to propose amendments for ratification "is subject to the limitation that the ballot must enable the voters to express their choice on the amendments presented and be in such form and language as not to deceive or mislead the public."
3. Proposed amendments and their corresponding ballot questions are both constitutionally and statutorily required to be phrased in clear language that is not likely to deceive voters as to their nature and effect.

Reducing the number of ballot questions will likely require eliminating or rewording certain proposals. Taking such actions at this stage of your process is not unusual. The 2012 charter commission, for example, approved amendments that were combined into 21 ballot questions. That commission subsequently cut back on the number of proposals that ultimately went to the voters. They were able to remove enough proposals to go from 21 ballot questions to 11.

II. Proposals With Minimal Legal Effect

Some proposals will have a minimal legal effect on how the county currently functions because they don't require any specific action that differs from current practice. Other amendments address a subject matter that is currently addressed by state law or county ordinance, meaning this subject matter can be amended through legislative action by Council or the state legislature. Those proposals are listed below.

- Proposal 2 – Open Government (addressed by state law)
- Proposal 6 – Cost of Government Commission (minimal legal effect)
- Proposal 10 – Friendly Culture (minimal legal effect)
- Proposal 20 – Cultural Resources Commission (addressed by County ordinance)
- Proposal 36 – Electronic signatures (addressed by state law)
- Proposal 40 – Removal of transitional provisions (minimal legal effect)

III. Effective Date of Amendments

Charter amendments are effective the day they are ratified by the voters, unless indicated otherwise. For County government to operate effectively, it is essential that all of the amendments requiring either the appointment of a board that does not now exist or a budget to hire staff are given a later effective date.

The following amendments require budgeting and the hiring of staff. We recommend they be given an effective date of **July 1, 2024**:

- Proposal 15 – New Planning Commissions
- Proposal 21 – Bifurcation of the Department of Housing & Human Concerns
- Proposal 22 – Semi-Autonomous Board of Water Supply
- Proposal 26 – Department of 'Oiwi Resources;
- Proposal 27 – Director of Ethics
- Proposal 29 – Community Commission & Community Boards

- Proposal 30 – County Hearings Officer

The following amendments require the appointment of a board that does not yet exist, and once empaneled, the boards/commissions will need to adopt administrative rules. We recommend that they be given an effective date of **July 1, 2023**:

- Proposal 34 – Independent Nominations Board
- Proposal 35 – Independent Selection Commission
- Proposals 4, 7, 11, 12, 27, and 33 insofar as they reference the boards created by questions 34 and 35.

IV. Incomplete or Conflicts Amendments

There are several amendments that need attention because they are incomplete or create conflicts with other provisions of the charter or state law. We strongly recommend that you review the following amendments for significant legal issues that need to be addressed:

- Proposal 1 – Council Elections (incomplete/internal conflict)
- Proposal 2 – Open government (conflict with state law)
- Proposal 4 – Auditor (incomplete)
- Proposal 15 – New Planning Commissions (incomplete / significant legal problems)
- Proposal 16 – General plan (internal conflict)
- Proposal 18 – Automatic approval (internal conflict)
- Proposal 21 – Bifurcation of Housing & Human Concerns (incomplete)
- Proposal 22 – Semi-Autonomous Board of Water Supply (incomplete/internal conflict)
- Proposal 28 – Ethics Code (serious legal issue)
- Proposal 30 – County Hearings Officers (incomplete/conflict with state law)
- Proposal 35 – Independent Selection Commission (incomplete/ethics issues/conflict with judicial ethics)
- Proposal 39 – Police Commission (internal conflict)

V. Other Legal Concerns

There are other amendments that we highly recommend you review for consistency and clarity. Some of these amendments are in tension with, but may not directly conflict with, other portions of the charter or existing law. Others may cause confusion. These include the following amendments:

- Proposals 11 & 12 – Corp Counsel/Prosecutor
- Proposals 15 & 29 – New Planning Commissions/Community Boards
- Proposals 33 – Board Qualifications
- Proposals 34 & 35 – Nomination Board / Selection Commission
- Proposals 16 through 19 – Planning

VI. Financial Impact

The Commission requested an assessment of certain of the amendments. We forwarded that request to the County Auditor, and will transmit that information upon receipt. The following amendments are anticipated to have a significant financial impact, which may factor into the Commission's decision making:

- Proposal 15 – New Planning Commissions
- Proposal 26 – Department of 'Oiwī Resources
- Proposal 27 – Ethics Director & Staff
- Proposal 29 – Community Commission & Boards
- Proposal 30 – County Hearings Officers

VII. New Planning Commissions

One specific proposal – Proposal 15, New Planning Commissions – has a significant number of legal and practical issues that should be addressed. We recommend continued study and consideration of the following:

1. Procedures to transition from one Maui Planning Commission to six separate Planning Commissions that consider deadlines for the Maui Planning Commission and development of new processes for each of the six new commissions.
2. Whether decentralization would produce duplication and inefficiencies and how many additional staff members will be required.
3. Whether having differing Special Management Area boundaries or administrative rules within each of the separate planning areas on the Island of Maui would lead to confusion or legal issues.
4. Whether having differing approval processes for Special Management Area and other permits or approvals would create

inequities between planning areas on the same island, and between neighboring properties.

5. How the six different commissions would address island-wide planning issues including zoning changes, changes to the island-wide plan, and island-wide land-use ordinances.
6. Whether there are any examples of communities the size of Maui Island with decentralized planning approval processes and what benefits or challenges those communities have faced.

The planning department and existing planning commissions and advisory commissions may be able to assist in this effort.

VIII. Conclusion

A number of your proposals require a rigorous review of the legal, policy, and practical implications of reforms, with further input and analysis from experts and stakeholders, prior to finalization and transmittal to the County Council. The Council has only 30 days to consider the Commission's Final Report and proposed amendments and ballot questions, so transmitting a document that is as accurate and complete as possible will enable that body to perform its review. The final decision on the number, combination and language of ballot questions is the responsibility and kuleana of the Commission.

Additionally, consideration of various changes – from elections to planning to appointment of individuals to key positions in government – should include an assessment of how these discrete changes affects the ability of county government to operate efficiently and effectively. We therefore highly recommend that you invite the public, experts, and those currently working in government to provide further comments and proposals regarding important but complex work.

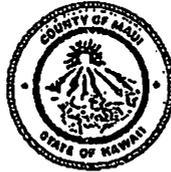
If the Commission concludes that any proposed amendments require additional consideration and study, it has the option of forwarding the proposal to the Council to include on a future ballot after thorough review.

Mahalo nui loa for your excellent, dedicated, and hard work, and we look forward to continuing to work with you to meet your objectives.

No.	PROPOSAL	Has <u>Must-fix</u> legal and/or conflict issues	Has highly- recommended legal fixes	Minimal Legal Effect / Could be Accomplished by Ordinance	Addressed by Ordinance or State Law	Suggested later effective date for budgeting/ legal/ practical reasons	Expected to cost over \$500,000 annually
1	Council Elections	X					
2	Open government/video conference	X			X		
3	Office of Council Services						
4	County Auditor	X				X	
5	Fiscal Impacts to Charter						
6	Cost of Government			X			
7	County Clerk					X	
8	Appoint and retain admin dept heads						
9	Mayoral residency requirement						
10	Friendly culture			X			
11	Corporation Counsel		X			X	
12	Prosecutor		X			X	
13	Appropriation						
14	Good Standing						
15	New Planning Commissions	X	X			X	X
16	General Plan / Land Use Ordinances	X	X				
17	Review Community Plans		X				
18	Automatic approval of general plan/ordinances	X	X				
19	Island-wide Plan		X		X		
20	Cultural Resources Commission				X		
21	Bifurcate Depts of Housing & Human Concern	X					
22	Semi-Autonomous BWS	X					
23	Dir of Water Supply and EP						
24	Police Chief						
25	Liquor Control Commission / Adjudication Board						
26	Oiwi Resources					X	X
27	Ethics Board / Director of Ethics					X	X
28	Ethics Code	X					
29	Community Commission & Boards		X			X	X

No.	PROPOSAL	Has Must-fix legal and/or conflict issues	Has highly-recommended legal fixes	Minimal Legal Effect / Could be Accomplished by Ordinance	Addressed by Ordinance or State Law	Suggested later effective date for budgeting/ legal/ practical reasons	Expected to cost over \$500,000 annually
30	County Hearings Officer	X		X		X	X
31	Initiative						
32	Recall						
33	Board Qualifications					X	
34	Independent Nomination Board		X			X	
35	Independent Selection Commission	X	X			X	
36	Electronic Signatures				X		
37	Remove Cap on Penalties						
38	Bilingual Government						
39	Police Commission Reports	X					
40	Unnecessary Transitional Provisions			X			

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

RECEIVED

By Maui Charter Commission at 11:54 am, Jan 24, 2022

January 24, 2022

Mr. Grant Chun, Acting Chair
and Members of the Maui County Charter Commission
200 South High Street
Wailuku, Hawaii 96793

via email: charter.commission@mauicounty.gov

Dear Acting Chair Chun and Commission Members,

**SUBJECT: PROPOSALS 15 – 20, 29 - 30, 33 - 34 RELATING TO THE
PLANNING DEPARTMENT**

Thank you for the opportunity to submit this additional testimony on the proposals that relate to the Department of Planning (Department). I provided testimony on most of these items at your October 7 and October 21 meetings. Thank you also for your service on this Commission and for all of the time and effort you have spent so far.

As someone who earned a degree in political science from a respected liberal arts college, and has worked for the federal, state and county governments for more than 25 years, I would first like to note that amending the County Charter is a very serious and deliberate act. We should not change the framework of our government based on issues that are new to our public dialog and that can be addressed in other ways, such as with ordinances. Ask yourselves: "What problem is this amendment trying to solve? Are we confident that most of our residents believe this to be a problem? Can the problem be solved in other ways?" My testimony will center around these questions. You should also ask yourselves if you truly understand the reasoning behind, and the impacts of, each proposed amendment before supporting any of them.

PROPOSALS 15 AND 29

Proposals 15 and 29 each seek to develop regional or localized representation by establishing planning commissions for each community plan area or to allow the creation of neighborhood boards. **The Department opposes the Proposals but supports an alternative approach.**

What problem is this trying to solve?	There is not an adequate local voice or representation in planning and other government decisions
Do our residents believe this to be a problem?	Yes, many do
Can the problem be solved in other ways?	Yes, by ordinance, though one (but not both) of these approaches is probably needed

The Department does not support creating six planning commissions. In 2021, the Maui Planning Commission reviewed 11 projects in West Maui, nine in South Maui, five each in Central Maui and Paia-Haiku, and two each in Upcountry and Hana. This is not sufficient volume to justify six planning commissions. All would have to be trained in a wide variety of State and County land use and procedural law, as well as County policies, including zoning, community plans, Maui Island Plan, state land use districts, county and state special use permits, conditional permits, bed and breakfasts and short-term rental homes, Special Management Area, Shoreline Rules, Native Hawaiian Law, Sunshine Law, Code of Ethics, Violence in the Workplace, Sexual Harassment, Discrimination and Drug-Free Workplace. The commissions that would have few projects to review each year could not be expected to retain all of this information if they do not have to apply it on a regular basis. Furthermore, there would be a lack of consistency of decisions among the different commissions. Lastly, our experience has been that when there are few meetings of a board or commission, members lose interest and stop attending.

Your analyst's report provides additional reasons why this is problematic.

One option for better representation would be for the Maui Planning Commission's nine members to have regional representation requirements, such as that one member must be from each of the six community plan regions, and no region can have more than two members. That will ensure that each region is represented and that no region has a much stronger voice than another. This could be accomplished by ordinance.

If the Commission nonetheless wishes to propose amendments to the Charter to address this matter, we continue to propose the following:

Section 8-8.4. Planning Commissions. ... Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui Planning Commission shall be concerned with the area encompassing the islands of Maui and Kahoolawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto. Of its nine members, there shall be at least one and no more than two residents from each community plan region.

Alternatively, or in addition, and as presented in prior testimony, community or neighborhood boards could be created and given specific authority, especially with respect to community plans:

Article . Community Boards.

1. There shall be a community board for each community plan region on Maui, comprised of seven members who reside in the region and who shall be elected at-large by the registered voters of the region. The county clerk shall make a good faith effort to inform the voters of all regions that they may seek seats on the community boards and that they will have the opportunity to vote for community board members. The county clerk shall also verify that each candidate is a resident of the respective region.

2. Community boards shall be utilized by the county council, the mayor, and all county departments to obtain input and feedback on projects and initiatives that affect the respective region.

3. Each community board shall hold at least six monthly meetings per year.

4. Community boards shall participate in the community plan review process as established in Section 8-8.5 herein.

5. There shall be the necessary number of secretaries to boards and commissions to post agendas, prepare minutes and provide other staff support. The secretaries shall be appointed by the mayor and confirmed by the council, and may be removed by the mayor with the consent of the council.

Section 8-8.5. General Plan and Community Plans.

.... 4. There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, [~~with nine appointed by the council and four appointed by the mayor~~] with seven being the members of the community board, four appointed by the council and two appointed by the mayor. Each citizen advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

PROPOSAL 16

Proposal 16 would (a) allow Council to act on certain matters without planning commission review, and (b) to shorten the time the planning commissions have to review certain matters. **The Department supports the Proposal but does not object to it being deleted.**

What problem is this trying to solve?	(a) There are not consequences if the commissions do not provide their recommendations in a timely manner, and (b) the commissions take too long to provide their recommendations
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	Maybe by ordinance

The Department proposed these amendments and believes they are warranted, but they are not critical to the overall framework of our County government and are not a concern to the general public. Because there are other, more substantive issues to consider, and to minimize the number of amendments on the ballot, we would not object to this Proposal being deleted.

PROPOSAL 17

Proposal 17 would (a) clarify the Department’s role in reviewing the annual capital improvement project (CIP) budget and (b) require the Planning Director to report on the status of the community plan update process. The Department supports the Proposal but does not object to it being deleted.

What problem is this trying to solve?	(a) The Department should not be responsible for prioritizing the CIP budget, and (b) there is no requirement for updates on the community plan process
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	(a) No, and (b) yes, by ordinance

The Department proposed amendment (a) and believes it is warranted. Amendment (b) can be addressed by ordinance. Neither amendment is critical to the overall framework of our County government or is a concern to the general public. Because there are other, more substantive issues to consider, and to minimize the number of amendments on the ballot, this Proposal should be deleted.

PROPOSAL 18

Proposal 18 would provide automatic approval if Council fails to act on certain matters. The Department supports the Proposal but does not object to it being deleted.

What problem is this trying to solve?	There are not consequences if the Council does not act in a timely manner
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	Maybe by ordinance

The Department proposed these amendments and believes they are warranted, but they are not critical to the overall framework of our County government and are not a concern to the general public. Because there are other, more substantive issues to consider, and to minimize the number of amendments on the ballot, we would not object to this Proposal being deleted.

PROPOSAL 19

Proposal 19 would have the Maui island community plan objectives be to implement the Maui Island Plan (MIP) in addition to the general plan. **The Department opposes the Proposal.**

What problem is this trying to solve?	Unknown, because the MIP is part of the general plan, so this is redundant
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	Yes, by ordinance

This language is duplicative and unnecessary. It could also be accomplished by ordinance. **Because there are other, more substantive issues to consider, and to minimize the number of amendments on the ballot, this Proposal should be deleted.**

PROPOSAL 20

Proposal 20 would add the Cultural Resources Commission (CRC) to the Planning Department. **The Department supports the Proposal but does not object to it being deleted.**

What problem is this trying to solve?	Unknown, because the CRC is already part of the Department
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	Yes, it has already been solved by ordinance

The Department supports having the CRC as part of the Department and does not object to this proposal. The CRC is already supported by the Department, and it might be important to formalize this relationship in the Charter. **However, because there are other, more substantive issues to consider, and to minimize the number of amendments on the ballot, this Proposal could be deleted.**

PROPOSAL 30

Proposal 30 would create a County Hearing Officer Department to conduct all contested cases. **The Department opposes the Proposal.**

What problem is this trying to solve?	Unknown; apparent dissatisfaction with some contested case decisions
Do our residents believe this to be a problem?	No
Can the problem be solved in other ways?	Maybe by ordinance

The Department opposes this amendment. As written, it would enfeeble the roles of the Board of Variances and Appeals, the Molokai Planning Commission, the Lanai Planning Commission, and the Maui Planning Commission, among others. Whenever these bodies have final decision-making authority, the proceeding is a contested case. Having these matters heard by a Hearing Officer, whose deliberations are private and held behind closed doors, before the body conducts its deliberations, will add time, cost and profound confusion to the permitting process. It also conflicts with some requirements in State law, and is likely to be quite costly, as noted in your analyst's report.

This would be an example of bad government run amok, and at a high price. Because this amendment was poorly conceived and likely not understood, this Proposal should be deleted.

PROPOSAL 33

Proposal 33 would make several amendments to how board and commission members serve their terms: (a) terms would begin when they take office instead of always beginning April 1, (b) there would be no political party balance requirement, (c) when a vacancy is filled, the new member starts a new term and does not complete the term of the outgoing member, and (d) no carryovers for members who serve less than two years. **The Department supports the Proposal.**

What problem is this trying to solve?	Improve the process for board and commission vacancies and terms
Do our residents believe this to be a problem?	Maybe
Can the problem be solved in other ways?	No

The Department proposed amendment (b) and supports the other amendments. While these may not be significant issues to the public, there are concerns with boards and commissions having full and balanced memberships, and these amendments would help in that regard. Amendment (d) would be appropriate if the other amendments are approved since there would no longer be carryovers. Please support this Proposal.

PROPOSAL 34

Proposal 34 creates an independent panel to nominate board and commission members. **The Department supports the Proposal.**

What problem is this trying to solve?	Improve the process for filling board and commission vacancies
Do our residents believe this to be a problem?	Maybe
Can the problem be solved in other ways?	No

Mr. Grant Chun, Acting Chair
and Members of the Maui County Charter Commission
January 24, 2022
Page 7

The six boards and commissions that the Department has long staffed often have vacancies that are difficult to fill. The process has become politicized and is not flexible enough to keep applicants engaged and ready to fill vacancies (see also Proposal 33). While this may not be a significant issue to the public, there are concerns with boards and commissions having full and balanced memberships, and these amendments would help in that regard. Please support this Proposal.

Your careful attention to this testimony would be appreciated. These are important issues that would affect my Department significantly, and I would not have put these concerns into writing if I believed you would not give them your thoughtful consideration.

As always, if you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



MICHELE McLEAN, AICP
Planning Director

xc: Mayor Michael P. Victorino
Sandy Baz, Managing Director
Moana Lutey, Corporation Counsel
Jordan Hart, Deputy Director
Jacky Takakura, Acting Planning Program Administrator
Clayton Yoshida, Planning Program Administrator
Pam Eaton, Planning Program Administrator
Kathleen Aoki, Planning Program Manager

MCM:atw

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GRANT Y.M. CHUN, CHAIR
KEONI J. KUOHA, VICE CHAIR
KELSON KAUANOE BATANGAN
DOREEN N. CANTO
DAVID P. DELEON
PAUL C. DESLAURIERS
KAREY K. KAPOI
DOUGLAS WARD MARDFIN
ASHLEY S. OLSON
GEORGE PURDY IV
MICHAEL L. WILLIAMS


CHARTER COMMISSION
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
EMAIL: CHARTER.COMMISSION@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152
EMAIL: CHARTER.COMMISSION@MAUICOUNTY.GOV

February 18, 2022

The Honorable Alice L. Lee
Chair, Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

RE: Final Report of the 2021-2022 Maui County Charter Commission

Dear Chair Lee:

I am pleased to transmit herewith on behalf of the Maui County Charter Commission a copy of the 2021-2022 Maui County Charter Commission Final Report, February 18, 2022.

This report is the result of a substantial amount of work contributed by the dedicated members of the Charter Commission, and its staff, since March, 2021.

On behalf of all of the members of the Charter Commission, I would like to express our gratitude for the opportunity to propose these amendments, which the Commission feels will be beneficial to our government and the people of Maui County.

Mahalo,



GRANT Y.M. CHUN, Chair
Maui County Charter Commission

Enc.

Cc: The Honorable Michael P. Victorino, Mayor (w/enclosure)

SIXTH PROPOSAL

Require the Maui Planning Commission to have representation from each Maui community plan district; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; clarify the order of community plan development; and set 10-year deadline for review of all community plans.

The Commission recommends that:

1. Section 8-8.4 of the Charter be amended as follows:

“Section 8-8.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The ~~[director]~~ directors of the ~~[department]~~ departments of public works, ~~and~~ environmental management, and ~~[the director of the department of]~~ water supply shall be non-voting ex-officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho`olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto. Of its nine members, there shall be at least one and no more than two members who reside in each Maui community plan district.

2. The Moloka`i planning commission shall be concerned with those areas of the county encompassed within the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, ~~except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known as the Kalaupapa Settlement].~~

3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.”

2. **Section 8-8.5 of the Charter be amended as follows:**

"Section 8-8.5. General Plan and Community Plans.

1. The general plan shall be developed after input from state and county agencies and the general public, and shall be based on sound policy and information.

2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

3. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council.

4. There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor. Each citizen advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

5. The community plans created and revised by the citizen advisory committees shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.

6. The community plans ~~[generated through the citizen advisory councils and accepted by the planning commission,]~~ initiated by the department of planning, reviewed and revised by the community plan advisory committees and the appropriate planning commission, and [accepted] approved by the council[-] and mayor are part of the general plan. The community plans shall be reviewed every ten years."

The **ballot question** would be as follows:

Shall Sections 8-8.4 and 8-8.5 of the Charter of the County of Maui be amended to require that the Maui Planning Commission have representation from each Maui community plan district; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; clarify the order of community plan development; and set a requirement that all community plans be reviewed every 10 years?

County Clerk

From: Tamara A. Paltin
Sent: Thursday, June 30, 2022 4:57 PM
To: County Clerk
Subject: Fwd: Please vote to put the Water Authority Amendment on the Ballot

Get [Outlook for iOS](#)

From: Paula Phillips <paulalee@hawaii.rr.com>
Sent: Thursday, June 30, 2022 4:52:18 PM
To: Alice L. Lee <Alice.Lee@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; 'Mayors Office' <Mayors.Office@co.maui.hi.us>; Kelly King <Kelly.King@mauicounty.us>; Tasha A. Kama <Tasha.Kama@mauicounty.us>
Subject: Please vote to put the Water Authority Amendment on the Ballot

Aloha Mayor and Maui County Council Members,

I would like you to please vote to put the Water Authority Amendment on the Ballot. It is critical to Maui County to have more authority over the management of our water. This is a critical step in our food security.

Mahalo nui loa,

Paula Phillips
Haiku

 Virus-free. www.avast.com

RECEIVED
2022 JUL - 1 AM 7:45
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Pamela Polland <mele@pamelapolland.com>
Sent: Wednesday, June 29, 2022 9:28 AM
To: County Clerk
Subject: In Support of The Maui Community Water Authority

You don't often get email from mele@pamelapolland.com. [Learn why this is important](#)
Please support the creation of the Maui Community Water Authority.
I'm unable to come to the live meeting, but please count my "vote"
in favor of this much needed idea.

Mahalo,
Pamela Polland
226 Kulalani Drive, Kula HI 96790

RECEIVED
2022 JUN 29 AM 10:37
OFFICE OF THE
COUNTY CLERK

County Clerk

From: grace pretre <gracelovemaui@gmail.com>
Sent: Thursday, June 30, 2022 10:33 PM
To: County Clerk
Subject: Support the Maui County Community Water Authority

[You don't often get email from gracelovemaui@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Aloha,

Please support the Maui County Community Water Authority, as it is essential at this time, mahalo.

Sincerely,

Grace Pretre
PO Box 957
Hāna, HI 96713

RECEIVED
2022 JUL - 1 AM 7: 47
OFFICE OF THE
COUNTY CLERK

County Clerk

RECEIVED

From: Jill Richards <youdodo_maui@yahoo.com>
Sent: Thursday, June 30, 2022 8:08 AM
To: County Clerk
Subject: Establishing a Maui County Community Water Authority

2022 JUN 30 AM 8 14

OFFICE OF THE
COUNTY CLERK

| You don't often get email from youdodo_maui@yahoo.com. [Learn why this is important](#)
I am in support of the Maui County Council voting in favor of establishing a Maui County Community Water Authority.

Jill Richards, Haiku resident.

808 264 1663
PO Box 81471
700 Honopou rd
Haiku, HI, 96708

County Clerk

From: Sheila Roback <sheila@madcc.org>
Sent: Friday, July 1, 2022 8:05 AM
To: County Clerk
Subject: cc 22-151 & cr 22-56.

¶ You don't often get email from sheila@madcc.org. [Learn why this is important](#)
Subject: cc 22-151 & cr 22-56.

Aloha Chair Lee & Council Members,

My name is Sheila Roback and I am in full support of establishing a Maui County Community Water Authority and an East Maui Community Regional Board and I support putting it on the ballot to let the people decide. It's been too long that our water has been run by outside Private Corporations and I do not wish to see a Private Foreign Investment company deciding where our water goes. Please hear the voices of the people who are tired of seeing our precious water being desecrated by those who have no authority; these waters are the rights of the people, for the people and should be protected by the people!

Mahalo for listening and choose the right! Let the people decide!

RECEIVED

Aloha,

2022 JUN 30 AM 7: 56

My name is Carter Rosenthal, a 17-year-old upcoming senior at Seabury Hall High School. I spent much time living on Maui's north shore before moving upcountry. In those years I do not recall seeing a single seabird, despite living minutes from the ocean. I recently visited the burrows at Ho'okipa, paying special attention to the birds that lived there. I had heard that millions of seabirds had once thrived where I stood, yet simply seeing two or three was shocking to me. It is clear that seabirds are in danger due to Maui's light pollution, but with their danger comes ours as well. It is for this reason that I write in favor of Bill 21.

When I was a freshman, I learned about the concept of "trophic cascades" in my biology class. I was drawn to the concept and found it remarkable that the extinction of a keystone species could immeasurably impact its surrounding ecosystem. Little did I know that Maui was undergoing a trophic cascade of its own.

As global warming becomes more severe, so do rising sea levels and storms. Without seabirds, our reefs will be unable to receive nutrients, dying and being unable to protect Maui from these threats. Without seabirds, my old north shore yard will erode into the ocean, taking my house with it. Without seabirds, the fish that sustain many people will lose their habitats.

It is our kuleana to repair the damage that has already been done. To think that we could cause irreparable damage to our local communities if we do not take the somewhat simple action of changing light bulbs is painful. We have already taken tremendous steps towards restoring our reefs by banning chemical sunscreens. Now it is time that we take similar steps through passing Bill 21's blue light limitations. Bill 21 is not a bill exclusively supporting seabirds, rather, it is a bill that supports seabirds, reefs, fish, the aina, people, and countless others.

Mahalo,
Carter Rosenthal

County Clerk

From: Michael Sado <outlook_12C5F27B00BDD6EC@outlook.com>
Sent: Friday, July 1, 2022 11:39 AM
To: County Clerk
Subject: Bill 21 Testimony

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Testifier: Mike Sado (Maui resident)
Address: 118 Olina Street, Kahului Hawaii, 96732

Aloha Maui County Council members,

My name is Mike Sado and I am born and raised on Maui for my lifetime. I am currently a high school teacher and baseball coach for Maui High School. I have been a teacher for 26 years and coach for 13 years intermittently. I would like to voice my concerns on Bill 21 "Bird bill." I am formally against and urge you to vote "NO" against this bill citing a lack of specifics as to how our residents, county and state recreational facilities, and private commercial facilities will be in compliance to it.

First, Bill 21 will impact our county in the following ways:

- Remove safety exemptions needed for public safety activities such as road construction, emergency repairs, field harvesting and road crossing.
- Remove exemptions for safety and security lighting for pools and water features, including waterfalls or ponds, necessary to help prevent people from tripping and falling.
- Regulate lighting on federal and state properties, including airports and harbors.
- Ban commonly used residential and commercial lighting fixtures, like string lights used to light outdoor patios or string lights used for events on Market Street in Wailuku.
- Prohibit flood lights, including those that are on a timer for security purposes, and certain footpath lighting and lighting used by campers.
 - Ban lighting used at common events, such as:
 - Outdoor events such as the Makawao Rodeo
 - Bon dances using lanterns on string lights
 - Kahului Sunday Night Market
 - Food truck areas, such as the venues near Costco
 - Outdoor concerts or movies
 - Maui Fair lighting
 - Luau, outdoor parties
 - Use of up-lighting for illuminating buildings or landscaping
 - Private sports facilities, such as golf course and driving ranges
 - MIL and hosted hosted State Tournament sport games.
 - And on and on.....

As a high school and youth league baseball coach, its challenging to schedule practices and season games at our field facilities throughout the year in the time that we have. As a coach, our youth puts in the work, dedication and effort to play night games. This will take away the opportunity to showcase their talents in the sports.

"How can you all guarantee that all of the above events (recreation) be subject to exemption so they are not be banned or taken away." If you cannot, YOU MUST VOTE "NO" on Bill 21. Until there are guarantees.

Voting for the Bill 21 as it is written will take away the above events and will affect a whole lot of organizations.

On another note, most of the people that are for this Bill do not understand the lifestyle of the local people completely. Most are those who are the so called "transplants" that moved to Maui recently or have made Maui their home because they could not stand living on the mainland and they want to again change our local lifestyle. These people claim they are all for the environment and saving our seabirds, but they don't take into account how it will impact the "local" people's lifestyle. These people claim they understand the local lifestyle when truly they want to change it to meet their lifestyle. You need to take into consideration how this Bill will impact the local lifestyle before you making decisions. You all are making decision based on the comments and opinions of the transplants and do not represent those that are truly "born and raised" here in Hawaii.

I am sick and tired of people that come to Maui and make it there place of residence, and immediately start to change our local lifestyle. This has been going on for years and it needs to stop. You folks the council need to speak up for the local people's voice rather standing up for the unspoken majority of our local residence who don't have time to testify because they are working jobs during the day.

Vote "NO" on Bill 21 until guarantees for the events above can be met.

Thank you for your time

Mike Sado, Maui resident

Sent from Mail for Windows

County Clerk

RECEIVED

From: Susanna SeaFire <sea.fire.enchantment@gmail.com>
Sent: Thursday, June 30, 2022 11:22 PM
To: County Clerk
Subject: testimony re: Maui County Community Water Authority.

2022 JUL -1 AM 7: 47

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Aloha!

Establishing a countywide community water authority gives us the opportunity to bring in the right expertise and acquire the funding to manage this precious resource wisely. As it stands, aging infrastructure and mismanagement contribute to unacceptable amounts of wasted water, with major impacts to local ecosystems, watersheds, and communities.

A Maui County Community Water Authority would allow us to invest in watershed restoration and repairs and maintenance to old wasteful infrastructure, develop transparent, efficient, and culturally and environmentally responsible systems of management, provide local jobs in resource management, and ensure water security for all of Maui's current and future residents. Regional community boards incorporate the indispensable knowledge from local communities who have an intimate understanding of their watersheds and water systems.

The alternative is private, corporate control over public trust resources with no guarantee of good stewardship or equitable distribution of water or water rates.

We cannot afford to perpetuate the status quo. Maui County must do better to ensure the sustainability of our resources, our 'āina, and our communities.

County Clerk

RECEIVED

From: Barry Sultanoff <essential@hawaii.rr.com>
Sent: Wednesday, June 29, 2022 10:49 AM
To: County Clerk
Subject: I support creation of MCWA

2022 JUN 29 AM 10:57

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Please support the creation of the Maui Community Water Authority

Barry Sultanoff
2401 Umi Place
Haiku HI. 96708

From: Ane Takaha <bhaktirocks@earthlink.net>
Sent: Wednesday, June 29, 2022 3:47 PM
To: County Clerk
Subject: Water

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2022 JUN 29 PM 4:15

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Please support the creation of the Maui Community Water Authority Thank you Ane Takaha Maui Meadows

Sent from my iPad

County Clerk

From: Akari Ueoka <akariueoka2@gmail.com>
Sent: Wednesday, June 29, 2022 9:48 AM
To: County Clerk
Subject: Maui County Community Water Authority

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Please support the creation of the Maui Community Water Authority.

Akari Ueoka
Zipcode: 96708

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County Clerk

RECEIVED

From: Jennifer Valentine <faboo1028@yahoo.com>
Sent: Thursday, June 30, 2022 11:54 AM
To: County Clerk
Subject: Support the Maui County Community Water Authority

2022 JUN 30 PM 12:31

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You don't often get email from faboo1028@yahoo.com. [Learn why this is important](#)
please support an historic charter amendment that creates a **Maui County Community Water Authority** to manage East Maui stream waters – and eventually other old plantation systems – for the benefit of our local farmers, kuleana users, residents, and watersheds.

The Maui County Water Authority would have the ability to create regional community boards – for each area affected – to guide the watershed planning of that area.

Help our community have a voice in our water future!

This is an important and necessary step for Maui County!

mahalo, jennifer valentine

MAUI OCEAN CENTER

*Our Mission: To foster understanding,
wonder and respect for Hawaii's marine life.*

RECEIVED

2022 JUN 29 AM 9:11

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06/29/22

TESTIMONY OPPOSING MAUI COUNTY CORPORATION COUNCEL VERSION OF BILL 21 SEABIRD AND BIODIVERSITY PROTECTION (CARE 74)

Dear Honorable Chair and Committee Members,

I strongly support Bill 21, CD 1.

I am a Board member at Ma'alaea Triangle Association (MTA) which represents all the commercial business in the Ma'alaea Triangle commercial area. We have a parking lot that contains 756 parking stalls and 27 light poles most being 30' high. These light poles were installed about 25 years ago when the commercial area was developed and are end of life with outdated lighting technology that is not energy efficient and not very seabird friendly. We are in the final stages of contract negotiations with a lighting manufacturer that is able to deliver to our specifications; < 2% blue light content, < 3,000K, and shielded light fixtures. This technology meeting the above specifications is readily available. They are completely PV + battery operated. Our new lights will be 18' tall. We expect to be able to execute this project by the end of 2022.

I wanted to share this project with Maui County Council considering this issue as here we have a private organization that recognizes the importance of this issue and is making the decision on its own to lead with a solution that is not only seabird and sea turtle friendly but also most energy efficient and it is happening now. And the UH astronomy will also appreciate more clarity in the night skies. I urge the Maui County Council to continue to be forward looking and be the agents for positive change in and for our Community. Thank you for your time and consideration.

Aloha,



Tapani Vuori

c.808.561.2022

tvuori@mauiocenter.com



192 Ma'alaea Road Wailuku, Hawai'i 96793 • mauiocenter.com • 808.270.7000

Testimony in support of Bill 21 CD1 as proposed by the CARE committee

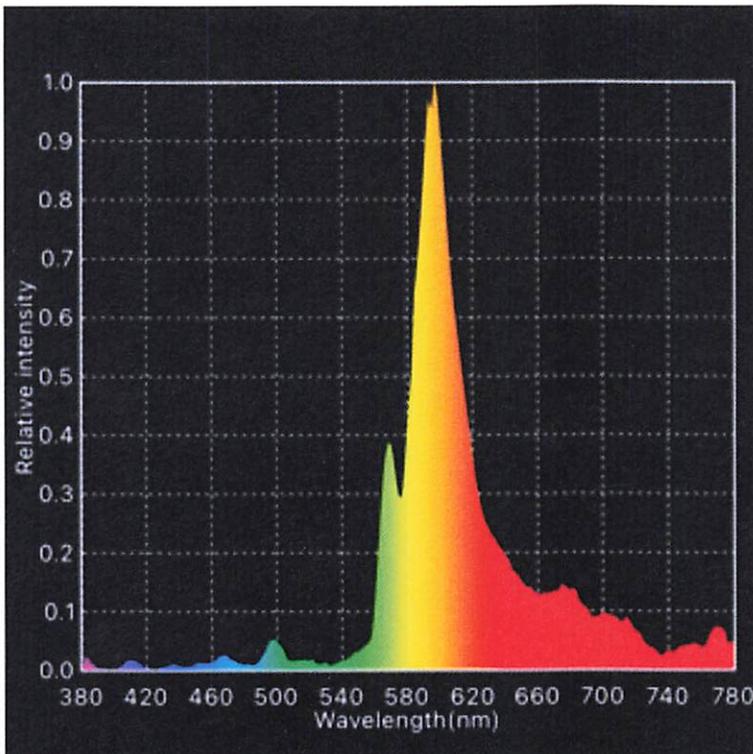
Richard J Wainscoat

rjw@hawaii.edu

I am an astronomer at the University of Hawaii, and have worked for many years on lighting issues related to preserving the dark night sky for astronomy.

I strongly support Bill 21 CD1 as proposed by the CARE committee. This bill closely parallels the lighting ordinance that is presently in place in the County of Hawaii. That lighting ordinance has successfully protected the dark night sky over Maunakea, and has also helped to protect endangered species on the Island of Hawaii.

Maui's lighting for many years has been mostly high-pressure sodium (HPS) lighting. A spectrum of an HPS lamp is shown below:



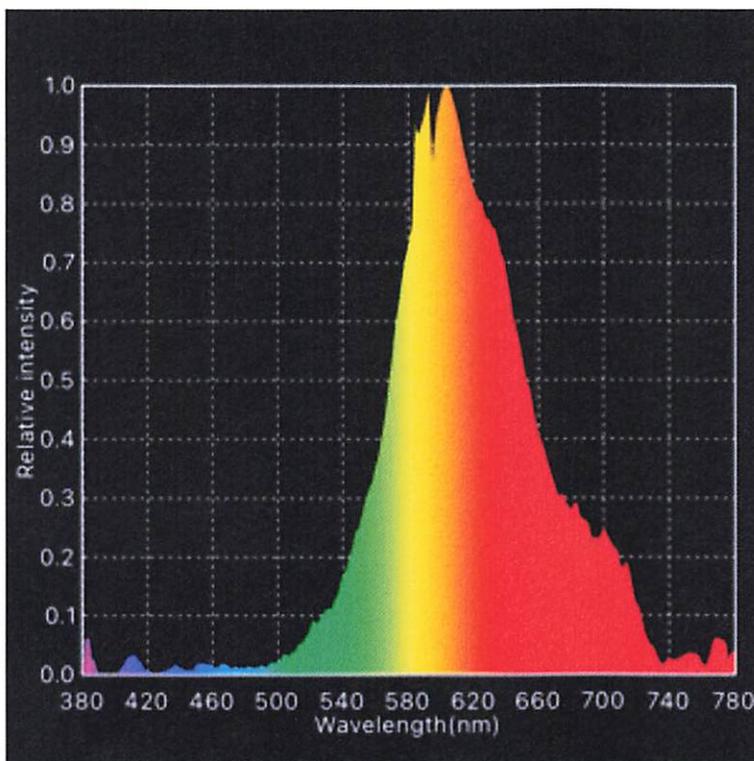
This spectrum shows that HPS lamps are deficient in blue and green light. Blue light, and to a lesser degree, green light (because of Rayleigh scattering) are very damaging to astronomy. Furthermore, the natural dark night sky is very dark in the blue and green wavelengths shorter than 555 nm (yellow-green color).

Astronomers recognize the need for light at night, but strongly favor use of yellow, amber, orange and red light. In addition proper shielding — full shielding — is critically important.

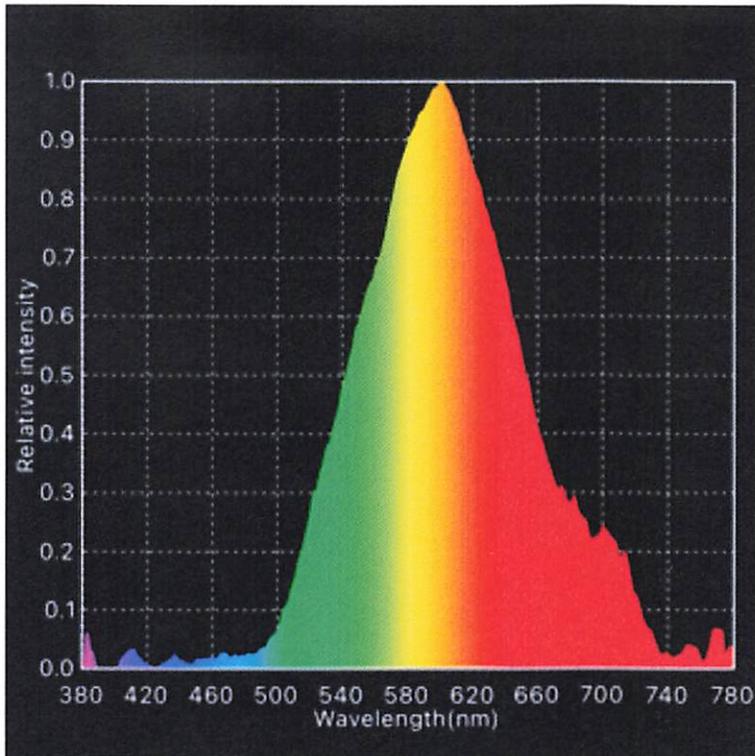
Endangered species such as birds and turtles are also affected by light at night. The wavelengths of light that have the strongest affect on most species are blue light, and to a lesser degree, green light. Therefore, the preferred lighting to protect endangered species is also fully shielded yellow, amber, orange and red light. The spectral requirements for protecting these species are similar to what is needed to protect the dark night sky over Haleakala observatory for astronomy.

Light emitting diodes (LEDs) have come into widespread use. Nearly every LED light is based upon an InGaN blue LED, and a phosphor that converts some (or all) of the blue light to longer (redder) wavelengths. Many LED lights have much more blue light than HPS, so a switchover in Maui County from HPS to LED must be done very carefully, with great care not to increase the amount of blue light.

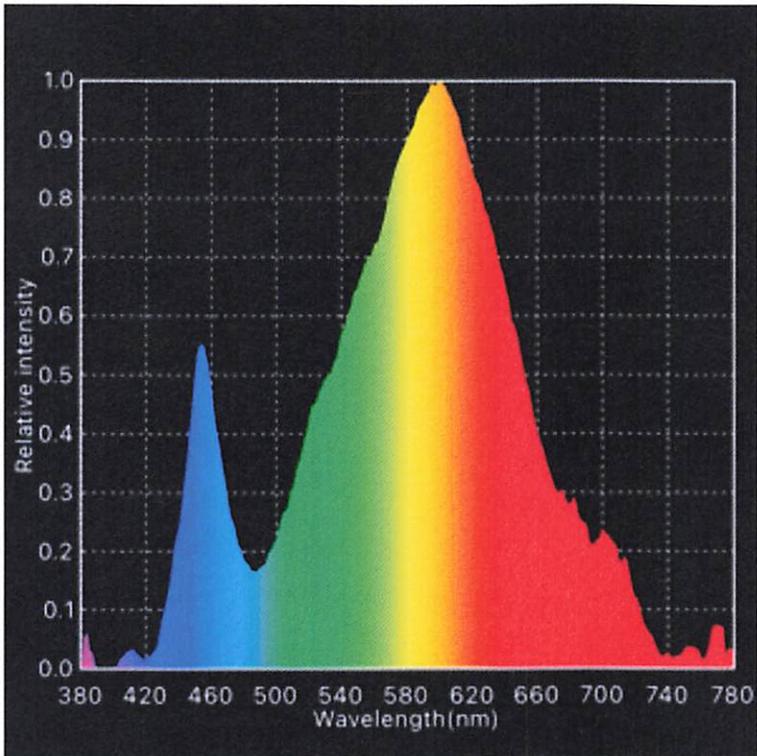
Some sample LED spectra are shown below:



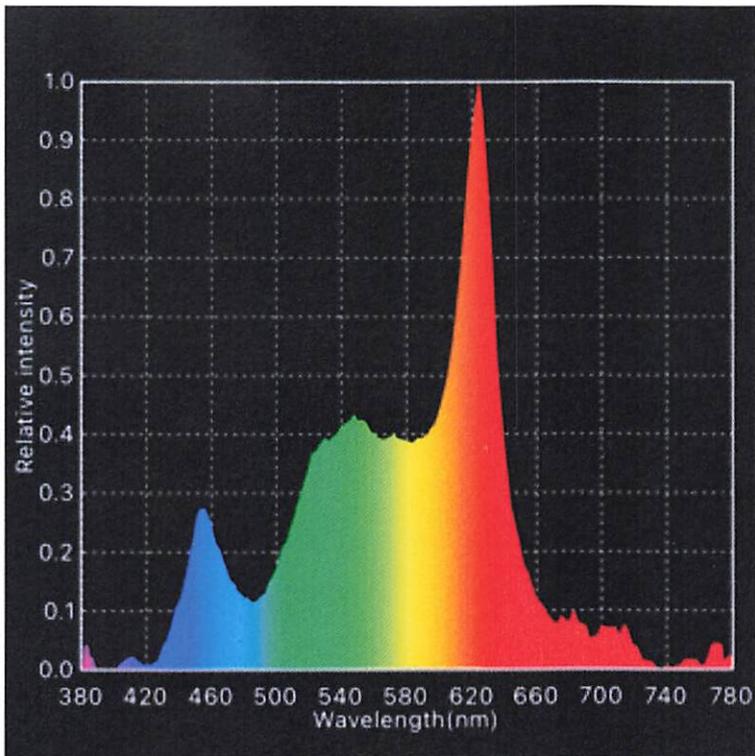
Phosphor Converted amber - this is widely available, and consistent with the Bill 21 CD1 blue light limitations. This light would be acceptable to astronomy and is likely acceptable for protection of birds and turtles. It has an amber appearance.



Filtered warm (3000 K) LED — this is in wide usage on the Island of Hawaii. It has very little blue light, but better color rendition than HPS. This is acceptable to astronomy, but could be improved for bird and night sky protection by adjusting the base LED and the filter to reduce the amount of green light. This light is slightly more energy efficient than PC amber. It has a yellow appearance.



3000 K LED - this has a much larger amount of blue light, and also more green light. Use of 3000 K LEDs will cause degradation of the night sky for astronomy, and harm birds and turtles. Use of even higher color temperature LEDs is even worse due to higher blue content.



Cree 3000 K LED - this is a very poor choice for outdoor lighting. It is effectively a ~4000 K white LED to which a large amount of red light has been added to pull down the color temperature. The human eye is insensitive to the blue and red light, but the light from this lamp would be very damaging to astronomy and harmful to species affected by blue and red light.

Full shielding of lighting is critically important. Unshielded light travels great distances, and interferes with astronomy and wildlife. Spectral control is also critically important. Bill 21 CD1 (CARE committee version) takes good steps to control the spectral content of light by limiting blue light. The Corporation Counsel version of Bill 21 does not adequately control blue light (and would be very harmful to astronomy and wildlife).

County Clerk

RECEIVED

From: aerie waters <aeriewaters@gmail.com>
Sent: Wednesday, June 29, 2022 9:18 PM
To: County Clerk
Subject: Maui County Community Water Authority

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**Water is a gift from the heavens, and as such, its fair distribution should be the decision of a broad based voice.
Please approve this more pono way to protect water rights for all.**

**With aloha,
Aerie Waters**

County Clerk

RECEIVED

From: Alicia Rittenberry <arittenberry888@gmail.com>
Sent: Wednesday, June 29, 2022 2:14 PM
To: County Clerk
Subject: Resolution 22-119, FD1

2022 JUN 29 PM 2 49

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Aloha and mahalo for allowing me to voice my approval of the resolution to create a Maui County Community Water Authority to manage East Maui stream waters in order to protect and equitably distribute our most precious resource.

—
**Alicia Wood
(808) 298-9337**