

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

December 20, 2019

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, DECEMBER 20, 2019, BEGINNING AT 9:05 A.M., WITH CHAIR KELLY T. KING PRESIDING.

COUNCIL CHAIR KELLY T. KING: Good morning. It's 9:05 in the Maui County Council regular Council meeting of December 20, 2019. I'm Kelly King, the Maui County Council Chair. And the time is oh, 9:05 still.

Okay. Mr. Clerk, can we do roll call?

### ROLL CALL

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

COUNTY CLERK JOSIAH K. NISHITA: Madam Chair, there are nine Members present. A quorum is present to conduct the business of the Council.

CHAIR KING: Okay, and today for opening remarks, we go to Councilmember Shane Sinenci.

Mr. Sinenci.

### OPENING REMARKS

The opening remarks were offered by Councilmember Shane Sinenci.

CHAIR KING: Mahalo, Mr. Sinenci. And just a reminder that you might want to avoid politics at your Christmas dinner this year. It's been rough at the Federal level.

All those who so choose, please stand and join me in reciting the Pledge of Allegiance.

### PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR KING: Okay, before we proceed with today's agenda, can I please request that everyone silence their cellphones or other noisemaking devices. And that includes me.

(Vice-Chair Rawlins-Fernandez was excused from the meeting at 9:08 a.m.)

CHAIR KING: Okay. Mr. Clerk, proceeding with ceremony, or with our ceremonial resolution.

COUNTY CLERK: Madam Chair, proceeding with ceremonial resolutions.

### CEREMONIAL RESOLUTIONS

RESOLUTION  
NO. 19-205

RECOGNIZING THE MONTH OF DECEMBER AS  
NATIONAL IMPAIRED DRIVING PREVENTION  
MONTH IN MAUI COUNTY

CHAIR KING: Okay. And is there any testimony?

COUNTY CLERK: Madam Chair, we have received no testimony for ceremonial resolutions.

CHAIR KING: Okay. Is there anyone in the chambers wishing to testify on the ceremonial resolution? Seeing none, is, are there any objections to closing testimony on ceremonial resolutions?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay.

And we go to Councilmember Sugimura for the ceremonial resolution.

(Vice-Chair Rawlins-Fernandez returned to the meeting at 9:09 a.m.)

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ENTITLED "RECOGNIZING THE MONTH OF DECEMBER AS  
NATIONAL IMPAIRED DRIVING PREVENTION MONTH IN  
MAUI COUNTY".

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay, moved by Councilmember Sugimura, and seconded by Councilmember Lee.

Would you like the Clerk to read the--

COUNCILMEMBER SUGIMURA: Yes, please. Clerk, could you please read the resolution in its entirety?

*(The resolution was read in its entirety.)*

CHAIR KING: Okay. Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. As the resolution states, the holiday seasons between Thanksgiving and New Year's Day is statistically where traffic fatalities involving impaired drivers increase significantly. We as a community must do more to bring, increased awareness to the dangerous and deadly effects of impaired driving and put a stop to the needless loss of life due to impaired driving on our roads. The resolution being proposed today helps to bring forth this awareness.

Bill 70 (2019), the OUI tow bill up for second and final reading on today's agenda is also another tool to help address impaired driving and ultimately save lives for the Police Department and for our community. I ask for the Members full support of this resolution. Thank you, Chair.

CHAIR KING: Okay. Thank you. Any comments or questions or discussion on the resolution?

I think it's very timely. I'm happy that we're aligned with the actual month that we're supposed to be doing this in.

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KING: And if there's no discussion, we'll move ahead with the vote. So, all those in favor of the motion on the floor say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Motion carries nine to zero; unanimous.

And, Ms. Sugimura, do we have someone to receive?

COUNCILMEMBER SUGIMURA: Yes. So, I have three people here; Sergeant Rowe, from the Maui Police Department; Lieutenant Hankins, who's been working diligently on this is on Oahu doing work, statewide work on behalf of the Maui Police Department; Andrea Maniago from Mothers Against Drunk Driving, Hawaii Chapter; Rick Collins from the Maui Coalition for a Drug-Free Youth. I wonder if I could ask them to come up to the podium.

CHAIR KING: To the podium?

COUNCILMEMBER SUGIMURA: Yea and receive the resolution. I have some leis for them too.

CHAIR KING: Okay. And just to remind the Councilmembers and the folks in the audience that we will be doing a press release pertinent to this issue at 12:15. If we get done with the entire meeting, we'll have a signing of the bill. The Mayor will be there and we can, we can actually put it to rest and have a photo op.

**COUNCILMEMBER SUGIMURA:** So, at this time, I wanted to present this resolution to you, Sergeant Rowe. And I wonder if each of you would like to say a few words? Each of you have had a, have been a big part to get us to where we are with the second and final reading, which will happen later on in the Council. But here you go.

**SERGEANT GREGG ROWE:** On behalf of the Maui Police Department, specifically, you know, the Traffic Section, we'd just like to thank everybody, you know, the Council, you know, pushing this through, helping us do our job, keeping Maui even more safe, you know, helping us out even more. With all the effort that we're, you know, currently making these shifts, you know, encourages us to do more and, you know, we just appreciate the effort that you folks, how you folks have stood by us and supported this bill.

**MS. ANDREA MANIAGO:** Hi. I just wanted to say thank you on behalf of myself and MADD. We definitely really appreciate this month especially being recognized. I know that there's a lot of deaths during this time, so it's great to have this awareness. Thank you.

**MR. RICK COLLINS:** Yes, and hi. On behalf of the Maui Coalition for a Drug-Free Youth, we just say thank you to all of you. I knew you worked hard on a lot of this to be really swift and, and quick on this. And I think it's very timely considering the month of December is a time for a lot of drunk driving. So, thank you for this; appreciate it.

**COUNCILMEMBER SUGIMURA:** You know, I, I apologize. I think who also should be here as we work through Committee work is Don Guzman with Prosecuting Attorney. So, I apologize, Don Guzman. I don't know where you are, but I hope you're listening in. But he was a big part of getting this, the bill passed, that we're going to look at for second and final reading today. And these are all the additional advocates. So, thank you very much, Chair, for bringing this up.

**CHAIR KING:** Do we have, do you want to just have someone from the Prosecutors Office? We have some people--

**COUNCILMEMBER SUGIMURA:** Is somebody here?

**CHAIR KING:** Yea. I know we have Ms. Matthews. But I can't see if . . . behind that podium?

**COUNCILMEMBER SUGIMURA:** Oh, please come up.

**CHAIR KING:** Oh, okay. If you'd like to say a few words. I think, I think Mr. Guzman might be joining us for the press conference a little later. You know it's really, as you're coming down, I just want to say it's really important. You guys are all, all of you up

there at the podium are boots on the ground. So, we feel like we're supporting you and you've done the really hard work.

**DEPUTY PROSECUTING ATTORNEY LESLEE MATTHEWS:** Thank you, Madam Chair and thank you, Councilmember Sugimura, for having us today. And thank you to this Council for working very hard. And to all of the voices coming together, we see this day and day. We've screened cases of drinking and driving and it's really an epidemic, and so I'm really thankful to our OUI Task Force, and our police officers, our community members, and our Councilmembers, and the community as whole.

You know, this is a really big problem and we have to call it out as we see it and make sure that we hold our family members and friends accountable when they decide to get back behind the wheel. And let them know that this is not acceptable, and we will not tolerate this type of behavior on behalf of all the surviving families that have lost their loved ones. So, thank you so much for having us.

**CHAIR KING:** Thank you. Okay. Mr. Clerk, resolution number.

**COUNTY CLERK:** For the record, RESOLUTION 19-205.

Madam Chair, proceeding with the presentation of testimony on agenda items. We have established limited interactive communication that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai should now sign up with District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located in the eighth-floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

When testifying, please state your name and the name of any organization you represent. Please also identify to the Council if you are a paid lobbyist.

Currently, we have no testifiers waiting at our District Offices.

We have eight individuals signed up to testify in the Council chamber. The first person to testify in the Council chamber is Michael Williams, testifying on County Communication 19-519. To be followed by Lauren Armstrong.

**CHAIR KING:** Okay. And then just to remind testifiers, you have three minutes, the green light goes on. The yellow light goes on, you have thirty seconds. And then it ends at the red light. I'm sure most of you know that, but Mr. Williams.

## PRESENTATION OF WRITTEN OR ORAL TESTIMONY

### MR. MICHAEL WILLIAMS, MAUI TOMORROW AND STAND UP MAUI (testifying on County Communication No. 19-519):

Aloha, Chair and Councilmembers. Merry Christmas and Happy New Year to you all. For the record, I'm Michael Williams here testifying today on behalf of both Maui Tomorrow and Stand Up Maui.

My main point is to urge the Council to refer the request for proposals for a comprehensive affordable housing plan to whatever Committee can take it up soon. I know the Committees have different agendas stacking up and we just would like you to address this as soon as possible.

I have five pieces of new information for you that, most of which I've only learned in the last 24 hours that I thought I'd give you very quickly. First, I've learned that the Mayor's Office has, is in the process of forming a new task force at a higher level than the Maui Nui Task Force you may have heard about before that will involve looking at some kind of a comprehensive plan.

Secondly, I have learned that the SMS Consulting Group will be issuing a new projection of housing needs for Maui no later than January 10. So, that's coming up. This is the same group that this Council hired three years ago to produce the latest study.

Two pieces of information about the Hawaii Community Foundation; if you'll remember, in August there was a, the Hawaii Community Foundation had a big lunch. I think all of you were there. The Mayor was there. It was at the MACC. And they announced at lunch that they were going to hire a new person for their Maui office that was going to focus on affordable housing, and that they had signed a contract with a Honolulu consulting firm to produce some kind of an affordable housing plan for Maui.

Well, I, I talked to them yesterday and the new person has not yet been hired. They're in the process of at least interviewing people for that, but the position is not filled yet. And the, their housing plan has been delayed and they now expect it to be in February. Originally, it was going to be in October.

Let's see, what else? The last thing is a little perplexing. I learned that the Corporation Counsel has issued an opinion, I haven't seen it in writing, that you cannot use the Affordable Housing Fund money for an affordable housing plan. I find that very mysterious because the Charter, which has a short provision about the Affordable

Housing Fund says, the revenues in this fund shall be utilized for the expansion of affordable housing, including planning. And I don't understand why if the Charter says you can use the money for planning to expand affordable housing, Corporation Counsel thinks you cannot do that. And I request that you explore that a little bit. Thank you.

CHAIR KING: Okay. Thank you, Mr. Williams. What, what section was that in the Charter?

MR. WILLIAMS: That's Section 9-20, first paragraph on page 45 of the Charter.

CHAIR KING: 9-20? Section?

MR WILLIAMS: 9-20.

CHAIR KING: 20, okay. Okay. Well, that's interesting. We have a couple questions for you.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Good morning. Thank you for being here. Who is Stand Up Maui? I'm not sure who they are. You said you represent both.

MR. WILLIAMS: Yes. Stand Up Maui is the new incarnation of FACE Maui, which is a, the housing advocacy organization that was operating under the auspices of the Catholic Church for the last nine years or so on the island. We were lucky enough to inherit a 501(c)(3) organization from a Oahu-based outfit called "Housing Hawaii".

And two of the, the board members from Housing Hawaii are still on our board; Kevin Carney, who is the head of the, I think the largest non-profit housing developer in the State, EAH; and also, Denise Boswell, who sits on the, is a, is a full-time employee of the Rural Community Assistance Corporation. And they are, I went to the housing assembly last Tuesday in, on Oahu, and I learned so much from talking with both Carney and, and with Denise Boswell about things that will help Maui create affordable housing, especially at the lower end of the spectrum of AMI and also for workforce farmworker housing. They both know a lot about those things.

In fact, Denise, we're trying to get Denise Boswell to come over here in January for a special meeting to talk about farmworker housing.

COUNCILMEMBER SUGIMURA: Thank you. And how many Maui people are on Stand Up Maui? Because right now, you're saying there's two people from Oahu.

MR. WILLIAMS: We have a total of nine board members. So, there's seven, there's seven board members from Maui.

COUNCILMEMBER SUGIMURA: Thank you.

MR. WILLIAMS: You know, Thelma Kealoha is the President. Stan Franco is the Vice-President. I'm the Treasurer. Lawrence Carnicelli is our Secretary. We have a, you know, it's, it's the same people who have been very active in FACE for a long time.

COUNCILMEMBER SUGIMURA: Thank you. Thank you.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Williams. Mahalo for your testimony this morning. My question is, the information that you cited from Corp., Corporation Counsel, where was that information that you found? Was it in a, an opinion?

MR. WILLIAMS: I, I'm just, I was told by a staff person that the opinion has been issued and that they understand they cannot tap the Affordable Housing Fund for an affordable housing plan. I, I don't know who wrote the opinion and I haven't seen it.

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

CHAIR KING: Mahalo. Okay. Any other questions? Alright, well thank you for putting a new face on FACE. We appreciate it.

MR. WILLIAMS: Thank you.

CHAIR KING: Alright. Mr. Clerk.

COUNTY CLERK: Next testifier is Lauren Armstrong, testifying on Bill 70. To be followed by Simon Russell.

MS. LAUREN ARMSTRONG, MAUI METROPOLITAN PLANNING ORGANIZATION  
[testifying on Bill No. 70 (2019)]:

Good morning, Chair--

CHAIR KING: Good morning.

**MS. ARMSTRONG:** --and Councilmembers. My name is Lauren Armstrong. I'm Executive Director of the Maui Metropolitan Planning Organization. My testimony today is being offered as Executive Director and not on behalf of the policy board.

I offer my support of Bill 70 that would allow Maui Police to order the towing of vehicles driven by people under the influence of alcohol or drugs. This action will give police officers a tool to discourage repeat offenders and reduce avoidable deaths caused by impaired driving.

In 2014, Karl Hagen was killed by an impaired driver while bicycling on the shoulder of Piilani Highway. Working with Karl's widow, Robin, the Maui Bicycling League in 2018 Vision Zero efforts were launched to improve road safety with the ultimate goal of ending traffic deaths on Maui for people walking, bicycling, and driving. Also, during our community outreach in the development of Maui's Long Range Transportation Plan, we heard from residents that there should be safe and healthy options for people to walk and bike in their communities.

One of the key goals of the plan is to improve safety and promote health. Our plan, Hele Mai Maui 2040 Transportation Plan, was approved by the Maui MPO Policy Board this month. Our community has been heartbroken by the senseless deaths of cyclist Karl Hagen, Hannah Brown, and others. And we don't want to see a continued rise in the number of incidents related to impaired driving.

I commend Councilmember Sugimura for recognizing the need and acting to bring forward this legislation. Thank you.

As you know, this bill is an important step toward the Vision Zero goal to eliminate traffic deaths with better engineering, education, and enforcement. Maui MPO will be working with the County, State, non-profits, and community members in 2020 to create a Vision Zero Action Plan, to advise on additional policies and actions needed to further move us toward the goal of ending traffic fatalities. This follows up on your support of Vision Zero by passing a resolution in June, and I thank you for the resolution.

Finally, we trust that the County and the Police Department will have policies and procedures in place to ensure that private towing companies support the enforcement of this bill. Only through the cooperation and work of the entire community can we all make an impact to improve safety for all of us. Thank you and please support Bill 70.

**CHAIR KING:** Mahalo, Ms. Armstrong. Any questions? I just have one question. Is the, is the Vision Zero Action Plan, is that a statewide plan or is that just Maui County?

MS. ARMSTRONG: There is a statewide effort that I'm involved with. But this, the effort I was referring to is specific to Maui.

CHAIR KING: Oh, okay. Alright. That's good to know. But you are working one, with the other Councils on the statewide plan? Okay. Thank you. Thank you for being here.

Mr. Clerk.

COUNTY CLERK: Next testifier is Simon Russell, testifying on County Communication 19-519. To be followed by Rick Collins.

MR. SIMON RUSSELL (testifying on County Communication No. 19-519):

Good morning, Chair King and Members of the Council. Thank you for hearing my testimony today. I want to say Mele Kalikimaka, Hauoli Maka Hiki Hou for everybody who I won't see before the new year.

I'm here today to wholeheartedly support agenda item number 9-519 *[sic]*, if that's the correct way to say it. I really deeply urge this body to support the comprehensive affordable housing plan and implementation of such a plan. I, I know that personally, my family needs access to affordable housing. It's extremely burdensome for us, the cost of rent here. And as a professional farmer and farmer advocate, I see that affordable housing is a major stumbling block in our quest for food security throughout the State.

Speaking of agriculture, I think that one way to expedite affordable housing in our very large agriculture district would be to support the clustering of homes in the agriculture district, which would preserve open space, it would be much more efficient for the developers, it would lower infrastructure costs, and basically just make farming easier and cheaper in our agriculture district.

In order to expedite the affordable housing, I'd also urge the Council and our State of Hawaii to support the acquisition of water delivery systems across the island. The, I understand the Wailuku Water Company is going to be acquired, at least there are some funds earmarked for that is what I heard. And I would also urge this body to consider the recently adopted TIG report from the Board of Water Supply yesterday that recommended the purchase of the East Maui Irrigation Company. Those waters will make the, the issuing of water meters so much easier across the County.

So, I hope that these things can happen in short order, because we need housing, we need food security, and I think that folks are, have a crucial role to play in all of that. So, that's what I came to, to offer today. Thank you very much.

CHAIR KING: Thank you, Mr. Russell. Any questions for Mr. Russell? Okay. Seeing none, thank you for being here; appreciate your thoughtful testimony.

MR. RUSSELL: Mahalo.

CHAIR KING: And Mele Kalikimaka to you.

Mr. Clerk.

COUNTY CLERK: Next testifier is Rick Collins, testifying on Bill No. 70. To be followed by Andrea Snow.

MR. RICK COLLINS, MAUI COALITION FOR A DRUG-FREE YOUTH (testifying on Bill No. 70 (2019)):

Good morning, Council Chair--

CHAIR KING: Good morning.

MR. COLLINS: --and Members of County Council. My name is Rick Collins and I'm the Director of the Maui Coalition for a Drug-Free Youth. I'm here on behalf of our coalition to support Bill 70, the ordinance relating to police authority to have motor vehicles towed. I won't belabor the point, but as you know that we are a coalition that looks at under-age drinking, as well as alcohol misuse by our adult population within our community. And we support this bill because we believe that this is an effective tool to reduce DUI rates in our community and ultimately save lives. So, just want to mahalo you in advance for your support of this bill. And thank you for allowing me to testify.

CHAIR KING: Okay. Thank you, Mr. Collins. Any questions? No. Thank you for being here.

Mr. Clerk.

COUNTY CLERK: Next testifier is Andrea Snow, testifying on Bill No. 70. To be followed by Scott Shapiro.

MS. ANDREW SNOW, MAUI COALITION FOR DRUG-FREE YOUTH (testifying on Bill No. 70 (2019)):

Aloha--

CHAIR KING: Aloha.

MS. SNOW: --Madam Chair and Councilmembers. Thank you for hearing my testimony today. I'm also from the Maui Coalition for a Drug-Free Youth. And I wanted to come and echo Rick and thank you for your support of this bill in advance.

I think the youth are really paying attention to the actions that you are taking around reducing drunk driving deaths. I know I'm paying attention. I lost my brother seven years ago in a car accident, so this means a lot to me and motivates my work with Maui Coalition for a Drug-Free Youth. And there are so many other stories like this.

There are two young girls in Hana who are doing a sign-waving against drunk driving on December 27 at 4:30. So, the Hana community is, is activating and so are so many other groups around the island. So, we're all paying attention to what you're doing, and we really appreciate it. Thank you.

CHAIR KING: Thank you, Ms. Snow. Any questions? Thank you for sharing your story too. I think that's really important for these types of bills.

Mr. Clerk.

COUNTY CLERK: Next testifier is Scott Shapiro, testifying on County Communications 19-515 and 19-519. To be followed by Gustavo Gonzalez.

MR. SCOTT SHAPIRO [testifying on County Communication Nos. 19-515 and 19-519; Committee Report 19-152 and 19-158; and Bill No. 70 (2019)]:

Good morning and hello to everybody. Happy holidays.

CHAIR KING: Happy holidays.

MR. SHAPIRO: It's hard to follow that moment. I'd like to also offer my full support for Bill No. 70.

I'm here today to talk about a, just a couple of items on the agenda. The first one is County Communications 19-515, the resolution on climate change. There are a couple of areas I'd like to suggest a couple of additions or changes. And if I could, I could just read those. There are a lot of "WHEREAS" paragraphs.

If we could go to the 15th "WHEREAS" paragraph, and I'll kind of read it quickly. It talks about sea level rise and 2.4 meters of, which is eight feet of sea level rise by 2100, and one meter, which equals 3.2 feet of sea level rise projected across the State. What I'd like to do is possibly recommend that the, in this paragraph, that the meters are in parenthesis. And 3.2 feet and eight feet are not in parenthesis and in all caps to amplify how much of an impact 3.2 feet and possibly eight feet of sea level rise will have on Maui.

In the 25th "WHEREAS" paragraph, which is the very last paragraph, it talks about the County of Maui has an opportunity to be a global leader. I'd like to read my paragraph for that. "WHEREAS, the County of Maui has an opportunity to be a global leader by rapidly organizing," and I'd like to add this, "and hosting an inaugural regional emergency climate mobilization conference, and effort in converting to an ecologically, socially, and economically regenerative economy at emergency speed, and by catalyzing a unified regional just transition," and add this, "and begin planning for a climate emergency mobilization conference and effort the year". I'd like to change it that and I'd be happy to submit that.

I'd also like to add one "BE IT RESOLVED" on the list. I have thirty seconds. "That every department, council, board, and committee within the County of Maui review this resolution, putting a copy on every wall of every office, and take action whenever possible to decrease the effects and impacts of climate change and plan accordingly, looking at future economic costs versus current costs, for a future where climate change will be a significant threat to the viability of our island, and take appropriate steps to mitigate those changes."

CHAIR KING: Okay. Is that the end of the first testimony?

MR. SHAPIRO: That's the end of the first testimony.

CHAIR KING: Okay.

MR. SHAPIRO: Right on time.

CHAIR KING: Any questions on Mr. Shapiro's testimony other than maybe you can give us a written copy of your testimony--

MR. SHAPIRO: I'd be happy to.

CHAIR KING: --for when we get to that item. Any other questions on the first topic? If not, go ahead. Can we reset your timer?

MR. SHAPIRO: Thank you. The second one is 19-519, which is the approving, going to Committee to possibly approve a fund for a comprehensible affordable housing plan. I'd like to point out that Michael Williams has done a draft RFP for this, which I think is critical to any study that's going to come along. I have a list here, and it's not comprehensive, all the SMS studies that have been done over the years: 2011, 2012, 2013, 2016 Maui report, 2018 Maui Affordable Housing Implementation Plan, 2018 Maui Affordable Housing Policy Report, those are all SMS studies. So, we've done this time and time again. We've looked at housing.

So, this one, Michael Williams has specific, specific criteria that this study should look at and come to conclusions; not just kind of, well let's look at all the Maui land that's available, let's look at the County land. Let's look at specific things. So, I, I look forward to hearing more about this.

Two, I'm done with that item. Two other quick notes on Committee Report 19-152, which I didn't put down. Sorry.

CHAIR KING: It's okay.

MR. SHAPIRO: This is the Wailuku Apartment Rental Housing Project. I applaud the efforts of the developer to get this done. I don't like that it was a fast-track housing and then we're putting it on extensions. That's not the intent of a 201H fast-track. That's it on that one.

And one other, 19-158, which is the using funds out of the affordable housing project for a Hana project. I am in full support of that moving ahead right away. Thank you.

CHAIR KING: Okay. Thank you. And just to let you know that that time extension is due to some repairs that have had to be made underground, so it's, Maui County's doing some sewage piping repairs.

MR. SHAPIRO: I understand.

CHAIR KING: That's kind of--

MR. SHAPIRO: Yea, I just, I just, I think with fast-track stuff, things come up. So, we don't really need to fast-track things. So, let's just do it the regular way and not cut corners.

CHAIR KING: Okay. Thank you, Mr. Shapiro.

MR. SHAPIRO: Thank you.

CHAIR KING: Any questions? No. Thanks for being here. Appreciate your testimony.

Mr. Clerk.

COUNTY CLERK: Next testifier is Gustavo Gonzalez, testifying on Bill 70. To be followed by Claire Kamalu Carroll.

MR. GUSTAVO GONZALEZ, OFFICE OF THE PUBLIC DEFENDER [testifying on Bill No. 70 (2019)]:

Good morning, Members of the Council. My name is Gustavo Gonzalez and I rise in opposition to Bill 70 on behalf of not only myself as a member of the Office of the Public Defender, but on behalf of the office itself. I am a deputy public defender assigned to represent our friends, colleagues, and community members who have been accused of committing criminal offenses who cannot afford to hire a private defense attorney. I'm assigned to the District Courts here on Maui and the vast majority of my cases involve traffic offenses, the kinds of offenses which have been enumerated in Bill 70 and that Bill 70 is meant to cover.

Under the Constitution of the State of Hawaii and the United States, we are guaranteed that before any agent of the government, be it Federal, State or local, takes the property of a person, there must first be Due Process of Law. This is a bedrock principle that is deeply engrained in every American court of law, including the ones here in Maui. It is what we teach our children and is one of the powerful rights afforded to each person who gets ensnared in our criminal justice system.

The State Legislature in Hawaii is solely vested with the power to define behavior as illegal, as well as setting forth punishments which can result from violation of those laws. Furthermore, it is the sole job of our judges to determine if, what, and how severely to punish those who have either been found guilty, or have pled guilty to the crimes that they have been convicted of or accused of.

This bill presents a vexing question notwithstanding the due process problem. Has the Legislature in Honolulu properly delegated the power to seize property to the counties? I think the answer is no. Allowing the Maui County Council to modify and expand the range of penalties which may be imposed on individuals who may or may not have

broken the law unconstitutionally usurps the prerogative of the State House. By way of one example, HRS 431:10C-117, provides that among the penalties an individual could face for repeated convictions of a traffic infraction known as driving without insurance is the impoundment and sale of the car.

Dissimilarly, none of the traffic offenses laid out in Bill 70 have similar provisions. This is a concern not only of myself as a member of the office, but as the office itself. I have provided a complete copy of my written testimony to the Council, as it is longer than the time that I have been allotted. So, I thank you for the opportunity to speak today.

CHAIR KING: Okay. Thank you, Mr. Gonzalez. Any questions?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Gonzalez. Mahalo for your testimony this morning. It sounds like the Multimodal Transportation Committee worked closely with the Prosecutors Office. Was the Public Defender's Office also reached out to, to provide input on this bill while they were working it out before it came to the full Council?

MR. GONZALEZ: To my knowledge, my office was not consulted. I'm not sure if, whether it wasn't reached out, or my office did not respond. The way that this came to my attention was as a member of the criminal defense bar, they, a, an article in the Maui News was circulated. Second reading of the bill, this particular session was brought to our attention and we were encouraged to comment.

I brought it to my supervisor, Danielle Sears, stating that we have a duty to represent those who are our clients; the people who normally do not have anybody speak on their behalf testify. And I was given the authority to draft the written testimony and to come and present today.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, my understanding from your response is this is the first time the Public Defender's Office has given input on this bill? It, it was never consulted or given input during the Committee?

MR. GONZALEZ: To my knowledge, no. That's correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay. And you said you submitted your written testimony? I would like to see the statute that you had cited.

MR. GONZALEZ: Which, there are multiple statutes that I cite in there. Are you talking about the penalties for the driving without a license? Or I also make reference to the enacting

legislation under which this current resolution is being offered. I'm not sure which particular statute you'd like to me cite.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, did you email it to the Clerk's Office?

MR. GONZALEZ: I did right before I got here.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay.

COUNCILMEMBER SUGIMURA: So, we don't have a copy of it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Perhaps we can get a hard copy during our morning break or something.

CHAIR KING: Of your, of the testimony?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

CHAIR KING: Okay. You, you did say you submitted written testimony?

MR. GONZALEZ: I did. I did this morning.

CHAIR KING: Okay. I don't think we have--

MR. GONZALEZ: Apologies, it was right before.

CHAIR KING: I don't think we have it. Mr. Clerk.

COUNTY CLERK: Thank you, Madam Chair. Yea, I'm just checking our email feed right now and it was submitted just right before the meeting started today. So, we'll ask staff to print it out and distribute it to the Members.

CHAIR KING: Okay.

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

CHAIR KING: And then when we get to that item, we can have it distributed.

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

MR. GONZALEZ: Thank you.

CHAIR KING: Okay. Ms. Sugimura, and then Ms. Paltin, and then Mr. Molina.

COUNCILMEMBER SUGIMURA: Thank you for being here. Yea, we do not, the bill does not talk about driving without insurance as being one of the cited violations.

MR. GONZALEZ: I agree.

COUNCILMEMBER SUGIMURA: And I look forward to reading what you have submitted. This law was, is actually modeled after what the Big Island has done, so it's already been in effect for several years now. And we did take, cite legislation as HRS give, has given, enable the counties to take actions based upon certain, certain violations. So, that was already included in our bill. So, I look forward to reading what you have to say. Thank you.

MR. GONZALEZ: Okay.

CHAIR KING: Thank you. Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Gonzalez for being here and the work that you do to defend and serve our citizens that can't otherwise afford to do so.

You know, I think before first reading we wanted it to do all those things that you said, that it shouldn't do to be a sort of punishment for those that would drink and drive and put our loved ones at risk. But you know, like we were told at first reading that that wasn't constitutional for the reasons that you stated. And so, what we're doing is, is just a safety measure right now.

I mean if, if the, the car is in an unsafe place or a place that is not legal to be parked, what would you have us do just leave it?

MR. GONZALEZ: Well, that, that's not my point whatsoever. I think you're bringing up two separate and distinct points. I think first and foremost, you know, the, the point that's been repeated that this is modeled after a law that's currently been in place, you know, on the Big Island, that was one of the considerations that my office discussed. And I think part of the reason that the Office of Public Defender has never weighed in on a law that was already enacted was because we're not sure whether or how we can properly challenge it, especially in these situations where before any determination of innocent or guilt is made, a penalty is imposed. We're not sure procedurally whether we can challenge it, which is why we rose to speak today on this.

COUNCILMEMBER PALTIN: We're saying that we wanted it to be a penalty, but for the reasons you stated, it can't be a penalty. So, I mean it's not a penalty, it's a consequence of being arrested--

MR. GONZALEZ: Well--

COUNCILMEMBER PALTIN: --for an offense and leaving the car on the side of the road in an unsafe place.

MR. GONZALEZ: Right, but--

CHAIR KING: We don't want to, Mr. Gonzalez, we don't want to get into a debate right now. But I think you answered the question about, about what you would have us do on the side of, about leaving the car on the side of the road.

Any other question, Ms. Paltin?

COUNCILMEMBER PALTIN: That's it.

CHAIR KING: Okay. Thank you.

And Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. And good morning, Mr. Gonzalez. I'm just trying to get an understanding on your testimony. Are you basically saying that the bill in its current form could be subject to a lot of, maybe, legal challenges? And I know you mentioned something--

MR. GONZALEZ: Absolutely.

COUNCILMEMBER MOLINA: --about the bill possibly usurping authority from the State Legislature. Can you cite a potential unintended consequence if you will?

MR. GONZALEZ: An unintended consequence of which particular part or which particular challenge?

COUNCILMEMBER MOLINA: I guess with the towing of a person who had a DUI.

MR. GONZALEZ: Okay. So, for example, one of the enumerated crimes in this, in Bill 70 is driving without a license. So, first and foremost, driving without a license in and of itself is not always an arrestable offense. Secondly, the bill provides that if a person cannot pay whatever towing fines and fees within 30 days, the car is subject to being sold.

From a pragmatic standpoint, from the point at which an individual is cited for driving without a license, on average we're talking about six to seven weeks before they even have their first appearance in court. That is far in excess to the 30 days before their property could be seized and sold without any determination whatsoever of guilt or innocence. That's why one of the major problems that we have is that it's a preemptive penalty.

COUNCILMEMBER MOLINA: Okay. So, I guess that ties into that, you mentioned about seizure of property.

MR. GONZALEZ: Correct.

COUNCILMEMBER MOLINA: Okay. How, how do you feel we can make this bill better and to survive any challenges like that?

MR. GONZALEZ: I mean, I think I, I've had some discussions with--

CHAIR KING: Mr. Molina, would you like to request that Mr. Gonzalez be a resource when we get to this item?

COUNCILMEMBER MOLINA: Yea, that's fine.

CHAIR KING: I just don't want to get into a full debate--

COUNCILMEMBER MOLINA: During testimony.

CHAIR KING: --while we're in testimony.

MR. GONZALEZ: More than happy, more than happy to do that.

CHAIR KING: Okay. Any objections? Okay.

COUNCILMEMBER MOLINA: Thank you.

CHAIR KING: And Mr. Sinenci, you have a clarifying question?

COUNCILMEMBER SINENCI: I'll reserve my question for later. Thank you, Chair.

CHAIR KING: Okay. Thank you. Thank you very much for being here. And then if you could hang on until we get to that item, that would be great if we have more questions.

MR. GONZALEZ: Absolutely. Thank you very much.

CHAIR KING: Thank you.

Okay. Mr. Clerk.

COUNTY CLERK: Next testifier is Claire Kamalu Carroll, testifying on Bill 70. To be followed by Rita Ryan.

MS. CLAIRE KAMALU CARROLL [testifying on Committee Report 19-158 and Bill No. 70 (2019)]:

Aloha and good morning. I am here to testify about Bill 70. I'm in full support of this bill. I truly believe it constitutes the safety of our public and as much as we can do. I work with youth in Hana and this past week we just had another meeting. It was shocking what they drew out and how they feel of what happens on a normal basis. This bill can save lives, not all lives, but mentally have that commitment of doing good choices, saving lives. There should be a 1,000 people standing over here, because there's at least 1,000 people it has affected. But please, I ask you today to support Bill 70.

And I would also like to support 19-158. I really am grateful that you folks are putting monies into the affordable housing in our Hana project. We have waited so long. But thank you, Councilmembers for all the work you do. Mahalo.

CHAIR KING: Thank you. Any questions for the testifier? No. Thank you for being here, Claire.

Mr. Clerk.

COUNTY CLERK: Next testifier is Rita Ryan, testifying on County Communication 19-515. To be followed by Linda Schatz.

MS. RITA RYAN, CLIMATE REALITY PROJECT, HAWAII CHAPTER (testifying on County Communication No. 19-515):

Aloha, Council Chair King--

CHAIR KING: Aloha.

MS. RYAN: –and all of the esteemed Members of the Maui County Council. Season's greetings. I'm here to testify regarding the declaration of climate emergency. I'm with the Hawaii Chapter of the Climate Reality Project and our goal is to educate people about the realities of the climate. And so, I just wanted to give you a few little factoids.

According to NOAA, the Arctic is warming two times as fast as the rest of the planet. So, it's three and a half degrees above normal. Now, the Arctic is our air conditioning system for the planet. It's failing. It's entirely failing. The polar vortex split in 2018, and then now it's split in three earlier this year. So, we have no hope of rescuing our planet's air conditioning system.

It's been the hottest since they started recording in 1900. We're losing our ice cover, which is warming the planet. The Greenland Ice Sheet is melting at a rate of 2,678 billion metric tons a year. And thawing permafrost is releasing three to six hundred million tons of net carbon from the atmosphere. So, basically, in a nutshell, global warming is accelerating at a much faster pace than scientists had originally projected.

So, that leads us back here to the Pacific. And what's happening here is that . . . and island nations are going to suffer the most and that's a climate injustice. And our indigenous peoples who have the wisdom to live in harmony with nature and the respective ecosystems are more needed at, than ever. It's their wisdom and teachings we need to adapt to a sustainable future.

Our Hawaiian Homelands are threatened by sea level rise. Our cultural and anthropologic *[sic]*, anthropologic resources are being lost to sea level rise right here in Maui, yet polluters are given a pass. Not only a pass, but they're getting subsidies. So, fossil fuel subsidies are increasing while renewable subsidies are decreasing.

In the Pacific Islands, El Nino is doubling our hot days. If anybody was here this past summer, I think we all were, we know how hot it was. It's doubling our storm events. It's doubling our windless days, spikes in sea, surface temperature. And we had a coral bleaching event this summer that we almost lost our coral.

So, sea level rise is 20 to 40 percent higher in the Pacific than other areas. That's going to lead to mass migration. Remember the Syrian boat people in the Mediterranean? That was caused by climate crisis. The drought caused migration, caused war, caused mass migration into Europe. And we know what happened there. We can expect this in the future and the Pacific Islands are no exception.

What I want to say is that we need to pass this climate emergency. We need to plan for a decarbonized economy. We need to ban all new fossil fuel infrastructure going

into Maui County. We need to ban all fossil fuel subsidies. We need to facilitate investment in our new renewable energy economy. We need an emergency implementation plan. We need a clean fleet transition of all of our County vehicles to renewable energy vehicles. And we need to plan for mitigation and resiliency immediately. It is an emergency.

Many other nations have declared these emergencies; Canada, England, Ireland, Scotland, Wales, many island communities. And over 700 local governments have declared climate emergencies. So, we should be no exception. We're getting hit harder than any of those other places in the world and we need to take action now. Thank you for your time.

CHAIR KING: Thank you, Ms. Ryan. Are there any questions, Councilmembers? I have a question.

MS. RYAN: Yes.

CHAIR KING: Well, I wanted to thank you first of all for your help on the resolution. But is this, this resolution I know was modeled after the Big Island's resolution and--

MS. RYAN: No, actually there's was modeled after ours. We, we, we, we--

CHAIR KING: Oh, okay.

MR. RYAN: --put it together for the, at the, for the Governor Ige. And then we modeled all of the County resolutions after the State resolution that we're trying to pass this next session in the Legislature.

CHAIR KING: Okay. So, are we the last County to pass it?

MS. RYAN: No. Hawaii County has already passed it in October. They, they passed a resolution, their County Council passed a resolution in October. So, we're not the first, but we're not the last.

CHAIR KING: Okay. Okay. Thank you.

MS. RYAN: You're welcome. Any other questions?

CHAIR KING: Any other questions?

Councilmember Sinenci.

COUNCILMEMBER SINENCI: I just had a question. Chair, your office drafted this reso?

CHAIR KING: Well, with, with, we, with the help of the Climate Reality Project. So, I, I put it forward.

COUNCILMEMBER SINENCI: Okay. Thank you.

MS. RYAN: You're welcome.

COUNCILMEMBER SINENCI: Thank you, Rita.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Should we ask Ms. Ryan if she'd be able to stay to be a resource at the time when the item comes up?

CHAIR KING: Would you like to be a resource? Could, would you be able to stay until we get to the item?

MS. RYAN: Sure. Absolutely. Yea.

CHAIR KING: Okay. Any objections?

VICE-CHAIR RAWLINS-FERNANDEZ: No objections.

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Great. Thank you.

MS. RYAN: Thank you.

CHAIR KING: Thank you, Vice-Chair.

Okay. Mr. Clerk.

COUNTY CLERK: Next testifier is Leslee Matthews, testifying on Bill 70. To be followed by Linda Schatz.

CHAIR KING: Oh, okay.

DEPUTY PROSECUTING ATTORNEY LESLEE MATTHEWS [testifying on Bill No. 70]:

Good morning, Members of the Council.

CHAIR KING: Good morning.

DEPUTY PROSECUTING ATTORNEY MATTHEWS: This is actually my first time to testify. I always wondered when I would testify. But I think that this is an important measure; Bill 70. And I stand in strong support as an individual and as a Deputy Prosecuting Attorney.

I wanted to read Hawaii Revised Statutes 291C-165.5, which talks about the enabling legislation for motor vehicle towage and storing. And it does say that, "Notwithstanding any provision of this chapter, any vehicle identified for removal pursuant to any county ordinance ordering removal of motor vehicles by any county police department for traffic violations, including a vehicle which constitutes an obstruction or hazard to traffic, may be towed at the expense of the registered owner of the vehicle, as provided in this section". So, I do believe that the, that our State Legislature has given due consideration to motor vehicle towing and that they have thought about this, and that they have granted power to the counties through a county ordinance such as Bill 70.

I also, as someone who's taught constitutional law, I, I think that it's important that we preserve people's constitutional protected rights. I don't think that this is something that this bill is taking away. I think that this Council and the members that have been part of drafting this legislation have given due consideration and thought to this. And as we look at these cars that when people are arrested and they're taken into custody, you know, are their cars a traffic hazard?

And I believe that the legislation, as Member Paltin did speak, that the Council did give due consideration to that in putting back the, the provisions that are in the bill that speak to if it's on private land, if there's a, if there's someone that can drive, that they have actually been really thoughtful in thinking about those things. And I think that the members, the community members that are here today, that even this discussion now is, is causing our teens and our young people to rise up and think about the decisions that they're making and that they are watching. And so, that even for that, if we can save lives even by having the discussion, it's so important.

And so, I do think that there has been thoughtful, that the State Legislature has already given this type of authority to the Council. We have to make changes and deter this type of behavior and do so in a matter that's legal. And Lieutenant Hankins did speak to that in writing the standard operating procedures; that those will also be thoughtful

in how they are written so that we are safeguarding people's rights and we are protecting our community from, you know, hazards that are on the road with these cars when people are taken into custody. So, just bringing that up to this body's attention that this has been thought of.

And thank you so much. Every day we're there and reminding people, you know, how this behavior can have deadly consequences. And so, for the people that can't speak for themselves, we're here and we're there every day, and we'll stand beside you all. So, thank you for your time.

CHAIR KING: Okay. Thank you, Ms. Matthews. What was the, the number on that HRS?

DEPUTY PROSECUTING ATTORNEY MATTHEWS: Yes, that's HRS 291C-165.5.

CHAIR KING: Okay, thank you. Any questions, Councilmembers?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Matthews, Deputy Prosecutor. Mahalo for your testimony this morning. Since part of your testimony included countering Mr. Gonzalez testimony earlier, do you think it would have been appropriate to have had involved the Public Defender's Office in formulating this bill?

DEPUTY PROSECUTING ATTORNEY MATTHEWS: I think that it's appropriate for anyone to be engaged in their community. You know, in speaking with members of the Office of the Public Defender, I think that it's important to have all voices at the table. And I certainly don't think that, you know, they were disallowed from coming to speak. This matter has been discussed in several meetings at the Committee level and at the, at the Council level. And I encourage, I think that people should be involved in their, in their government and so I think that it would certainly have been welcomed if they took in that opportunity.

VICE-CHAIR RAWLINS-FERNANDEZ: So, my question was more proactively invited to include their voice. Because I agree that all voices should be included. But I think it would have been conducive to have their voice and invite their voice to be included in discussion and not just hope that they heard that this bill was being discussed. So, that was the appropriate question; if you think that they should have been invited to be part of the creation of this bill?

DEPUTY PROSECUTING ATTORNEY MATTHEWS: I, I and actually Mr. Gonzalez is the public defender that's assigned to the same courtroom that I am. And I worked, you know, to ensure, even when we're reviewing cases to make sure do we even have

probable cause to get to certain things and have discussions. I invite him to give, tell me more about your clients that you're serving, because I want to make sure that we're making decisions that I hear about the people and, you know, recognize their needs and not just make decisions that are, you know, one-sided.

So, I think moving forward after this bill and as I shared with Mr. Gonzalez previously, this goes to the Chief of Police to write, his staff to write standard operating procedures. And I definitely think that all voices need to be heard because seeing these people day in and day out, the accused, I think there needs to be more services because--

CHAIR KING: I think

DEPUTY PROSECUTING ATTORNEY MATTHEWS: --you know, but I think yes--

CHAIR KING: I think, I think you answered the question. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Mahalo, Ms. Matthews. Last question. Do you, do you, as someone who understands the power, framework, and abusive relationships of domestic violence, in a family that they share one vehicle and they're, in your comments earlier this morning with the ceremonial resolution that the onus is now being put on these families and friends to keep the driver off the road if they are driving. But in a relationship where the spouse doesn't have power over her husband? Do you think that she would be able to keep him out of the driver's seat? And it, and would this not disproportionately affect those types of poorer families who share one vehicle?

DEPUTY PROSECUTING ATTORNEY MATTHEWS: I think that domestic violence is rooted in power and control and that someone wants to have power and control over them. In my earlier comments I placed the burden on the family and friends in this community. If they're going out and drinking with their friends, then it's also the responsibility if he, if, if, and I'll just use him and male, but I think it--

CHAIR KING: Ms. Matthews, could you stick to the question that, that Vice-Chair--

DEPUTY PROSECUTING ATTORNEY MATTHEWS: Yea. I mean, I think that in a, in a relationship where there's disproportionate power and control, and where a relationship is rooted in power and control, it may be more difficult to say I don't want you to drive, do not get behind that wheel. But I, I think that the onus can also be on other family and other friends that's already an unhealthy relationship and having something like that. But I'm confident in the work of this community to be able to also help our victims and survivors of domestic violence.

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

CHAIR KING: Mahalo. Thank you so much.

And we do, Members, we do also have our Prosecuting Attorney who has joined us, Mr. Guzman. So, if there's no objections, we can call him as a resource for the Prosecuting Attorney's Office if we need.

COUNCILMEMBER SUGIMURA: So, I just want to, could I?

CHAIR KING: Oh, Ms. Sugimura, I'm sorry. Do you have a question for Ms. Matthews?

COUNCILMEMBER SUGIMURA: Yea, I just want to say something, so.

CHAIR KING: Oh. Can you come back to the podium, Ms. Matthews? I'm sorry. I didn't see the, we have one more question for you. You can go ahead and ask it while we're, she's coming down.

COUNCILMEMBER SUGIMURA: Yes I, I just want to thank her for speaking up and seeing you evolve into your--

CHAIR KING: Do you have a question?

COUNCILMEMBER SUGIMURA: --her present position. But I just want to, your mom's going to be so proud of you is what I want to say. It's not a question, it's a statement. So, thank you for speaking up for those that can't.

DEPUTY PROSECUTING ATTORNEY MATTHEWS: Okay. Thank you.

CHAIR KING: Okay. Next, next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is Linda Schatz, testifying on Committee Report 19-152. Ms. Schatz is the last individual who has signed up to testify in the Council chamber or at the district offices.

MS. LINDA SCHATZ, LEGACY WAILUKU LLC (testifying on Committee Report 19-152):

Thank you, Madam Chair. And thank you for Councilmembers for giving me the opportunity to speak. My name is Linda Schatz and I represent the developers for the Wailuku workforce apartments. So, I'm speaking on CR 19-152.

I did want to give a reminder of sort of the activities that have happened. We did get full approval in December of 2019 on our 201H, and so we went full steam ahead on being with agencies for design. As we were meeting with agencies, we discovered with the Environmental Management Department that there was a regional bottleneck down on Lower Main Street. It's about 2,000 linear feet. It's the last bit of that line that needed to be upgraded. And frankly, the, the line needs to service the Wailuku region, and so upgrading that and improving that would not just help our project, but also other 201H projects in the area too

So, as we learned that, we also learned that our investors and our lenders would not lend us \$100 million to do the project unless they knew that the sewer line had started construction. Because you can't get a loan unless you have sewer capa, sewer hookup confirmed. So, no one will lend you that amount of money. So, with that, it created a bit of a setback. But I think we came up with a really great solution to do a public-private partnership with the County where we are actually fronting currently right now and paying forth about approximately \$300,000 for the EA design and permitting of the sewer line. Because it, we know it'll be not just beneficial to us, but the rest of the community and also allow other 201H projects in the area to move forward. So, we're spending that money.

The Council this year had approved 2.5 million in the budget for the improvement of the sewer line. And this line was always anticipated to be improved, but it was further out in the schedule. But I think the necessary anticipation of all these affordable units to service and house our people came through the 201H. And so therefore, I think it was incumbent on us as community members in this community to also contribute and help to get this line done quickly.

And so, we do have two years to start construction and three years to finish our buildout in our 201H, a total of five years. Because the sewer line takes about two years to actually finish, to design and finish construction, that pushed our timeline out a bit. So, all we were seeking is just one additional year after the sewer line starts. So, one-year extension which will give us enough time to finish the design of the sewer line, do our design work as well too, and then get our financing. Our lender will be happy that the sewer line has started and will feel safe and, and secure that we will be able to hook up to sewer at that point.

So, anyway, thank you again. I just wanted to let you know, you know, in short summary, what, what this amendment, or this resolution was about. Thank you.

CHAIR KING: Okay. Thank you, Ms. Schatz. And Members, if you're okay with Ms. Schatz being a resource, if there are no objections when we get to that item.

Just for clarification, your three, the 300,000 you're putting in is not a loan. It's an investment, correct?

MS. SCHATZ: Yes. Yea, we are actually contributing that amount.

CHAIR KING: Okay.

MS. SCHATZ: So, it's not a loan at all. We are, are paying for it.

CHAIR KING: Okay. I just wanted to clarify.

MS. SCHATZ: Thank you.

CHAIR KING: Cause, cause you said you were fronting us the money, but you're not expecting to get paid back. Okay.

MS. SCHATZ: Yea. I misspoke. Sorry.

CHAIR KING: Alright. Thank you.

Mr. Hokama, you have a question for the testifier?

COUNCILMEMBER HOKAMA: Thank you. Ms. Schatz, so when you came to Council for your approval earlier, you were already aware of this sewer challenge, or sewer issue?

MS. SCHATZ: No. It was not discovered at the time, so we did have some preliminary engineering done as part of the 201H package and our EA process. But none of it came up. And I think that there were some heavy rains after our approval in December that happened, and so with the heavy rains during that season, it was discovered at that time. And so, when we went into the various agencies to start design work and review what we needed to design, this issue surfaced after the approval, so.

COUNCILMEMBER HOKAMA: But yet, you just told me the Department was already planning this project?

MS. SCHATZ: They, they were, they had told me that they were planning this project a few years out, cause they didn't think that it was necessary to improve right away, because they thought they had enough time. But I think with the heavy rains, it, it triggered the understanding that they needed to, they needed to actually implement that earlier. And so, you know, I don't think anybody anticipated it, not the Department, not us. It just sort of sometimes, you know, things happen and, and so, we all stepped up to the table

and tried to find a solution to fix it. So, and they've been wonderful. They've been really good about working with us and couldn't be happier.

COUNCILMEMBER HOKAMA: Sure. You're giving them \$300,000. So, I would be working with you too. I'm just trying to understand this situation since it seems we already knew what we were going to do but we didn't inform you and your timetable appropriately. So, you're paying for the EIS?

MS. SCHATZ: We are paying for the EA, the design, and permitting. And, and that's about \$300,000.

COUNCILMEMBER HOKAMA: Okay. Okay. And what does that entitle you to, like, sewer hookups and no sewer fees for two years or whatever for the advanced payment?

MS. SCHATZ: We have an MOU that states that we will, the sewer line will be done, if we're actually ahead in construction; that they will allow us to hook up about three buildings worth, about one hundred and I believe eight units of, of units to tie in for the meantime. But the sewer line actually has to be done so that our complete project can be hooked up.

COUNCILMEMBER HOKAMA: No. Okay, okay, I'm trying to understand because there's other project's after yours that I would say would be dependent on this sewer project too, including Hawaiian Homes.

MS. SCHATZ: I believe so. Yes.

COUNCILMEMBER HOKAMA: Okay, Chair, interesting. We'll talk to the right departments. Thank you.

CHAIR KING: Okay. Thank you, Mr. Hokama.

Thank you for being here, Ms. Schatz and we may end up calling you back up when we get to your item.

MS. SCHATZ: Thank you.

CHAIR KING: Okay. Thank you.

Mr. Clerk.

COUNTY CLERK: Next testifier is Jasee Lau, testifying on Bill 70. Mr. Lau is the last individual who has signed up to testify in the Council chamber or District Offices.

CHAIR KING: Mr. Lau, thank you for signing up ahead of time.

(Councilmember Lee was excused from the meeting at 10:14 a.m.)

MR. JASEE LAU [testifying on Bill No. 70]:

Aloha kakahiaka. Nice decorations, you guys. I wasn't going to say anything today, I've spoken pretty much a lot this week. When the public defender got up there, then yea, I, I wanted to second his motion. I'm not sure if you guys can wait on that one, for the next one. It's kind of dangerous to wait, cause somebody else might get, you don't want anybody else to get hurt, so I feel you on that one. But that's you guys, why they pay you guys the big bucks.

The public defender we got now is doing an excellent job. I've seen him in action. On, I hope I never need their help. On the mainland, they call them "the public pretender". And the Maui Police, I think they're way better than the mainland too. Speaking of the USA, I heard things about the Constitution. Some of their laws are good, like the part in, about the unreasonable search and seizure.

Speaking of drunk drivers, I sent out birthday, I mean a Christmas card to . . . who is in Arizona. And I also hope all the families, the victim's families a Mele Kalikimaka to them. And a mahalo to the County Prosecutors Office and the, my Upcountry Councilwoman's office for all their kokua. I don't like drunk drivers either. So, you guys, if you want to drink, take the bus.

CHAIR KING: Okay. Thank you, Mr. Lau. Do you have a question, Ms.? Okay. Did you? Okay.

Mr. Clerk.

COUNTY CLERK: Madam Chair, there are no further individuals signed up to testify in the Council chamber or at the District Offices. And we have received written testimony.

CHAIR KING: Okay. Is anybody in the chambers wanting to come down? Seeing none, any objections to receiving written testimony into the record?

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. Scott Shapiro; and
2. Gustavo Gonzalez, Office of Public Defender.

CHAIR KING: Okay. So, ordered. And any objections to closing testimony at this time?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Testimony closed.

Alright, Mr. Clerk.

COUNTY CLERK: Madam Chair, proceeding with county communications.

### COUNTY COMMUNICATIONS

NO. 19-497 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated December 5, 2019)

Transmitting 75 contracts/grants for November 2019.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. If there are no objections, may I ask the Clerk to also call up County Communication 19-498?

(Councilmember Lee returned to the meeting at 10:17 a.m.)

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. So, ordered.

Mr. Clerk.

NO. 19-498 - DON S. GUZMAN, PROSECUTING ATTORNEY,  
(dated December 4, 2019)

Transmitting the notice of grant award from the State of Hawaii, Department of Transportation for the Maui Prosecutor's Office Traffic Records Program in the amount of \$10,636.89.

CHAIR KING: Okay. Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 19-497 AND  
19-498.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci.

Ms., Ms., did you just want to speak to the issue first? Or, we have a--

VICE-CHAIR RAWLINS-FERNANDEZ: Informational.

CHAIR KING: Okay. I think we might have a concern with the grants.

Mr. Hokama.

(Councilmember Kama was excused from the meeting at 10:18 a.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: If anyone wants to pull any of the contracts.

COUNCILMEMBER HOKAMA: Chair, thank you. I would, with no objections from the Members and our Budget Chair, I would like to ask that the two contracts be referred to the appropriate Committee. I believe it would be mine, Chair, but I'm open to, again, a decision from the leadership. This would be C-6906, this is under the Hazard Mitigation Plan. And the second one would be Contract G-5051, under Master Planning for human, Housing and Human Concerns.

CHAIR KING: Master Planning for?

COUNCILMEMBER HOKAMA: That would be from Housing and Human Concerns. It's a Master Planning Grant.

CHAIR KING: Okay.

COUNCILMEMBER HOKAMA: That I would like to have it sent to Committee for review. Thanks.

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Ms. Sugimura, you have a?

COUNCILMEMBER SUGIMURA: Yea, thank you. I would like to have Contract G-4904 referred to Multimodal. It is a bus replacement grant operations, Department of Transportation.

CHAIR KING: Any objections to the referral?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Anyone else? Okay. Would you like to, we have a motion on the floor. So, removing three contracts for referral to Committee, and other than that, we will file those two communications. All those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR KING: Measure passes nine "ayes", zero "noes". Oh, I'm sorry, we have one "excused"; Member Kama. Eight "ayes", one "excused". Slipped by me there.

Okay. Mr. Clerk.

NO. 19-499 - MICHAEL P. VICTORINO, MAYOR,  
(dated December 5, 2019)

Informing of a vacancy on the Cost of Government Commission due to the resignation of Sharron Courter on December 2, 2019.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. If there are no objections, can I have the Clerk bring up County Communication 19-500?

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

NO. 19-500 - MICHAEL P. VICTORINO, MAYOR,  
(dated December 5, 2019)

Informing of a vacancy on the Kula Agricultural Park Committee due to the resignation of Brandon Shim on December 2, 2019.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO FILE COUNTY COMMUNICATIONS NO. 19-499 AND  
19-500.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER LEE: Second.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. The Mayor received notice of Ms. Courter's resignation from the Cost of Government Commission on December 3, 2019 [sic]. And the Mayor also received notice of Mr. Shim's resignation from the Kula Ag Park Committee on December 3, 2019 [sic]. I'd like to thank both of these individuals for their service to our community. Thank you.

CHAIR KING: Okay. Any, any other discussion? If not, all those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR KING: Measure passes eight "ayes", one "excused"; Ms. Kama.

Okay. Mr. Clerk.

NO. 19-501 - KARLA H. PETERS, DIRECTOR OF PARKS AND RECREATION,  
(dated December 3, 2019)

Transmitting the quarterly report regarding Fiscal Year 2020 Countywide Park Facilities for the period of July 1, 2019 through September 30, 2019.

CHAIR KING: Member Hokama.

COUNCILMEMBER HOKAMA:

CHAIR, UNLESS THERE'S A REQUEST BY A MEMBER, I  
WOULD MOVE TO FILE COUNTY COMMUNICATION 19-501.

COUNCILMEMBER SUGIMURA:

SECOND.

(Councilmember Kama returned to the meeting at 10:21 a.m.)

CHAIR KING: Okay, moved by Member Hokama, seconded by Member Sugimura.

Mr. Hokama, any other discussion?

COUNCILMEMBER HOKAMA: Again, Chair, this is just a required report from the Department. Yesterday, your Committee did have a meeting that Ms. Sugimura did Chair on my behalf, and I can say that we'll be taking up comments that was brought up yesterday. And at this point, we'll also review the other projects for the upcoming budget cycles, Chair, so thank you.

CHAIR KING: Okay. Any other discussion? If not, all those in favor of filing County Communication 501, say "aye".

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

CHAIR KING: Any opposed?

NOES: COUNCILMEMBER PALTIN.

EXCUSED: NONE.

CHAIR KING: Measure passes nine "ayes", and zero "noes".

COUNCILMEMBER PALTIN: I'm, I'm opposed.

CHAIR KING: Oh, I'm sorry. Eight "ayes", one "opposed"; Member Paltin.

COUNCILMEMBER PALTIN: I just, when we talked about, you know, golf courses and civic centers--

CHAIR KING: I don't think, we're, we're past the discussion.

COUNCILMEMBER PALTIN: Oh, okay.

CHAIR KING: We took the votes, so there's no need to explain.

Okay. Mr. Clerk.

NO. 19-502 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 29, 2019)

Informing of the acceptance of Waterline Easement "U-1R", Maui Lani Phase 6  
Increment 4 Subdivision, TMK: (2) 3-8-099:218, 219 & 220.

CHAIR KING: Member Lee.

COUNCILMEMBER LEE: Madam Chair, if there are no objections, I would ask the Clerk to  
also call County Communications 19-503 through 19-506.

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. No objections. So, Mr. Clerk.

NO. 19-503 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated December 3, 2019)

Informing of the acceptance of a Warranty Deed for Roadway Lot, Waiale Road,  
Portion of Royal Patent 4475, Land Commission Award 7713, Apana 23 to  
V. Kamamalu, TMK: (2) 3-4-003:019.

NO. 19-504 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,  
(dated December 9, 2019)

Transmitting the State of Hawaii Commission on Water Resource Management water  
use reports for October 2019 for all registered well reporters in the County of Maui.

NO. 19-505 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,  
(dated December 9, 2019)

Transmitting the Department of Water Supply's Monthly Source Report and  
Groundwater Use Report for the month ending November 2019.

NO. 19-506 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated December 11, 2019)

Informing of the acceptance of Waterline Easement "W-1", Wo Hing Society Tract,  
TMK: (2) 4-5-001:045 POR.

CHAIR KING: Okay. Ms. Lee.

COUNCILMEMBER LEE:

I MOVE TO FILE COUNTY COMMUNICATIONS 19-502  
THROUGH 19-506.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay, moved by Member Lee, seconded by Ms. Sugimura.

Ms. Lee, you have any comments?

COUNCILMEMBER LEE: Yes. These communications are purely informational, and no further action is required by the Council. Thank you, Chair.

CHAIR KING: Okay. Any discussion? If not, all those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Mr. Clerk.

NO. 19-507 - TASHA KAMA, PRESIDING OFFICER PRO TEMPORE,  
(dated December 12, 2019)

Relating to Councilmembers' report on the second Community Meeting on Real  
Property Tax Changes held on December 11, 2019.

CHAIR KING: Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: Thank you, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 19-507.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay. Moved by Pro Tem Tasha Kama, seconded by Member Sugimura.

Ms. Kama.

COUNCILMEMBER KAMA: Thank you. Councilmembers Lee, Sugimura, and I attended a community meeting on December 11, 2019 at the County's Business Resource Center in Maui Mall regarding changes to the real property tax classification system, including the use of tiers.

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

According to the sign-in sheet, 13 members of the public attended the meeting.

Marcy Martin, Real Property Tax Administrator, made a brief presentation.

Many of the questions from the public in attendance were unrelated to the specific meeting topic. For example, there were questions about the homeowner exemption and how to maintain the exemptions with changes in ownership. These questions indicate to me that our community would benefit from some general education sessions on how property is assessed and how property tax is calculated.

Some suggestions and concerns addressed at the meeting were: Tiering of property tax rates for commercial and industrial properties may "backfire" by penalizing small, local businesses. The County should not expect the property tax system to address the housing shortage. There are many other factors holding back housing and the County should address those factors first. The County should not use the tiered system in the next budget, but rather wait at least one year so that property owners can be educated. The tax system may now be too complicated. And hold outreach meetings on this issue on Molokai and Lanai.

A quorum of the Council was not present at the meeting.

The community meeting on real property tax changes was not specifically and exclusively organized for or directed toward Members of the Council, but was a public meeting for which press release was issued.

No commitment relating to a vote on any Council business was made or sought at the meeting.

And Chair King, that concludes my report. But I would suggest that the other two Councilmembers who attended to comment if they so desire. Thank you.

CHAIR KING: Okay. Thank you. Thank you for that report. Any other comments or discussion? If not, oh, you have a comment, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yea. So, thank you very much for doing that report. And it was brought up through discussion with the Members that were present there, I think two members, not members, two community people that were there had asked that we not rush this through and, and take the time to educate the community. And I think that's been my position. I was glad to hear that. So, I just wanted to put emphasis on that remark, on those remarks.

CHAIR KING: Okay. Any other?

Ms. Lee.

COUNCILMEMBER LEE: Yes, and this discussion comes up all the time between Councilmember Sugimura and myself. I generally remind the audience that we are not rushing, because the decision-making will not occur until April or May. So, there, there's ample time and that's the reason why we keep doing these outreach meetings. And, and I can understand Ms. Sugimura's position, but I really believe that we're trying very sincerely to get the word out and provide opportunities for people to become educated on this subject. Thank you.

CHAIR KING: Okay. Thank you, Ms. Lee.

COUNCILMEMBER KAMA: Chair. I'm sorry.

CHAIR KING: Ms. Kama.

COUNCILMEMBER KAMA: But, so, last night there was another meeting of the tax reform. And different set of people, different venue, different place, also different responses. But because there was only two Councilmembers, there's no report that's going to be

done. But we're hearing different things at different places. So, just to know that that's out there. Thank you.

CHAIR KING: Okay. Thank you. And I've been talking to members of the TIG too about doing one in South Maui.

Okay. All those favor of filing the County Communication 19-507, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure passes nine to zero.

Mr. Clerk.

NO. 19-508 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,  
(dated December 13, 2019)

Relating to Councilmembers' report on the Waikapu Community Association General Membership meeting on December 9, 2019.

CHAIR KING: Okay. Member Sugimura.

COUNCILMEMBER SUGIMURA:

I, I MOVE TO FILE COUNTY COMMUNICATION 19-508.

COUNCILMEMBER KAMA:

SECOND.

CHAIR KING: Okay, moved by Member Sugimura, seconded by Pro Tem Tasha Kama.

Ms. Sugimura.

**COUNCILMEMBER SUGIMURA:** Yea, thank you. A meeting was held with the Waikapu Community Association. And attending it was Council Vice-Chair Rawlins-Fernandez, Councilmember Lee, and myself attended at the Waikapu Community Association meeting on December 9, 2019 at the Valley Isle Fellowship Church in Wailuku.

And I'm making this report in accordance with State Sunshine Law, specifically Section 92-2.5(e) of the Hawaii Revised Statutes.

According to the sign-in sheet, 60 members of the public attended the meeting.

And what was discussed was the removal of vehicles in the Waiko Road Ditch/Retention Basin. Brian Ige from the Kehalani community and the Maui Police Department shared the process that they needed to follow when managing abandoned vehicles.

It was also reported that in Bill Frampton's project down the street, there's about 26 abandoned cars and tires that were left there, which bless his heart, he's committed as part of his project to remove.

It was also reported that Duane Ting's project, I don't have the tax map key, which he was hoping to build below happy, below Wailuku Heights. He sold that project to someone else, so they are going to look forward to hearing more about it. It was going to present a buffer zone with Wailuku to Waikapu, was the perception, based on upon the requirements.

Two speakers presented and fielded questions and received input regarding two planned affordable-housing projects. The first one was Karlynn Fukuda from Munekiyo Hiraga, and Erin Mukai also helped and presented on the proposed Department of Hawaiian Home Lands project Pu'unani Homestead Division *[sic]* and that's in Wailuku. The project is located in Waikapu, north and adjacent to the existing Waiolani Mauka subdivision. And the second one was Bill Frampton presented an update of his fast-track workforce housing project by the Waikapu Development Venture.

A quorum was not, a quorum of the Council was not present at the meeting.

The meeting was not specifically and exclusively organized for or directed toward Members of the Council, but was a regular meeting of the Waikapu Community Association.

I'd like to thank Travis Polido and his officers for putting the meeting together. An agenda was posted on its, on it publicly accessible as well as on their website for, on November 30, 2019.

And no commitment relating to a vote on any Council business was made or sought at the meeting. Chair, Chair King, that concludes my report.

CHAIR KING: Okay. Thank you; very thorough.

Any questions or discussion? If not, all those in favor of filing the report, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Mr. Clerk.

NO. 19-509 - TAMARA PALTIN, COUNCILMEMBER,  
(dated December 13, 2019)

Relating to Councilmembers' report on Kaunoa's Retired & Senior Volunteer Program Recognition Event held on November 1, 2019.

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO FILE COUNTY COMMUNICATION 19-509.

COUNCILMEMBER KAMA:

SECOND.

CHAIR KING: Okay. Moved by Member Paltin, seconded by our Pro Tem Kama.

Ms. Paltin.

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

On Friday, November 1, 2019 Councilmember Tasha Kama, Council Chair Kelly King, and myself, Tamara Paltin, attended Kaunoa's RSVP Maui Recognition Luncheon at the Hyatt Regency Maui.

RSVP is short for Retired & Senior Volunteer Program. It's a National Senior Corps program under the Federal agency, Corporation for National & Community Service, from which the Maui County RSVP receives approximately 20 percent of its annual funding. The Maui County Program is administered under the Department of Housing and Human Concerns, Kaunoa Senior Services Division.

Maui County RSVP volunteers contribute nearly 50,000 service hours annually at non-profit agencies and organizations, human services and other government programs.

The economic benefit was discussed, and we learned that based on a nationally recognized value of \$25.43 per volunteer hour, the value of Maui RSVP volunteers' contributions to our community exceeds \$1.2 million annually.

RSVP volunteers provide benefits for our community in the area of expertise and services, while the Program provides opportunities for our retired seniors to remain active in the community.

I also wanted to note that this year, Lahaina residents Asaye Aotaki and Vivian Ichiki were both recognized for thirty years of volunteer service under the Maui Retired Seniors Volunteer Program.

A quorum of the Council was not present at the meeting, and the event was not specifically and exclusively organized for or directed towards Members of the Council.

No commitment relating to a vote on any Council business was made or sought at the event.

And this concludes my report. If any other Councilmembers that attended wish to add to this report, they're welcome.

CHAIR KING: Thank you, Ms. Paltin. And thank you for paying attention when I was talking. It sounds like you took some good notes from the statistics that was mentioned.

Any other discussion? If not, all those in favor of filing the report, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero; unanimous.

Mr. Clerk.

NO. 19-510 - TAMARA PALTIN, COUNCILMEMBER PALTIN,  
(dated December 13, 2019)

Relating to Councilmembers' report on the Maui County Employees Awards Program event held on November 15, 2019.

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO FILE COUNTY COMMUNICATION 19-510.

COUNCILMEMBER SINENCI:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR KING: Okay. Moved by Member Paltin, seconded by Member Sinenci.

Ms. Paltin.

**COUNCILMEMBER PALTIN:** I'm providing this report pursuant to the State Sunshine Law, specifically, Section 92-2.5(e) of the Hawaii Revised Statutes.

On Friday, November 15, 2019, Councilmembers Tasha Kama, Yuki Lei Sugimura, and myself, Tamara Paltin, attended the County of Maui's 32<sup>nd</sup> Annual Employee Recognition Award Program Dinner at the Binhi At Ani Filipino Community Center. The Hana, Molokai, and Lanai winners were presented their awards separately during luncheons in October.

The event for Maui, without Hana, was a awesome opportunity to meet employees throughout the County system that we may never interact with during the course of our work. We learned about notable things they did to help the County in multiple ways including cost savings that validated their nomination.

We recognized Kathryn D. Ramos, Senior Services Program Assistant with the Department of Housing and Human Concerns. She was named Employee of the Year. The Maui Police Department's Crime Reduction Unit was named the Maui Team of the Year. And Brian Perry, Communications Director, was named the Maui Manager of the Year.

A quorum of the Council was not present at the meeting, and the meeting was not specifically and exclusively organized for or directed toward Members of the Council, but rather, was open for all County of Maui employees to attend.

No discussion related to official board business occurred, nor any commitment relating to a vote on any Council business was made or sought at the meeting.

Madam Chair, that concludes my report. And if any of the other Members that were present wanted to add something, they're welcomed to.

**CHAIR KING:** Okay. Seeing none. Oh, Ms. Sugimura.

**COUNCILMEMBER SUGIMURA:** I just want to congratulate all the coordination that was done to make it happen countywide. But that event at, that night was pretty exciting just to see many, many employees there, which we normally would not be able to see. And to, and to take the time to recognize not only the employees, but and nominees, but also retirees. And that list was kind of long. It was a very well-done evening. So, I want to congratulate everybody and all the honorees too.

CHAIR KING: Okay. Thank you. No other discussion. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Mr. Clerk. Well, before we move on, is everybody, or Councilmembers, are you okay with continuing on for a while or do you want, would you like to take a morning break?

COUNCILMEMBER SUGIMURA: Morning break.

CHAIR KING: Okay. Looks like everyone wants a break. So, it's 10:38. Let's be back by 10:50.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, really quickly.

CHAIR KING: Yes, Ms. Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Would, would we, I have Ms. Michele Yoshimura and Mr. Pontanilla in the chamber. They're waiting for the next item. Would it be okay with the Members if we just took the next item and then take our break?

CHAIR KING: Is everybody okay with that? No objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. We'll go ahead and--

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Mr. Clerk, can you call up County Communication 19-5117

NO. 19-511 - KEANI N.W. RAWLINS-FERNANDEZ, CHAIR, ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE,  
(dated December 13, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, OFFICE OF THE MAYOR (COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM)".

CHAIR KING: Okay. Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

MOVE TO, I MOVE TO DISCHARGE THE BILL ATTACHED TO COUNTY COMMUNICATION 19-511 FROM THE ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE.

COUNCILMEMBER SINENCI:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Members for taking this item up before our recess.

A discharge of the EDB Committee item is the first step to allowing the Council to consider this bill today. Thank you.

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. Sorry to hold up everybody's recess, but I got a couple of questions on this.

CHAIR KING: On the, on the discharge?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay.

COUNCILMEMBER MOLINA: Oh, sorry. Oh, yea, well, not the discharge, but when we get to the, just want to give everybody a heads up.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

CHAIR KING: Did you, did you want to speak to the need for the discharge, the timing? Or urgency?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, yea. It's time-sensitive and quicker to just get it out of the Committee.

CHAIR KING: Okay. Any other question?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, and the, and I think a project is waiting for the funding.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR KING: So, we got something pending?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

CHAIR KING: Okay. Any other questions or discussion about the discharge? If not, all those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure passes nine to zero.

Ms. Rawlins-Fernandez, next step.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO WAIVE COUNCIL RULE 7(G) AS IT RELATES TO  
THE BILL ATTACHED TO COUNTY COMMUNICATION 19-511.

COUNCILMEMBER LEE:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR KING: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, for Council to consider this bill today, waiving Rule 7(G) of the Rules of the Council is necessary. Six affirmative votes are required to grant the waiver. Mahalo.

CHAIR KING: Okay. Any other discussion or questions on the waiver? If not, all those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

And back to Vice-Chair Rawlins-Fernandez for the motion.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE BILL ATTACHED TO COUNTY  
COMMUNICATION 19-511 ON FIRST READING AND TO FILE  
COUNTY COMMUNICATION 19-511.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by  
Member Sinenci.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. This bill will amend Appendix A,  
Part I, of the Fiscal Year 2020 Budget as it relates to the Community Block  
Development Grant Program. The bill will remove a project for Hale Makua Health  
Services since the grantee withdrew their funding request. The bill will also add in two  
projects; one for Ka Hale A Ke Ola Homeless Resource Center, and another for Big  
Brothers Big Sisters Hawaii. The total grant funding for CDBG is not changed in the  
amendment. Mahalo, Chair.

CHAIR KING: Mahalo.

And we go to Mr. Molina for his--

VICE-CHAIR RAWLINS-FERNANDEZ: And we also have Budget Director Yoshimura and  
Mr. Pontanilla here for questions if anyone has.

CHAIR KING: Okay. Okay. So, Mr. Molina, you have a question. Do you need to bring  
someone down?

COUNCILMEMBER MOLINA: Yea, I guess someone from Administration or Department of--

CHAIR KING: From CBDG or, or Budget, or both?

COUNCILMEMBER MOLINA: From both just to be safe.

CHAIR KING: Can you come down?

COUNCILMEMBER MOLINA: Madam Chair, my question just relate to the Ka Hale A Ke Ola Project.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: In this case.

CHAIR KING: Go ahead.

COUNCILMEMBER MOLINA: Yea, my question at this point is there's 12 units that's going to be out of service at this time for, I guess, renovations. Has the Administration come up with a plan or Ka Hale A Ke Ola come up with a plan to compensate for those 12 units that are lost? Because we do have a lot of homeless folks out there that, or people in need of shelter. Was there a plan put together first before the proposed renovation?

CHAIR KING: I guess, who, Mr. Pontanilla, you want to tackle that question? I don't think we have anybody here from Ka Hale A Ke Ola.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR JOSEPH PONTANILLA: Thank you, Chairman. Member Molina, Ka Hale A Ke Ola has been renovating, or rehabilitating their buildings for the last five years since I've been here. So, there are vacant units where they move clients into when they do the work. So, this is Building No. 6, 12 units. So, those 12 families will be relocated.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Pontanilla. Good to see you.

That's all it was, Madam Chair.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: Just wanted to make sure that, you know, before any renovations are taking place that we still have adequate space to accommodate others as well, so.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR KING: Yea, and I actually have personally visited those units a couple of times, so I've seen the ongoing renovations and how they're able to move people around.

Mr. Hokama, do you have a question or comment?

COUNCILMEMBER HOKAMA: I again, I'm just trying to understand the need of time, on the timing portion. What's the issue you have, Mr. Pontanilla?

CHAIR KING: Oh, you mean to pass it?

COUNCILMEMBER HOKAMA: Yea.

CHAIR KING: Mr. Pontanilla.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: Evidently, evidently both of these projects weren't in the budget ordinance. We, we're going through the SRA process, which is a subrecipient agreement, when we found that both of these projects, the, it wasn't identified in the budget ordinance. And that was brought to our attention by the Finance Department as well as our Budget Director.

CHAIR KING: Mr. Hokama.

COUNCILMEMBER HOKAMA: I mean, okay, so why do you need fast-tracking?

CHAIR KING: Mr. Pontanilla.

COUNCILMEMBER HOKAMA: You guys signed a contract to expend money without this squared away? Is that the problem?

CHAIR KING: Mr. Pontanilla.

Ms. Yoshimura.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: No, we haven't signed any contract as yet.

CHAIR KING: We'll let Ms. Yoshimura from--

COUNCILMEMBER HOKAMA: So, yea, Budget Director, can you help us appreciate the timeliness?

**BUDGET DIRECTOR MICHELE YOSHIMURA:** Thank you, Chair. Member Hokama, the resolution that was adopted to recognize all these projects were done, was done back in April. And when the budget ordinance was done, the Ka Hale A Ke Ola Project was inadvertently left off of the budget ordinance. The subrecipients are ready to sign the agreement and they had come to me for approval and that's when we realized that it wasn't in the budget document. And in order to expedite the rehabilitation of the Ka Hale A Ke Ola units, we would like to see this amendment go through so we can sign this sub, subrecipient agreements and they can get started. Cause they're ready to go, it's just waiting for the agreement to get signed.

**CHAIR KING:** Mr. Hokama.

**COUNCILMEMBER HOKAMA:** Thank you, Chair. And I appreciate the proposal before us and you working with our Budget Chair. We'll do it better this year. We'll do it better this year. Thank you.

**CHAIR KING:** Okay. Pro Tem Kama.

**COUNCILMEMBER KAMA:** Just two questions. One, are these 12 units empty? And if they are or not. And if the families that are going to be relocated, will they be relocated into a unit in which the rent that they are now paying at Ka Hale A Ke Ola will be the same or better?

**CHAIR KING:** Okay. Let's see, Mr. Pontanilla, can you answer those questions?

**COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR:** Yes. The units are presently occupied. We did some renovations this past year. There are some units that they can move into. So, that's the process that they've been doing it. We've rehabilitated six buildings so far and the occupants of all of those buildings, they created accommodations for them.

**CHAIR KING:** Okay. And I think the other question was, are they still paying the same rent from the original?

**COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR:** I don't know how much they pay in rent.

**COUNCILMEMBER KAMA:** But is it the same, equal or less than? That's all I wanted to know, because--

**CHAIR KING:** Yea.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: It's--

CHAIR KING: Okay.

COUNCILMEMBER KAMA: So, the rent they're paying is either the same or equal to?

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: I would think so, yea.

COUNCILMEMBER KAMA: I just want to know that for sure. Because I don't want to relocate people if it's going to cause a hardship on them. Just want to know that, that's all. Thank you, Chair.

CHAIR KING: Yea. If you want, we can send a question to Ka Hale A Ke Ola, because I think they're the ones that would know. Would you like that?

COUNCILMEMBER KAMA: Please. Thank you.

CHAIR KING: Okay. Mr. Clerk.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Yea, thank you. So, in the beginning of this, Hale Makua withdrew, was that what they did?

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: Yes.

COUNCILMEMBER SUGIMURA: And that's one of my passions, so what happened that they didn't need the money anymore? I think there's always a great need.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: They decided not to do the--

COUNCILMEMBER SUGIMURA: --their project.

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: --roof replacement at this time.

COUNCILMEMBER SUGIMURA: Oh, I see. So, they didn't need the, they're going to take the project up at a later time--

COMMUNITY DEVELOPMENT BLOCK GRANT DIRECTOR: Yea.

COUNCILMEMBER SUGIMURA: --or something? Okay. Thank you.

CHAIR KING: Okay. Any other questions or discussion? If not, I'll call for the question. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero, along with the filing.

Okay. Thank you, Ms. Yoshimura and Mr. Pontanilla.

Okay, shall we take our break now then? Okay. Why don't we take our break, come back at 11, see if we can power through the rest of the, the agenda. Okay. Okay, on recess until 11 a.m.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:49 A.M., AND WAS RECONVENED AT 11:05 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS KAMA, LEE, PALTIN, AND SUGIMURA, EXCUSED.)

CHAIR KING: Okay. Reconvening the regular Council meeting of December 20, 2019. It is 11:05 and we are at, we're still on County Communications at 19-512.

Mr. Clerk.

COUNTY CLERK: For the record, relative to County Communication 19-511, BILL 71 (2019).

NO. 19-512 - MICHAEL J. MOLINA, CHAIR, GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE., (dated December 9, 2019)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF SEWARD AKAHI TO THE BOARD OF ETHICS FOR THE COUNTY OF MAUI".

(Councilmember Paltin returned to the meeting at 11:06 a.m.)

CHAIR KING: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

I MOVE TO DISCHARGE THE GET COMMITTEE FROM FURTHER CONSIDERATION OF THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 19-512.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

And just for the record, we have in the chambers right now, Member Sinenci, Member Molina, Vice-Chair Rawlins-Fernandez, Member Hokama, and Member Paltin. So, we have a, a bare quorum we need for waiver.

So, we're on the discharge right, or the, yea, the discharge first. And Mr. Molina, would you like to speak to the discharge?

COUNCILMEMBER MOLINA: Yea, Madam Chair. The 60-day deadline for the Council to approve or disapprove Seward Akahi's nomination to the Board of Ethics is December 27, 2019. So, a discharge is needed today for us to consider action on the proposed resolution. Thank you.

CHAIR KING: Okay. Thank you. And maybe you want to add that we did have a discussion.

COUNCILMEMBER MOLINA: Yes.

CHAIR KING: And interviews during the GET meeting. We just didn't take the vote.

Any further discussion? If not, all those in favor of the discharge, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBERS KAMA, LEE, AND  
SUGIMURA.

CHAIR KING: Measure passes six "ayes", three "excused"; Member Lee, Member Sugimura, and Member Kama.

Mr., oh, Mr. Molina.

(Councilmember Kama returned to the meeting at 11:07 a.m.)

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE  
REFERRAL AND REPORT PURSUANT TO RULE 7(G) OF THE  
RULES OF THE COUNCIL.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Member Molina, seconded by Member Sinenci.

And Ms. Kama is back in the chambers.

COUNCILMEMBER KAMA: Thank you, Chair.

CHAIR KING: Mr. Molina.

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

CHAIR KING: Okay. Any other discussion? If not, all those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBERS LEE AND SUGIMURA.

CHAIR KING: Okay. Measure passes seven to, seven "ayes", two "excused"; Member Lee and Member Sugimura.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION NO. 19-512 AND  
TO FILE COUNTY COMMUNICATION 19-512.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Bless you. Okay, moved by Member Molina, seconded by Member Sinenci.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GET Committee meeting as you had alluded to earlier had met Tuesday, December 17 to discuss Mr. Akahi's nomination to Board of Ethics for a term expiring on March 31, 2022. And this is to fill a vacancy created by the resignation of Napua Grieg.

And as it relates to Mr. Akahi, he was born and raised here, and he's been employed with Hertz Car Rental since 2000 as the general manager. And he is interested in bringing a balanced approach to decision-making on the Board of Ethics. Thank you.

CHAIR KING: Okay. Thank you. I don't think he's in the room, the chambers today, if anybody has any questions.

Mr., Mr., he's not here.

COUNCILMEMBER MOLINA: No.

CHAIR KING: Okay. Alright, any questions or discussion? If not, we'll just wait one second for Member Lee to sit down.

(Councilmember Lee returned to the meeting at 11:09 a.m.)

CHAIR KING: All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER SUGIMURA.

CHAIR KING: Measure passes eight "ayes", one "excused"; Member Sugimura.

(Councilmember Sugimura returned to the meeting at 11:09 a.m.)

CHAIR KING: Just missed it.

Okay. Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-206.

NO. 19-513 - MICHAEL J. MOLINA, CHAIR, GOVERNANCE, ETHICS, AND  
TRANSPARENCY COMMITTEE, (dated December 9, 2019)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF  
EDWARD ROMSON TO THE COUNCIL ON AGING".

CHAIR KING: Okay. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO DISCHARGE THE GET COMMITTEE FROM  
FURTHER CONSIDERATION OF THE PROPOSED  
RESOLUTION ATTACHED TO COUNTY COMMUNICATION  
NO. 19-513.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR KING: Okay. Moved by Member Molina, seconded by Vice-Chair Rawlins-Fernandez.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Basically, the same reasons that I gave for the previous item; because of the 60-day deadline and the Council having to act by December 27 of this year, the need for the discharge.

CHAIR KING: Okay. Thank you. And Ms. Sugimura is back.

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

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

NOES: NONE.

CHAIR KING: Motion passes nine to zero.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE  
REFERRAL AND REPORT PURSUANT TO RULE 7(G) OF THE  
RULES OF THE COUNCIL.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Mr. Molina and seconded by Mr. Sinenci.

Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. Again, there's a need for a two-thirds vote of the entire Council for us to consider this proposed resolution today. Thank you.

CHAIR KING: Okay. Any questions or discussion? All those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: COUNCILMEMBER PALTIN.

CHAIR KING: Oh okay. One, measure passes eight "ayes" and one "no".

Mr. Clerk.

COUNTY CLERK: Madam Chair, I believe we're back to Councilmember Molina.

CHAIR KING: Oh, you just, okay.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. I'd like to--

CHAIR KING: Oh, that was on the waiver.

COUNCILMEMBER MOLINA: Yea.

CHAIR KING: Okay. That eight to one was on the waiver. Sorry, lost track.

Mr. Molina, sorry about that.

COUNCILMEMBER MOLINA: No problem, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION NO. 19-513, AND  
TO FILE COUNTY COMMUNICATION NO. 19-513.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Moved by Member Molina, I think seconded by Member Sugimura.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GET Committee met this past Tuesday, December 17 to discuss Mr. Romson's nomination to the Council on Aging for a term expiring on March 31, 2021 to fill a vacancy replacing Helene Sato.

And your Committee did ask Mr. Romson some questions as it relates to why he wants to serve on this Committee. And it was discovered that, you know, he's a member of the Hale Makua Board of Directors since 2017 and is currently serving as the Chairman. And he insists that he would like to bring his experience with Hale Makua to the Council on Aging to assist our kupuna in the Maui community. So, therefore, I ask for the Members full support. Thank you.

CHAIR KING: Okay. Thank you, Mr. Molina. Any discussion? If not, all those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: COUNCILMEMBER PALTIN.

CHAIR KING: Okay. Measure passes eight "ayes" and one "no"; Member Paltin.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-207.

NO. 19-514 - TAMARA PALTIN, COUNCILMEMBER,  
(dated December 13, 2019)

Transmitting a proposed resolution entitled "APPROVING A TIME EXTENSION FOR THE WEST MAUI COMMUNITY PLAN ADVISORY COMMITTEE TO FORWARD ITS RECOMMENDED REVISIONS ON THE DRAFT WEST MAUI COMMUNITY PLAN TO THE PLANNING DIRECTOR".

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN:

I'D LIKE TO MOVE TO DISCHARGE THE RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-514 FROM  
THE PLANNING AND SUSTAINABLE LAND USE COMMITTEE.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR KING: Okay. I think, are we still going? Okay.

COUNCILMEMBER PALTIN: A discharge is the first step necessary for the Council to  
consider this resolution today. Thank you.

CHAIR KING: Okay. Sorry, moved, I didn't, I didn't know if you were done with your reason.  
But it was moved by Member Paltin, seconded by Member Sugimura for the discharge.

Any questions or discussion? If not, all those in favor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Member Paltin.

COUNCILMEMBER PALTIN:

I'D LIKE TO MOVE TO WAIVE RULE 7(G) OF THE RULES OF  
THE COUNCIL AS IT PERTAINS TO THE RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-514.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez.

Ms. Paltin.

COUNCILMEMBER PALTIN: For the Council to consider adopting this resolution, we must waive Rule 7(G) of the Rules of the Council. Six affirmative votes are necessary to grant the waiver. Thank you.

CHAIR KING: Okay. Any discussion on the waiver? If not, all those in favor of the waiver, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

Back to Member Paltin.

COUNCILMEMBER PALTIN:

I'D LIKE TO MOVE TO ADOPT THE RESOLUTION ATTACHED  
TO COUNTY COMMUNICATION 19-514, AND TO FILE  
COUNTY COMMUNICATION 19-514.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR KING: Okay. Moved by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez.

Any discussion? Questions?

CHAIR KING: I guess my, I have a question. Is it, did we change anything? I know we, we talked about having Planning Department and, and CPAC Chair Kai Nishiki discuss the time extension.

COUNCILMEMBER PALTIN: Yeah, we didn't change anything. You know, they're always welcome to finish ahead of time and we'd like them to finish ahead of time. For me, you know, the, the controversial issues surrounding Olowalu and Makila growth boundaries, I feel like, you know, there is a very real possibility that they could get a lot of testimony and that's outside of their control. And I really would not like to take this up in Committee again. I mean, they're welcome to finish ahead of time, but I don't want to take more time in Committee or Council to grant another extension should they not meet their deadline because of testimony concerns or climate change catastrophes or anything like that.

CHAIR KING: Okay. So, we're, we're, the time extension is four months at this point?

COUNCILMEMBER PALTIN: Yes.

CHAIR KING: Okay.

COUNCILMEMBER PALTIN: It's what the bill was.

CHAIR KING: Any other--

COUNCILMEMBER PALTIN: I, you want me to?

CHAIR KING: Go ahead.

COUNCILMEMBER PALTIN: Okay. At the Planning and Sustainable Land Use Committee this past Wednesday, we discussed the request the Council received from the West Maui Community Plan Advisory Committee to extend the time that the CPAC has to review the draft West Maui Community Plan. This resolution will grant the CPAC a time extension for its review to May 19, 2020. However, the CPAC may forward its recommended revisions to the draft Community Plan to the Planning Director before May 19 if it so desires and finishes its work. I ask the Members to support for my motion. Thank you, Chair.

CHAIR KING: Okay. Thank you, Ms. Paltin.

Any questions or comments? If not, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero.

And can we get a, a resolution number, Mr. Clerk?

COUNTY CLERK: For the record, RESOLUTION 19-208.

CHAIR KING: Okay. And then, Members, I'm going to step down and, and switch places with the Vice-Chair for this next resolution, because I have all the notes that came from the, my, my testimony to the Big Island's resolution. So, just real quick, don't, nobody move. Quick, oh, quick recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:16 A.M., AND WAS RECONVENED BY THE VICE-CHAIR AT 11:17 A.M., WITH ALL MEMBERS PRESENT.)

VICE-CHAIR RAWLINS-FERNANDEZ: Will the regular Council meeting of December 20, please return to order. It's 11:17, and we are on County Communication 19-515.

Mr. Clerk.

NO. 19-515 - KELLY T. KING, COUNCILMEMBER,  
(dated December 3, 2019)

Transmitting a proposed resolution entitled "ACKNOWLEDGING A CLIMATE EMERGENCY AND COMMITTING TO AN IMMEDIATE JUST TRANSITION AND EMERGENCY MOBILIZATION EFFORT TO RESTORE A SAFE CLIMATE".

VICE-CHAIR RAWLINS-FERNANDEZ: Chair King.

CHAIR KING: Thank you, Vice-Chair.

I, I MOVE TO PASS THE RECOMMENDATION IN  
COMMUNICATION 19-515.

COUNCILMEMBER LEE.

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Chair King, seconded by Member Lee.

Chair King.

CHAIR KING: Okay. Madam Chair, may I ask the Clerk to read the resolution?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Clerk.

*(The resolution was read in its entirety.)*

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

Chair King.

CHAIR KING: Okay thank you. Thank you for that, Mr. Clerk.

I WANT TO MAKE ONE AMENDMENT, PROPOSE ONE AMENDMENT THAT CAME UP EARLIER. AND THAT IS IN THE 15<sup>TH</sup> "WHEREAS" PARAGRAPH, WHICH IS ON THE THIRD PAGE, IT'S THE SECOND ONE AND BASICALLY, IT'S JUST TO REARRANGE THE WORDING TO FOCUS FIRST ON THE SEA LEVEL RISE EXCEEDING EIGHT FEET AND THEN PUTTING IN PARENTHESIS 2.4 METERS AND NEARLY 3.2 FEET, IN PARENTHESIS ONE METER OF SEA LEVEL RISE.

And if I can get a second, I'll mention the.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Moved by Chair King, seconded by Member Sinenci.

CHAIR KING: Okay. So, what this does is it basically focuses on the, the feet first, which is our, which is our measurement system in the, in the United States, and then names the meters second. But I think it also puts the emphasis, because everybody knows how deep eight feet is. They don't know, they don't really equate that with 2.4 meters. So, that's the, that's the first amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Any questions or discussion?

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. And I want to thank Chair King for this resolution. My question relates to the resolve clauses in the proposed resolution.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina, we're discussing the amendment first.

COUNCILMEMBER MOLINA: Oh, oh sorry, sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Did you have any question on the amendment?

COUNCILMEMBER MOLINA: Okay. I'll wait till after the amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER MOLINA: Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: No, it's okay.

Members, any questions on the amendment? Okay, seeing none, I'll call for the question.

COUNCILMEMBER KAMA: Chair. Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA: --minor. So, the eight feet would be number 8 and the feet, and the parenthesis would be the meters? Is that how we would read?

CHAIR KING: Right. It would say, "a sea level rise exceeding eight feet". And then in parenthesis it would say 2.4 meters.

COUNCILMEMBER KAMA: Okay. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

Okay, I'll call for the question. All those in favor of the amendment to the main motion, please say "aye".

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

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously; nine "ayes", zero "noes".

Chair King.

CHAIR KING: There was another amendment proposed by the testifier about adding in the words about a conference. And at this point, Chair, I think I would rather not put that in because I have plans to do that anyway. And I, and I, what I worry about is directing the Department to do something which is, you know, forbidden by the Charter. And so, because it commits the County of Maui, I don't know what the description of the County of Maui, that's kind of influx right now.

But I, I just wanted to let the, the Members know that I've been working on preliminary plans for a conference/summit and that I do have a source willing to fund, fund it so, you know, for the County of Maui. So, I, I appreciate the effort to put those words in there. I just don't want to lock us into something that might be challenged. So, I'm good with the resolution with just the, the one amendment at this point.

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

CHAIR KING: But thank you to the, thank you to Mr. Shapiro.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina, then Member Hokama.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. And just dovetailing off Chair King's word, use of the word "commit", that's kind of the nexus

for my question here. Throughout the resolve clauses in the proposed resolution, it states where it commits the County to various acknowledgements and tasks. Now, to fully commit the County, is it necessary to have buy-in from the Mayor to approve this concept? That going be my question.

VICE-CHAIR RAWLINS-FERNANDEZ: Would you like to ask Corporation Counsel?

COUNCILMEMBER MOLINA: Whether it be for Chair King or Corporation Counsel.

CHAIR KING: I think you can ask Corporation Counsel.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kushi, did you hear the question?

DEPUTY CORPORATION COUNSEL EDWARD KUSHI: Madam Vice-Chair, this is a Council resolution and basically under the "BE IT RESOLVED" clauses, it's the Council committing on its behalf whatever, whatever, whatever. It doesn't commit or direct the Administration to do anything. So, it's within your authority.

COUNCILMEMBER MOLINA: Okay. Thank you. That, thank you, Mr. Kushi, for that comment. So, if we're not committing Administration, then, then what is our plan to fulfill these commitments then, if we're, if the Administration is not onboard for example? What would be our obligations as the Council? What could we do?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kushi.

DEPUTY CORPORATION COUNSEL: Madam Chair. I don't know. The resolution doesn't say any steps for, you know, procedural.

COUNCILMEMBER MOLINA: Yea, that's, that's what I'm asking.

CHAIR KING: I can answer that.

COUNCILMEMBER MOLINA: Yea, okay, Chair.

CHAIR KING: Okay. So--

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

Chair King.

CHAIR KING: Thank you, Chair. It's akin to when the State passed the commitment to 100 renewable. And one of the things that almost killed it was people saying we don't

have a plan for it. Well, the commitment came first and then the plan came next. But without that commitment to the goal, we would have never gotten to where we're at today. And today, we actually, our utility is claiming they're ahead of schedule, getting to that 100 percent. So, it's setting a goal for the Council and urging action. So, the, the plan, I mean this is, and this is what's proven I think twice with the State, is that the goal comes first, and the plan comes next. But without that goal institutionalized, then no action happens.

And I, and I would like to say, Madam Chair, that when, and I was around and very active in the renewable energy industry when the Hawaii Clean Energy Initiative was first enacted by Governor Lingle. And people were saying, it was for 70 percent renewable, 30 percent of that was supposed to come from reduction, and the other 40 was going to come from renewable energy. And people said back then, well, what's the plan? How are we going to get there?

You know, we went ahead and enacted it. The State went ahead and enacted it and the plan start, the plan started happening, because all the people who said this is not possible all of a sudden start working on it and they realize it was possible. And then when Governor Ige came along, he made the commitment to 100 percent. They said the same thing, but now it looks like we're actually ahead of that goal for 2045.

So, I would just ask my Members to, to consider that without a goal, we're going to have no action. So, the goal of the commitment is what spurs on the action and the plan.

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

Member Molina.

COUNCILMEMBER MOLINA: Yea, I just want to thank you for that clarification only because, you know, like in the resolves, in the resolve section, it notes that the County will revisit policies, priorities, established goals, and implement efforts to mobilize a safe climate which, you know, some can construe as administrative work. But anyway, so I just wanted to see where, how this, you know, balances out. So, anyway, but I appreciate Chair King giving the explanation. Thank you, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Member Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chair. I, I see it slightly different, Chair. I agree and I support the general purpose of the resolution. I believe though with things we've

already discussed in Mr. Molina's Committee a couple days ago, with this consideration this morning.

I will, I would be suggesting that we actually refer this to Committee, cause I would like a full Committee meeting just on this with the supporting committee report. Cause I kind of agree and not agree with our Chair, Chair King, regarding we can pass it and then the plan comes up. I think with the Committee meeting, we can hear from our various districts, how they see this thing evolving, cause for me I'm already looking at a clock going backwards, Chair. I'm counting backwards from 2100, because I really don't see too many sunshine after that if we don't move quickly enough. So, I feel the urgency.

And part of it is things that I've already discussed with Emergency Management. And those are the things that I would like to bring up in that Committee meeting, cause I feel that eventually that office needs to be a department where it will only increase intensity and veracity of natural disasters. We are going to need recovery programs, not raspy programs dealing with lots of dead bodies, okay. How are we going to deal with that, and protect what we now know is airborne illnesses and diseases, okay?

So, I've seen the facilities at Nebraska, how they dealt with Ebola and everything else. Hawaii is not prepared for what's happening in Samoa. Right now, half of our kids could come up with the measles infection, Chair. There's a lot of things happening worldwide that's going to impact this subject.

But I would like the Members to really consider how we support this. Have that Committee meeting. Part of it is, again, I think Chair King is right; we feel the urgency, we have the information. But I think we need to be good communicators and educate the greater County of how we actually seeing this and what it means to them, who's going to have to help pay for the safety requirements for these potential disasters, Chair.

So, again, I feel that it will be to our advantage to have a referral and a Committee meeting, as well as strategize where it steps in with the considerations that will be coming from the GET Committee Chair. Thank you.

**VICE-CHAIR RAWLINS-FERNANDEZ:** Mahalo, Member Hokama.

Chair King and then Member Paltin.

**CHAIR KING:** Thank you, Chair. You know, the purpose of, of declaring an emergency is to make that declaration and then the details can be worked out in Committee. But I would be against referring this because basically that's saying we don't really recognize

the urgency and the emergency of the situation. So, I'm going to go ahead and read out, read my, my prepared notes on this.

Our planet is in a state of chaotic change. The temperature of our air and water is increasing. As a result of higher sea surface temperature, we saw record-breaking high temperatures this summer and witnessed long dry spells along with weak trade winds, which, which contributed to the problem.

In the past months, Maui has experienced an increased number of wildfires that have consumed in excess of 20,000 acres of dryland and droughts leading to water shortages in some areas. As an island chain, we are highly susceptible.

Sea level rise is predicted to inundate entire neighborhoods, structures and facilities along the coastline over the next 50 years. Maui County is already working toward becoming more resilient by proactively budgeting, budgeting for a shoreline retreat and disaster mitigation.

The Council has also discussed potential legislation to create our own County office to address climate change, sustainability and resilience issues. This past June, Maui focused on climate change at the annual HSAC conference. The theme of the conference was "Hot Topics and Sustainability" during which we launched the "Hawaii Chapter of the Climate Reality Project", the first in the Asia-Pacific region.

Global warming affects us all. Now is the time to focus on implementing solutions at the Federal, State, and County level. By acknowledging a climate emergency now, we refocus discussions on policies and plans that support reducing emissions of carbon dioxide and greenhouse gases, putting the emphasis on distribution of resources to tackle the crisis.

We need to educate our citizens, support action to mitigate future sea level rise, droughts, and superstorms, all while steering funds towards sustainable energy production and food sovereignty. We must all, throughout the State, work together to restore a safe climate, but also to anticipate and address potential disasters. This resolution is a critical step towards our island's resiliency. Science shows we are the tipping point.

As a County, we have an opportunity to work towards solutions that help us provide a healthier environment for our grandchildren, but we need to act, and we need to act now. We need to realize the emergency and the urgency of this. Let's join our sister-counties in passing the document that acknowledges the urgency of climate change. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair King. Also, we have, from the Administration, Ms. Makale'a Ane from the Mayor's Office, and Ms. Tamara Farnsworth from EP&S as resources.

CHAIR KING: Okay. And we did also ask Ms. Rita Ryan from the Climate Reality Project to be a resource if anybody has any questions for her.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. Mahalo.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to say that I agree with both Member Hokama and Chair King. I think that it's not a either or situation. We can easily pass this resolution and generate a new item to do the things that Member Hokama was saying, because it's such a huge issue.

And, and I do agree that, you know, in the upcoming years as well as the years to come, it's going to be an issue and it, it should be coupled with Emergency Management because I think a lot of the emergencies that we'll see is as a result of climate change. And it's going to require a huge shift as to how we adapt to these types of disasters, you know, like how, how we seen it at Hurricane Lane. We're preparing for a hurricane and then we end up with this fire, and then a flood, like, less than a month later. So, I think it's going to be a, you know, climate change is going to cause these issues that used to be like a one time, one, one disaster issue to compound and get much worse.

So, I think, you know, this resolution is just the first step and we definitely need to take a much deeper dive into the changing climate and how it affects us as an island nation. And you know, I think there's room and desire to do both what Chair King want, is proposing with this resolution and what Member Hokama is proposing. So, especially on the issue of climate change, it's not an either or; it's a both, and everything kind of issue. So, that's, I'll be voting in support.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted to add some comments that at Tuesday's GET meeting, we did, the Committee did vote with the Administration authorizing the employment of special counsel to, to include Maui County in the climate change litigation. So, this, to me, I think this is timely.

My, my EACP Committee had started the research. And also, the Administration, the Managing Director was here on Tuesday and did speak about coming back to the Council for policies that would, that climate change would affect the, the entire County.

So, again, I think this is timely at our HSAC here on Maui. We, we began the climate change project with Ms. Ryan, so everybody has been, I, I guess doing, doing their part. And this is just one of the, the pieces in the puzzle. And it just, I think it just solidifies our effort, so I'll be speaking in support. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Everybody has relevant points. I think we're all sitting in the same position. I really would like this to go to Committee and have it discussed; maybe have a panel with the people who are in the audience. And, and seeing how this will affect, I always worry about what is the bottom line we're talking about, and I think one of the implications as it relates to our people. So, I believe that it's important that we discuss it more completely rather than doing something today, because I think it deserves more. So, I will speak against the motion. And I hope you refer it to GET for further discussion, or whatever Committee, you know, the Council decides at that time. Thank you.

COUNCILMEMBER KAMA: Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Pro Tem Kama.

COUNCILMEMBER KAMA: I think we're talking about the potential end of the world as we know it. I mean, really, I mean it's a gross topic to talk about, but if you knew that you were going to die tomorrow, you'd be preparing a whole lot more than you are today. And so, basically, we talk about climate change, that's what we're talking about. So, to me it's like one meeting a Committee, I think it takes more than that. I think it's just going to take everybody getting onboard. And it's almost going to be, almost like a more special, special, special committee above all the other committees. So, I think that's a direction maybe we should be going into in terms of, I know that sometimes we talk about it in, in Councilmember Sinenci's Committee and he's got a whole bunch of other things that he's talking about. But this is certainly the one that's probably going to rise above the fray, so maybe we should do something extra special for our climate. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

COUNCILMEMBER PALTIN: Chair, point of information.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: Is it possible that we pass the reso and refer the subject matter to Committee.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, I think it's possible. Okay, no one's correcting me, so yes. Okay. Clerk confirmed. Anything else?

Okay. Member Lee.

COUNCILMEMBER LEE: Chair, I'm, I'm thinking that, like Member Kama, this is such a huge topic and deserves its own Committee, whether it's a subcommittee or a special committee, whatever kind of committee. So, give us time to, to think about how we're going to do this by just tabling the subject matter and passing the resolution is one option.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Okay. Seeing no other questions or comments, I'll give my comments and then I'll call for the question. So, to piggyback on what Pro Tem Kama said, it's not really the end of the world, it's the end of our, the human species, because we wouldn't be able to live in a world in the climate that we're heading for.

I agree with Member Hokama and Member Sugimura. Well, I guess everyone's in agreeance that this is such a huge issue and deserves so much more time that, you know, we do need to create a County department on this. And perhaps we do need to create a Council Committee on this, as Member Lee pointed out. And I think, you know, Member Paltin, like, hit the nail on the head in saying that we need to do, you know, both in passing the resolution today to declare that this is an emergency and to also continue to discuss the subject matter and in referring the subject matter. So, I'll be supporting the motion.

So, I'll call for the question if there's no other questions or concerns.

Mr. Clerk.

COUNTY CLERK: Just for clarification, before the vote is taken, is the vote also including referral the subject matter?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

COUNTY CLERK: Thank you, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. Okay. Move on? Okay.

Okay. Alright, I'll call for the question. All those in favor, oh, I'm sorry, Member Hokama.

COUNCILMEMBER HOKAMA: So, please restate the motion as amended, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. The motion is to pass the, this resolution as amended on first reading, with, without it being referred to Committee, and the subject matter being referred to Committee. Is that everyone's understanding?

CHAIR KING: Yea.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Alright. Member Hokama.

COUNCILMEMBER HOKAMA: Then I will speak in support of the motion with reservations, Chair. Half a project is better than no project, I guess. But I appreciate all Members comments. I think we all see generally in the same light and that part of our responsibility is to expand that light so that people still have hope for their future, especially those that have young children or would like to have families in the future.

Because you and I, you have kids, our kids are a lot in-tune to what's happening in their environment. They may not say it as eloquently as some maybe Members of Council, but I do believe in watching my own family members, that they do think about what will happen in the future and what kind of future they will have. So, I know it disturbs them already at their young age.

I think for us, as the older ones that has gone through some experiences, I think our key test now it to provide the venues and education, because Ms. King brought up some big numbers. And I think, you know, if it's 11 miles of shoreline that's going to get impact, we should be able to show on maps where are these 11 miles, so people who live in or around that area needs to start thinking what will we do as a family. We going to entrench? We going to relocate? We going to move State? Whatever is their safety net, you know, I think we need to allow as much time, because like I said, Chair, that clock is thinking backwards for people like me.

So, again, situations make people adjust positions, and I'm happy to make an adjustment to keep this moving forward. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Hokama.

Okay, when I restated the motion, I, I, I didn't include any non-substantive changes and the filing of County Communication 19-515, which would be included in the motion. We also didn't state what Committee the subject matter would be referred to.

CHAIR KING: Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair King.

CHAIR KING: Yea, I think it's, it's fine to, for right now, leave it as referred to the appropriate Committee. So, we, that, that will come up or be decided later.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Hokama.

COUNCILMEMBER HOKAMA: With no objection, I would say Committees, appropriate Committees, Chair, because it could fit almost, this, almost something everybody is committing. So, maybe, you know, again, without one Committee being over-trenched, we just will allow the Chair's office to assist us and allow us to work on this as, as best as we can. So, it might be multiple Committees that take up various components of the subject, Chair. I would allow us that flexibility, please. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Hokama.

Okay. So, I'll restate the motion altogether again. So, the motion is to pass on first reading the resolution.

I'm sorry. Mr. Clerk.

COUNTY CLERK: Apologize, Madam Chair. Adoption of the resolution.

VICE-CHAIR RAWLINS-FERNANDEZ: Adoption of the resolution on first reading, as amended, with, including any non-substantive changes, and the filing of County Communication 19-515, and the subject matter being referred to appropriate Committees. Okay. Everyone ready to vote? Alright.

Oh, Member Lee.

COUNCILMEMBER LEE: . . .

CHAIR KING: We don't.

COUNTY CLERK: Yea, Madam Chair, it's just, it was just misstated. It's just adoption of the resolution and there's not two readings on it.

VICE-CHAIR RAWLINS-FERNANDEZ: Adoption of the resolution on its only reading. Okay. Anything else?

CHAIR KING: Call for the question.

VICE-CHAIR RAWLINS-FERNANDEZ: Alright, all those in favor of the motion, please say "aye".

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

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously; nine "ayes", zero "noes".

CHAIR KING: Thank you, Members.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I will now call a brief recess so that the Chair and I can switch. Okay. It's 11:52 on December 20 and the meeting is now recessed at the call of the Chair.

(THE MEETING WAS RECESSED BY THE VICE-CHAIR AT 11:52 A.M., AND WAS RECONVENED BY THE CHAIR AT 11:53 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Okay. Members it's 11:53. I'm Kelly King. Thank you for changing the name plates, Mr. Clerk. Thank you for handling that item, Vice-Chair Rawlins-Fernandez.

So, at this point, I would like to bring Bill 70 forward, and make that the next thing on the agenda before we take our lunch break because we have a press conference at 12:15. So, are there any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. So, Mr. Clerk, if we can skip ahead to the second reading of Bill 70.

COUNTY CLERK: For the record, relative to County Communication 19-515, that's RESOLUTION 19-209.

(Councilmember Lee was excused from the meeting at 11:54 a.m.)

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 70 (2019)

### A BILL FOR AN ORDINANCE RELATING TO POLICE AUTHORITY TO HAVE MOTOR VEHICLES TOWED

CHAIR KING: Okay. Member Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO PASS BILL 70 ON SECOND AND FINAL READING.

COUNCILMEMBER KAMA:

SECOND.

CHAIR KING: Okay. Moved by Member Sugimura, seconded by Pro Tem Kama.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Bill 70 (2019), also known as the OUI Tow Bill, Maui County is taking an important step that would allow the removal of a vehicle from an impaired driver's hands. This bill has the full support of the Department of Police; Department of Prosecuting Attorney; reviewed by Corp. Counsel and it was also, has support from organizations such as Mothers Against Drunk Driving, Hawaii Chapter; and the Maui Coalition for a Drug-Free Youth. Impaired driving is a nationwide problem, which we all heard in the resolution.

In addition to this bill, the Council has included proposals into the 2020 Hawaii State Association of Counties Package related to alcohol levels. We need to move to stop

this growing epidemic, but these are good steps forward. If approved, it is timely that the OUI Tow Bill has been signed into law this month, recognizing that this is National Impaired Driving Prevention Month in Maui County.

I, I would like to make a special note, as we did hear discussions. This bill has been reviewed by Corp. Counsel, signed off by Corp. Counsel at the first reading, which was pretty long discussion. Normally, it doesn't have that much discussion in Council is done. What we did was, from the Committee work that we did in my Multimodal Committee, we excluded certain exemptions from the bill that was in the Hawaii Big Island law. And through research through Mr. Hopper and Corp. Counsel, we ended up putting it back to maintain its constitutionality.

So, with that Members, I would like to ask for your support. I know that questions came up during testimony today. I would like to, maybe if you have questions, to get Corp. Counsel to comment on it, or even Don Guzman who was in the audience. But to, if we want--

CHAIR KING: We'll direct questions to the appropriate--

COUNCILMEMBER SUGIMURA: Yea, if anybody has appropriate questions. But you know, just, just so you all can feel at ease, we did put back into the law, as Member Paltin said earlier in today's meeting, that would, would strengthen the constitutionality of the law for our residents. And also, that it has been actually reviewed by Corp. Counsel in relationship to other case law, which encouraged us to take the right steps in moving forward, which we did. So, thank you. I hope to gain Members' support for this bill.

CHAIR KING: Okay. Thank you for that.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I had a question, you know, in regards to the conversation or the issues that Member Sinenci had brought up during first reading and what Mr. Gon, Gonza--

COUNCILMEMBER KAMA: Gonzalez.

COUNCILMEMBER SUGIMURA: Gonzalez.

COUNCILMEMBER PALTIN: Gonzalez had brought up, you know, how if members of the public aren't driving with their, without, are driving without insurance that's not an arrestable offense. But driving without, not on your person, but without a driver's license, is an arrestable offense. With the new requirements nationwide to travel with

that Real ID, and it's not as easy for everyone to renew their license if they don't know where their birth certificate and their social security cards are, and like that. Is that, is that going to be taken into consideration?

Like, say you don't realize until you go to renew your driver's license that nowadays you need to have your social security, your birth certificate and all these additional forms of identification because of the Real ID system. And then it's a financial hardship on folks that then have to go down to the social security place and request new birth certificate, request new social security card and whatnot. And if so, is it possible to just remove that driver's license portion from the bill and focus on the OUI portions?

CHAIR KING: Okay. Well, that's a big question. But you're saying that you're okay with people driving without their license if they can't find it or they can't, is that what, is that what the?

COUNCILMEMBER PALTIN: I'm, I'm concerned as how Member Sinenci had spoke about first reading about the financial hardship of folks, you know, having to get all those documents together when a lot of people don't realize it until they go to renew their license after that whole Real ID thing took place. So, they might just need, you know, an extension of time to get the money to request those documents.

CHAIR KING: Okay, I'm not, I'm not sure who to direct that question to. I don't think it's a, I don't think there's an issue of getting a driver's license. I think it's a issue of driving without that driver's license. Isn't that correct? Maybe Mr. Guzman could address that question.

PROSECUTING ATTORNEY DON GUZMAN: Thank you, Chair. Happy Holidays, Members. I'm very pleased to be here on the floor addressing this bill for a possible passage on second and final reading. In addressing Councilmember Paltin's question, we have to distinguish the, the Section of 286-102, which is driving without a license. This is a, a, a crime that, or that basically says, look if you don't go take your test and you're driving without a valid license, then it's an arrestable offense.

The other violation that you're speaking of is, having, not having your license on person. That's not what we're talking about here. So, all of these sections that we've, we've basically placed in here, these traffic crimes, are arrestable offenses. And so, it rises to that level. And I believe Councilmember Hokama had mentioned that during the first reading discussion that this is about bad driving as well; not only about saving lives, it's about addressing the issues we have on our roads.

COUNCILMEMBER PALTIN: Yea. I'm, I'm concerned, like, you know, for folks that are renewing their license during the changeover and they weren't aware that now you

need all these seven forms of ID or like, you know, mail from your address and all these things. And they miss their deadline and their old license expires before they get onto that Real ID system. And then, you know, next thing you know they have to pay for their car to be towed and held and issue another birth certificate and social security card and whatnot.

**PROSECUTING ATTORNEY:** Well, apparently, when Lieutenant Hankins was on the floor during the first reading, he did mention that they do have standards of operating procedures that they take into consideration when, based on case by case situations. Look, if you're, if you're 30 days out from renewing your license and not getting it validated, then yea, they're, you're, probably going to cite you but not do the arrest. So, we're talking specifically here on an arrest situation when the officer makes that call to, to make the arrest. And so, if it's just a basic citation, I believe that the officer will not go through the towing situation. But if we're on the other hand talking about a sixth or seventh violation of driving without a license, yea, we need to take that vehicle and get it towed, and have the, the person get legal on it.

**COUNCILMEMBER PALTIN:** So, in theory, we can have that included in the standard operating procedures and guidelines. And then when we pass that, or when we look at that, identify that that's a concern of ours.

**PROSECUTING ATTORNEY:** Yes. I believe that Councilmember Lee had requested during our Committee that she have an opportunity to look at our, our write up on our standard operating procedures. As mentioned in Committee, this is going to take a, you know, once you pass and the Mayor signs into, into law, we still need to do our job in our departments to catch up on our standard operating procedures. So, to effectively implement the law, then we're going to need to present some type of training to our, our officers as well as our prosecutors.

**COUNCILMEMBER PALTIN:** Okay. I can get behind that if, you know, the case that I referenced wouldn't automatically trigger arrest and towing, because, you know, some leeway for that renewal process that's kind of new and folks are not all aware that it might take them a little work to renew their license. Whereas in the past, just having a license, you could renew it fairly easily.

**CHAIR KING:** Mr. Guzman, do they have to, when they're writing administrative rules, do they have to have public hearings on that?

**PROSECUTING ATTORNEY:** We're just going to do SOP's, standard operating procedures.

**CHAIR KING:** Oh, you're just going to do SOP?

PROSECUTING ATTORNEY: Not administrative rules. And I believe Mr. Hokama is nodding his head.

CHAIR KING: Okay. Okay. Any other discussion?

Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. Maybe quickly first for Chair Sugimura, I guess because it was brought up in testimony about Public Defenders Office claiming that they weren't invited to participate in the Committee meetings. First, how many Committee meetings were held to discuss this matter?

CHAIR KING: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: We held, wait now. So, we had meetings on this, I don't have it listed here. I think we had three meetings on this.

COUNCILMEMBER MOLINA: Okay, three meetings.

COUNCILMEMBER SUGIMURA: So, it's not, it's not something we did fast. And it actually came up--

COUNCILMEMBER MOLINA: Oh, no I'm not saying that. I know in the interest of time it's going to be real quick. And then public, so, I want to verify what the public, the gentleman from Public Defenders Office said that they were not invited. Is that true?

COUNCILMEMBER SUGIMURA: We didn't invite State. This is a County ordinance and I didn't think beyond to invite State agencies. I guess that's what you're asking me.

COUNCILMEMBER MOLINA: Yea. Cause I know for other matters we've invited State agencies to weigh in on other legislation, so okay.

And then, maybe for Mr. Guzman. Have there been any challenges to the County of Hawaii legislation that Bill 70 emulates?

CHAIR KING: Mr. Guzman.

PROSECUTING ATTORNEY: Thank you, Chair. Thank you, Councilmember Molina, for the question. There, there hasn't been any challenges in the State in regards to this enabling legislation as mentioned. As one of the testifiers, one of my deputy's had mentioned that one, we do have an HRS section that authorizes the counties to enable them to create ordinances to authorize the Chief of Police to make tows. And so, we

just basically are following through with that and requesting this Council to create that ordinance so that we can then implement the sections or the provisions that you have now adopted via your policies.

(Councilmember Lee returned to the meeting at 12:06 p.m.)

COUNCILMEMBER MOLINA: Okay. Thank you. And thank you, Madam Chair, for allowing me to ask some of these questions, cause I certainly, like everyone else, support the intent of the bill which is the hope to deter people from driving impaired or without their license and so forth. But again, we got to recognize the other side of the issues as well, so we don't have any unintended consequences where maybe if the bill is not strong enough to prevent any loopholes that could be discovered or any challenges that could occur in the court where something ends up, you know, getting thrown out. And we also need to recognize, I guess, whether we like it or not, the rights of the accused, cause which sounds like this is, you know, a potential issue here. But anyway, I'll leave it at that Madam Chair. Thank you.

CHAIR KING: Okay. Thank you, Mr. Molina.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarification question. Member Sugimura mentioned that Member Paltin had added some more constitutional rights to the bill?

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER SINENCI: Oh. No, she didn't?

CHAIR KING: Oh, we, we, what it was, was we had a, in the, in Committee, we removed a couple of the exemptions for towing, because, you know, we were looking at those as potential loopholes. And when it came back to first reading, we put those back in because in the interim, Corp. Counsel said those were put in there because of constitutionality and, and we were mirroring the Big Island bill. Our initial thought was let's make ours stricter and, and not put loopholes. And then after looking at the reasons that Big Island put those two exemptions in there, then we put them back in. So, that's why they weren't, they're back in there now. So, there are the, there's, there's exemption for if you, if somebody gets stopped and arrested for drunk driving and the other people in the car, someone else in the car is legally able to drive, they can drive it home, they can't tow it. They, they have to allow them to drive.

And then the other one is if they, if they get, if they pull over onto a private area that, that's, that they're allowed to be in or off the road far enough that they're not an obstruction then they can't be towed unless it's a dangerous area. It's, it could be towed if it's deemed a dangerous area by the police that you wouldn't want to leave an abandoned vehicle there because it might get vandalized.

COUNCILMEMBER SINENCI: I remember that. And then my second question was for Mr. Gonzalez, if he's here.

CHAIR KING: I don't see Mr. Gonzalez. I think that we are trying, we've been trying to contact him to see, to see if he can come back down. But Vice-Chair, I was going to ask you, we're trying to contact him, was he able to--

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: --respond?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea. So, I contacted him to see if he would be able to return, but he is unable to return. He's at the office now.

PROSECUTING ATTORNEY: Chair.

CHAIR KING: Okay. So, he might, do you, you can field the question--

PROSECUTING ATTORNEY: Yea.

CHAIR KING: --for him? Okay, would you like to ask your question, Mr. Sinenci, and then we can--

COUNCILMEMBER SINENCI: Just some basic, yea. You know, he did mention the constitutionality of the law, so I was just going to ask him if, if the law was--

CHAIR KING: If you can respond, maybe Corp. Counsel can respond, or, or Mr. Guzman, if you think you can address that.

PROSECUTING ATTORNEY: Constitutionally defensible. That's the highest standard that we can ever hope for in, in passing legislation. It's constitutionally defensible. And I believe that we have that in place right now. I know like some of my colleagues on the floor have seen me argue constitutionality time and time again. That's what delayed the styrene bill and we had to go through months and months of it, of hearings just for constitutionality.

Prior to the submission of the bill, I had my appellate division research the, the constitutionality of it. We did submit our opinions and input to Corporation Counsel Michael Hopper. He then incorporated those in, into the bill, as well as later on in first reading when this body decided to take out the exceptions, which was very good rationale. And I would loved to have seen those exceptions removed to tighten up the bill.

But for constitutionality reasons, I pose this body, it's really up to you folks to determine whether or not you want to do that balance and check and, and go for removal of those exceptions; that you did do so, but we were able to put it back just so that we put back those reasonable exceptions so that we could create a bill that is constitutionally defensible. And I will stand by this bill and hopefully not as an individual, but as a director of a department, which I believe I've got immunity, right? No, just kidding.

CHAIR KING: No, I think you're actually a target when you're a director.

Mr. Sinenci, any further questions? Okay.

Anybody? Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, just so that it's clear to me, Mr. Gonzalez testimony seemed to allude that, at least let me just read the line that it says that "before any agent of the government to be at the federal, state or even local authority, takes a person's property, there must first be Due Process of Law". And I think that's what we're talking about earlier. And I just wanted to at least go on record to say that if it's clear to everyone, because I'd hate to think that that he's got some young people who are, that he has to defend, you know, in court. And then this keeps coming up all the time at some place and some point want to just resolve it that it will not remove their constitutional rights of due process.

CHAIR KING: Okay. I know that when we had the discussion over first reading, it was clear from listening to the Lieutenant Hankins, this is not a seizure. So, they're not seizing the vehicle, they're having it towed.

COUNCILMEMBER KAMA: Towed.

CHAIR KING: But they have no rights to go through and take anything out of it. They don't, they're not seizing, so they don't own it, they can't impound it. It's just being taken and that was my recollection.

Corp. Counsel.

**CORPORATION COUNSEL MOANA LUTEY:** Thank you, Chair. And thank you, Member Kama. Actually, it is a taking under the Fourth Amendment when we seize. Anytime we stop an individual or whether they're in their vehicle or on the road, I mean, sorry, on the street, that's considered seizure under the Fourth Amendment.

The putting back the exceptions that had been removed previously offers the officers some discretionary authority, which under the Ninth Circuit ruling makes that sound and reasonable, which is the standard that we use in any type of constitutional analysis.

**COUNCILMEMBER KAMA:** Thank you.

**CHAIR KING:** Thank you. I guess I, I mean, I'm pretty sure I heard those words from Lieutenant Hankins that it was not a seizure, but maybe there's a difference of opinion with Corp. Counsel.

Mr. Molina.

**COUNCILMEMBER MOLINA:** Yea, thank you, Madam Chair. Just one quick question for Mr. Guzman on the subject of statistics. Since the Big Island law was enacted, I believe the, and at the last meeting it was some time in 2012, has there been a drastic result because of their bill serving as a deterrent, so there's been less incidents?

**PROSECUTING ATTORNEY:** What I've heard from Mitch Roth, who is the head prosecutor on the Big Island who is now running for mayor, yes. According to his stats, there has been a dramatic decrease in the amount of OUI's. The issue that, that he raised was the private tows, towing companies, the ability to, for them to house all of the various vehicles. So, that was the only crutch or issue that came up.

I know that we had discussed that in Committee as well. And I believe Lieutenant Hankins had put forth at least three tow companies that were willing to go through either a rotational basis or an RFP process. And so, from there we could create a, an RFP negotiated contract and that would dictate some of the policies from there.

On the other hand, you know, if we're looking at saving lives, you know, and I did testify about 22 fatalities that we've had this year. And 15 of those were related to drug and alcohol impairment. And so, it's really important, just when I see our officers in blue, those are the guys that go to the families and notify them. And when Jacob Jouvenat and his mother Mildred died last, last July in Kihei and she was on her way to pick, pick up the boy. You know, Officer Nick Krau had to give the news to the family, his younger brother. And thereafter, we had a press conference. And it's just disheartening.

If we can, if we can take some of these weapons, and I call them weapons because no one should be driving while they're drunk. If we can give us a little tool to prevent our officers from having to send that message to families, that's all we're asking. If you, if you could weigh in constitutionality versus saving lives, this is what we're all about here. And you guys are doing an awesome job. Thank you.

COUNCILMEMBER MOLINA: Thank you, Mr. Guzman. Thank you, Chair.

CHAIR KING: Okay. Thank you, Mr. Molina.

Member Hokama.

COUNCILMEMBER HOKAMA: Chair, I will be speaking in support of the motion. I believe Chair Sugimura and the Committee worked very diligently in proposing a ordinance for consideration this afternoon with the appropriate due diligence of taking comments.

I see things slightly different though, Chair. It shouldn't be government's job to take over the individual's self-responsibilities to get certain things done. That is not government's job; that is the individual's job, yea. So, I see driving as a privilege, not a right. If you're not willing to do the responsible requirements to be a legal driver, you shouldn't be on the road, period, because you're a danger and you're making those of us who actually are following the law need to pay more in insurance premiums to cover all those who are not insured. So, you're costing me money, personal, okay.

So, I'm tired of hearing the excuses of why people will not follow up on responsibilities to do something they want to do legally. This bill is about bad driving attitudes that at the worst creates fatalities and death by making a vehicle a weapon. So, I get it. But I'm tired of hearing excuses of why individuals who will not take responsibility, okay. It's not our job as government to do it for the individual. You want to drive, go get your requirements done whatever it be; driver lessons, whatever it takes now.

Times have changed. I grew up, when I was ten years old, I was driving already, okay. That era is gone, okay. Times have changed. My time was there was no safety belts, seatbelts. Gas was 21 cents a gallon, okay. So, I think this is about the current tool we need now for enforcement to deal with the current times of driver attitudes, driver's responsibilities, lack of responsibilities, influences upon the driver. Because when I started driving, there was no such thing as a cellphone to distract you. There was no texting to distract you. There wasn't even a pager to distract you. Lucky if you had automatic transmission.

So, to those that think we may be too draconian, I hope you never feel the loss of a family member by someone using a vehicle as a weapon. Thank you, Chair.

CHAIR KING: Thank you, Mr. Hokama.

Okay, this, we're having a lot of the same discussion that we had in the first reading. But in the first reading, we didn't have the Public Defenders point of view. So, you know, I understand why a lot of these are coming up again.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think we're, you know, all in agreement that using vehicles as a weapon, getting behind the wheel after you're impaired is something that we all want to stop. I guess my concern is that will this bill be effective in doing that? And will it end up punishing, you know, innocent people; those that it's not meant to target; those that, you know, are as I mentioned earlier, you know, in a domestic violence situation where there's a power struggle? And I, I, I'm concerned that this could disproportionately affect, you know, the poor people.

SO, I HAVE AN AMENDMENT FOR THE BODY'S CONSIDERATION; UNDER SECTION F.1. "DRIVING WITHOUT A LICENSE TWO OR MORE TIMES WITHIN A FIVE-YEAR PERIOD"; AND F.2. "DRIVING WHILE LICENSE IS SUSPENDED OR REVOKED TWO OR MORE TIMES WITHIN A FIVE-YEAR PERIOD".

And this is something that my staff had worked with--

CHAIR KING: Is that a proposal?

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

CHAIR KING: Okay. So, do we have a second?

COUNCILMEMBER PALTIN:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Paltin. Okay. Okay.

Go ahead, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, this, this amendment is something that, you know, was worked with an officer from our police department. It's a suggestion. And the purpose is, you know, so this bill is, is meant to keep those who are intoxicated or impaired off the road. And, and that's, that's what we're discussing. It, it, I don't think the intention was to also target those, you know, without a license or with a license that's suspended. And it kind of goes to what Member Paltin was saying, you know.

I, I experienced, maybe two years ago when my license expired and the additional paperwork that's needed to renew your license. Thankfully, I can ride my bike around, you know, town, and I can get all the paperwork. And in, you know, requesting copies of your birth certificate, I think I needed to request a copy of my social security card because I couldn't find that. And, and it takes time. And so, you know, I understand that situation firsthand of, of what could happen. And you know, for those that live in rural areas and cannot just ride a bike to the offices, you know, that, that they need to get to. So, that's my proposal. Mahalo, Chair.

CHAIR KING: Okay. Alright. Thank you. Any other discussion?

Member Sugimura. Oh, I'm sorry. I thought you had your hand up.

COUNCILMEMBER SUGIMURA: I'm curious to see what Corp. Counsel says or Police. I mean, is it necessary? Cause I remember when Lieutenant Hankins, too bad he's not here, we were talking about this. He said that the officers have a way of checking if somebody gets pulled over, if it's, if it's compulsive or if it's, you know. And too bad he's not here, but--

CHAIR KING: Maybe--

COUNCILMEMBER SUGIMURA: Maybe Mr. Guzman has.

CHAIR KING: Do we have anybody from the police department that maybe could speak for.

PROSECUTING ATTORNEY: Rowe, acting sergeant, commander.

CHAIR KING: Our acting lieutenant.

PROSECUTING ATTORNEY: Just, just to clarify that when we were talking about driving without a license, we, Lieutenant Hankins did mention that it's rare that we do, we make the arrest. Okay, so what we're talking here are specific situations where you have an individual or person that has done this repeatedly time and time again. I believe he

also mentioned a story that when he was, you know, moments prior to coming into Committee, he, he ran into somebody that has time and time again, six, seven convictions of driving without a license. And he was, if he had the ability to tow his vehicle right then and there, he would've right before the Committee meeting.

So, I think you're, you're going to be rest assured that this won't be abused. I mean, it gets, in the history if we go back into our, our police reports and our arrests and convictions, rare do we, do we make an arrest on a straight out driving without a license without, you know, it's got to be quite substantial in terms of, you know, three, four different convictions and this person is still driving. You might want to--

CHAIR KING: Thank you, Mr. Guzman.

Is it Lieutenant or Sergeant? I'm not sure, okay, I'm not sure if, I didn't know if you're an acting something today. Sergeant Rowe, would you like to address the, the issue that just, that Ms. Sugimura just brought up as far as when somebody would be arrested for not having a license? I mean, I think it was gone over, but if you could--

SERGEANT GREGG ROWE: It was gone over repeatedly. And like Prosecutor Guzman said, you know, if it's that first time or like Councilmember Rawlins example, rarely would we even cite if you are within 30 days outside of your license expiring. So, we probably wouldn't give you the citation in the first place. And on a citation, we're not going to tow the vehicle. So, it would be like, as Prosecutor Guzman mentioned, multiple offenses, repeat offenders. If their license has a suspended status, that means they've already been either cited or arrested once. So, that would automatically be like the second or third offense.

CHAIR KING: Okay. And I also, and, and I'll call on Member Paltin next, but I do remember Lieutenant Hankins also telling us that if you have a situation where it's fairly obvious that there's an abused spouse that couldn't get his or her spouse to not drive, that a lot of times what they do is they'll drive that person home.

SERGEANT ROWE: Absolutely. Absolutely. I mean, every, we can what if it all day but, you know, it is discretionary. The officer's safety is our number one concern, especially for the public. We would never leave a mother or a child on the side of the road. If the mother is, you know, legal and able to drive, of course she would be allowed to take that vehicle.

CHAIR KING: Okay.

SERGEANT ROWE: And there's going to be a lot of discretionary options for us within our standard operating procedures. It's not just black and white. We stop you for driving without a license, we're going to take your car, that is definitely not the point.

CHAIR KING: Okay. Member Paltin.

COUNCILMEMBER PALTIN: Yea, I just wanted to clarify based on the resource's response to Member Sugimura's question. It doesn't sound like Member Rawlins-Fernandez would, it, it sounds like it's just kind of codifying what they're saying. Because, you know, after you go, after two cites, then it might be like a revoked license or whatever. So, it seems like that's a good compromise to get this moving forward.

CHAIR KING: Okay. Member Sugimura. I'm going to try to keep everybody to one last final comment on the amendment and then we can.

COUNCILMEMBER SUGIMURA: Yea, I want to talk about the amendment.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: So, based upon what Sergeant Rowe just said and Mr. Guzman, if we do this amendment and you find somebody is driving without a license the second time, they're going, it's an offense. So, I really don't want to put this in and, and box in the Police Department from using their best judgements and their standard operating procedures to proceed fairly. Because, I think, I really believe they're trying to do the best job they can for the people and that we don't need to box them in to a specific.

And this law, the way it's written, which again was after what the Big Island did, that it stands to reason and stands firm to, to be fair for the community. I think that's what we all are concerned about, you know, even with this amendment. So, I'm going to speak against the amendment. I don't think it's necessary, and for police to do the best they can with the standard operating procedures that they're going to be establishing.

CHAIR KING: Okay. Thank you for that. And I also want to point out that I just heard from our legal team that if do amend this bill, we can't pass it out today. It has to go back to Committee, because we're on second and final reading. So, just to, you know, let you all know that. That's where we're at. Any other comments on the amendment, second and final comment?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, procedurally, we cannot waive Council Rule to pass it with an amendment?

CHAIR KING: Mr. Clerk.

COUNTY CLERK: Thank you, Madam Chair. Yea, the requirement for an additional reading and amendment at final reading is a Rule the Council, I believe it's Rule 19(C), and that can be suspended or waived by a two-thirds vote of the entire Council.

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

CHAIR KING: Okay. Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And, so I just, I wanted to echo what Member Paltin said, that basically what we've heard is that an amendment to "F.", Section "F.1.", where two or more times is codifying the standard operating practices. That's something that the Police Department already does. It's not making it, it's not increasing the restriction. And you know, Member Sugimura said that she wants to be fair. And I think this is a fair compromise.

Also, I guess I have a question for whoever would like to answer. For driving without a license, we received testimony that said that oftentimes it turns out to be incorrect or not updated information in the computer system. And this is from a former public defender for 18 years, and now a private defense attorney that submitted this testimony to us.

CHAIR KING: Sergeant Rowe, do you want to speak to that?

SERGEANT ROWE: From what we've experienced right now, especially with computer systems the way everything's updated, it's pretty much instantaneous. I mean, when somebody goes to the DMV, renews their, renews their license, we'll get confirmation that day if a license needs to be checked. As far as like outdated information, I mean if, again if it's first offense, they are most unlikely to get arrested in the first place to begin with. You know, if they're given a citation, they can address it later. But as far as like lagging information, I cannot, I cannot see that happening.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, I guess this, I was assuming that this information that we received came from 18 years of experience.

Mr. Guzman.

CHAIR KING: Mr. Guzman.

**PROSECUTING ATTORNEY:** I believe Acting Lieutenant Rowe answered the question. But I wanted to go deeper into that issue. I mean we're talking about codifying standard procedures. The ability of an officer to implore discretion is so valuable. Because in a situation where it's case by case and you're driving without a license on the first time, and you get into a car accident or you cause someone to weave into a pole, I believe the officer has the discretion at that point to tow the vehicle even though it's their first time, because the situation dictates it. I understand there's financial responsibilities that people can't get their driver's license.

But on the other hand, we have to, we have to take care of our community is safe and let the officers do their job. And let them have that discretion to determine whether, yea, if the person was driving without a license gets into an accident and causes a fatality, that officer will be able to tow that vehicle. By putting in a provision of two or more, you're, now you're hand tying the officer to make that discretion. Now, the, the vehicle will not be towed.

But getting back to the real scope of this bill. It's all about the DUI or the OUI, you know. It's your job here to determine as Councilmembers what is the best route we take. But for me, personally, it's all about the OUI's and saving the lives and making a deterrent out of this. You know, it's sending that message. You get behind that wheel, then we're going to take your car and you're going to pay for it, you know. So, however you guys want to do this policy, we need to get this done for the holiday season. So, thank you.

**CHAIR KING:** Okay. Thank you, Mr. Guzman.

**VICE-CHAIR RAWLINS-FERNANDEZ:** Mahalo, Chair. I don't, I don't know if we want to, for the record, rephrase that as we're going to take your car.

**PROSECUTING ATTORNEY:** Let me rephrase that. We will tow your car--

**CHAIR KING:** Have your car--

**VICE-CHAIR RAWLINS-FERNANDEZ:** Your car will be towed.

**PROSECUTING ATTORNEY:** --and we will protect your car because when you leave your car on the street and with all your tools and your, your valuables in your car, we will get it towed so that those things will be protected, and so that you will have the ability to go to a towing company and get all of your belongings from a custodian of your vehicle. So, in a way, we are helping you protect your own vehicle and the property and the assets that you have in your vehicle. So, and don't drink and drive. Mahalo.

CHAIR KING: Okay. Mahalo.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Okay. Mr. Sinenci, you want to speak to the amendment?

COUNCILMEMBER SINENCI: Yea, thank you, Chair. I just wanted to say that I really appreciate Prosecutor Guzman's comments. And I too, you know, kakou all that. I understand the, the essence of this bill and I totally agree. And just meeting and speaking and hanging out with Everett and Charlene has just, you know, it's, I cannot just imagine, and all the families that that lose that. So, but I think the compromise with the, with the bill, and I agree this is to deter drunk driving, and so the amendment would just, you know, protect those that, that are non-drinking and driving.

And, and that they, they have that, that right as a citizen; that, you know, when they blow, you know, I, I just got stopped like some of the police said that you'll just be cited and you won't be, and, and your vehicle not taken. So, I think this is a good compromise and I'm willing to, to stand behind it. If we can push it through today, even better, like you said for the holiday season. I'm in full support. So, mahalo, Chair.

CHAIR KING: Okay. Thank you.

Oh, Ms. Lutey.

CORPORATION COUNSEL: Can I just ask for one point of clarification from the sponsoring Member of this, Ms. Rawlins-Fernandez? Is it for two or more times that they're arrested or is it two or more times convicted in five years?

CHAIR KING: Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Convicted.

CHAIR KING: Okay. I'm going to go ahead and call for the question. I think we've, we're at close to the dead horse status here on this amendment.

COUNCILMEMBER PALTIN: Chair.

CHAIR KING: And so--

COUNCILMEMBER PALTIN: Just a question.

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: Would we see if we want to waive the Rules first? Because that would depend how I would vote on the amendment. I don't want to hold up the legislation without knowing that.

CHAIR KING: Well, we have a motion on the floor, so, for an amendment, so if we, if the maker wants to, or the movant wants to withdraw the motion and make a motion for a waiver, we can do that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Yea. I mean--

CHAIR KING: Okay. Withdraw your motion?

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

CHAIR KING: Okay. And you want to make a new motion?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. I think, Mr. Clerk, that was Council Rule 45.

COUNTY CLERK: 19C.

VICE-CHAIR RAWLINS-FERNANDEZ: 19C, I was close.

CHAIR KING: Okay. So, the, the motion, your motion is to waive Committee Rule 19C to be able to amend this.

VICE-CHAIR RAWLINS-FERNANDEZ: Council Rule.

CHAIR KING: And this would take two-thirds, yea, Council Rule.

VICE-CHAIR RAWLINS-FERNANDEZ:

YEA, SO I MOVE TO WAIVE RULE 19C OF THE RULES OF THE COUNCIL THAT WOULD ALLOW US TO VOTE ON AMENDED BILL IN SECOND READING AND PASS IT WITH THE MOTION THAT I PROPOSED EARLIER.

CHAIR KING: Okay. Is there a second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci.

Ms. Lee.

COUNCILMEMBER LEE: Madam Chair, I don't know when things changed, but from all of my experience in the past, we've never been able to make a substantive amendment at second reading, without having to return this back to Committee. So, can the Clerk enlighten me on, on how this is--

CHAIR KING: Yea, the Clerk, Mr. Clerk, you want to reiterate what you said earlier about the process?

COUNTY CLERK: Rule 19C of the Rules of the Council essentially establishes a process for amendments at final reading for any bill or resolution that would require an additional reading to take place. I think what Member Lee is essentially getting at is if the amendment is so substantive as to change like the substance or nature of the legislation itself, such that maybe some provisions of the Sunshine Law might be invoked. And I would leave that determination to, to all of you and maybe to the County attorneys if this amendment would rise to that level. But in terms of amendments being made for bills or resolutions at final reading, the Council established an, their own rule upon themselves to require an additional delay unless waived by two-thirds of the Council.

COUNCILMEMBER LEE: Can we have a comment from--

CHAIR KING: Corp. Counsel.

COUNCILMEMBER LEE: --Corporation Counsel or the Prosecuting Attorney?

CHAIR KING: For, well, I think Corp. Counsel, if you want to weigh in on the Council Rules that's in the motion.

CORPORATION COUNSEL: Thank you, Chair. You could be subject to challenge on this if it's considered a substantive change. In essence, the beast is the same now; you've just added on a condition by this amendment.

CHAIR KING: Okay. I think, Mr. Clerk, so, I think what you're saying is that that's by our own rule and if we waive our own rule, we can do that change? Is that, is that your position?

COUNCILMEMBER HOKAMA: Chair.

COUNTY CLERK: Thank you, Madam Chair. Essentially, yes, but I'm just getting back to what Member Lee is bringing up. And I think that's in relation to whether it's so substantive as to change the substance or nature of the bill that it would invoke some Sunshine Law provision.

CHAIR KING: Okay. Mr. Hokama.

COUNCILMEMBER HOKAMA: I think Ms. Lee has a point. And I believe in '78, because of last minute switches, by Constitution, I think we required a 48-hour minimum that bills must sit on the desk for 48 hours before final reading. So, and that's Constitution.

CHAIR KING: Ms. Lutey.

COUNCILMEMBER HOKAMA: That's not statute.

CORPORATION COUNSEL: Are you talking about--

CHAIR KING: Oh, a waiver.

COUNCILMEMBER HOKAMA: But, what the Constitution . . . on final reading by a legislative body. I know it, cause I was one of the, proposed that amendment for the Constitution.

CORPORATION COUNSEL: Then you must be right on that, yes.

CHAIR KING: Okay. You had something else, Mr. Clerk.

COUNTY CLERK: Well, if, if this discussion is going to progress, maybe if you could give us a minute to pull it up, but my recollection of the Hawaii State Constitution is that provision is related to the State Legislature. But if, if that is going to be a issue in determining whether to pass the amendment or not, maybe providing us a few minutes to, to pull up that section.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: Recess.

CHAIR KING: So, Council, do you want to get this opinion first or do you want to take a vote and see if we need the opinion?

Ms. Lee.

COUNCILMEMBER LEE: I honestly can't vote for the waiving, waiving the Rules without having more information.

CHAIR KING: Okay. So, we're going to take a short recess. And I guess we'll suspend the, the press conference that we originally had scheduled for 12:15. And we'll take the temperature after we return and finish this issue. So, I don't know. I mean, the other thing we could do is just go ahead and take lunch at this point. It's 12:42.

COUNCILMEMBER SUGIMURA: Let's, let's--

CHAIR KING: And we can postpone the press conference until after the meeting.

COUNCILMEMBER SUGIMURA: We can postpone the press conference. But I think we should finish this discussion. I guess--

VICE-CHAIR RAWLINS-FERNANDEZ: I agree with Member Lee.

CHAIR KING: Well, I think the, the, yea, the Members have asked for some more research on this before we finish. So, if everybody's okay with that, can we just, can we call a lunch hour and come back after? And then we'll just suspend the press conference until after the meeting is over and we can actually sign the document.

And if there's no objections to that, we might as well, I don't want to, I don't want anyone sitting here and starving to death. So, we do have, we do have food in the conference room on the seventh floor that we had prepared for the press conference that you're welcome to go help yourself to. I'm happy to, you know, provide that to anybody who's, who's really hungry.

So, is that alright if we take a recess then? For, it's 12:43. We can take a recess till 2:00. Okay. So, it's 12:43. We're going to recess until 2 p.m.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:43 P.M., AND WAS RECONVENED AT 2:02 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR KING: Okay, Members, we're back from lunch. It's 2:02, reconvening the regular County Council, County Council meeting of December 20, 2019. I'm Kelly King, Chair of the Council. Looks like we have all Members in attendance.

And we are, when we took our break, we were allowing the Clerk and Corp. Counsel to research whether a waiver could be, could be made to waive our Council Rules and allow us to make an amendment and still continue voting on the, the motion on the bill for the second reading.

So, Mr. Clerk, can you explain what you found out?

COUNTY CLERK: Thank you, Madam Chair. I think my comments before we went to recess, after kind of looking through things, would still apply in terms of the provisions in the Hawaii State Constitution and then the provisions of the Rules. Thank you, Madam Chair.

CHAIR KING: Okay. So, meaning that we, we are, and I did talk to Corp. Counsel, so the suggestion that was made earlier that we can't do the waiver was pertinent to State law. Is that correct, Ms. Lutey?

CORPORATION COUNSEL: That's correct.

CHAIR KING: Okay. So, for our Council Rules, we can waive them and still continue in the second reading. So, we're, right now on the floor, we have a, a request for a waiver from our Council Rule and we have a second. And so, I'm just going to call for the question. All those in favor of the waiver say "aye".

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

COUNCILMEMBER PALTIN: Aye.

CHAIR KING: Opposed.

COUNCILMEMBER HOKAMA: No.

CHAIR KING: No.

COUNCILMEMBER SUGIMURA: Opposed.

CHAIR KING: Okay. So, let's do roll call vote, Mr. Clerk.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: OPPOSED.

COUNTY CLERK: Councilmember Tamara Paltin.  
COUNCILMEMBER PALTIN: SUPPORT.  
COUNTY CLERK: Councilmember Riki Hokama.  
COUNCILMEMBER HOKAMA: NO.  
COUNTY CLERK: Councilmember Alice Lee.  
COUNCILMEMBER LEE: YES.  
COUNTY CLERK: Councilmember Mike Molina.  
COUNCILMEMBER MOLINA: NO.  
COUNTY CLERK: Councilmember Shane Sinenci.  
COUNCILMEMBER SINENCI: AYE.  
COUNTY CLERK: Presiding Officer Pro Tem Tasha Kama.  
COUNCILMEMBER KAMA: NO.  
COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez.  
VICE-CHAIR RAWLINS-FERNANDEZ: AYE.  
COUNTY CLERK: Chair Kelly T. King.  
CHAIR KING: NO.

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

NOES: COUNCILMEMBERS HOKAMA, KAMA, MOLINA,  
SUGIMURA, AND CHAIR KING.

COUNTY CLERK: Madam Chair, that's five "ayes" *[sic]*, four "noes"*[sic]*, motion fails.

CHAIR KING: Okay. So, now we're back to the original motion for Bill 70. And any other further discussion on Bill 70?

Well, this is like a discussion, I'm sorry, we got people raising their hands in the audience; this is a discussion among the Council.

Ms. Lee.

COUNCILMEMBER LEE: I'm voting "aye", simply because I think we need to get this out today, number one. And number two, I would have said "no" on the waiver if we were still working to finish this by 12:00. And since it's two hours later, I think we ought to move on this as swiftly as possible. Thank you.

CHAIR KING: Okay. Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I'll be voting in support of the, the bill, because I believe in its intent. Mahalo, Chair.

CHAIR KING: Okay. Thank you. Any other comments?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I have a question for whoever wants to answer. Maybe, Mr. Guzman. So, there isn't really a tow company on Molokai and my understanding is there isn't one on Lanai. So, how would this bill work on our islands?

CHAIR KING: Mr. Guzman.

PROSECUTING ATTORNEY: I don't know the logistics at this point. We, once the bill is passed, we will go into our standard procedures, standard operating procedures, and most likely go in an RFP request for services and see what's out there. There could be an opportunity for a towing company to expand and go and do business in the neighbor-islands at that, at that stage. But until we get the logistics, we don't know how that will operate. And same is true with a lot of legislation, whether or not it works completely or not, it's that time will test, time will tell, excuse me.

VICE-CHAIR RAWLINS-FERNANDEZ: And test.

CHAIR KING: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Guzman. I will be voting in favor of the bill, passing it today. However, I, I, I am concerned that the Public Defender's Office was not invited from the beginning as the Prosecutors Office was invited to work

together on the creation of this bill. And I, in getting the testimony from the Public Defender's Office and from community members in the disproportionate impact that this would have on those with less means and, you know, even minority communities, I will continue to work with those that expressed concern to try to fix the bill so that it's less impactful to those that I named. So, I, I will be voting "yes" on the bill today. Mahalo, Chair.

CHAIR KING: Okay. Mahalo. And I just wanted to reiterate with Mr. Guzman. The, the, this bill doesn't say that someone has to be towed. It's they may be towed. So, if there's no towing company on Lanai, then I guess they don't get towed until that happens. But it's not a mandate. It's a, and it's a judgement call as we talked about earlier.

Okay. Any other comments? Mr. Molina.

PROSECUTING ATTORNEY: That's correct, Chair.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. I'll be supporting the bill as well. And like my colleague from Molokai, Ms. Rawlins-Fernandez, about the issue of not inviting the Public Defenders' Office and to at least have a say. And yea, they may be State, but still I think they provided us, I guess, some perspectives to take into consideration. So, my hope is that with the bill as currently structured, that any potential loopholes can be avoided or closed. And any issues related to due process and so-called illegal property seizures and so forth that is addressed in this, so we don't have any, any unintended consequences that take place in a courtroom.

So, but anyway, but I thank Member Sugimura; Mr. Guzman, Prosecutors Office; and MPD for their input in this. But the bottom line is the intent is most importantly is to save lives. Thank you.

CHAIR KING: Okay. Thank you, Mr. Molina.

Okay, I think we've exhausted all commentary. And I'm just going to go ahead and call for the question. All those in favor of the motion on the floor for bill, to pass Bill 70 on the second reading, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes nine to zero; unanimous.

And, seems anti-climactic now to move on, back to the county communication.

Thank you, Mr. Guzman. And thank you, Mr. Clerk for doing the work on that, on that research.

And we're, I think we're back to County Communication 19-516. Mr. Clerk.

### COUNTY COMMUNICATIONS

NO. 19-516 - TAMARA PALTIN, COUNCILMEMBER,  
(dated December 12, 2019)

Transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO TORT LIABILITY".

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-516 AND TO  
FILE COUNTY COMMUNICATION 19-516.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay. Moved by Member Paltin. I think the first voice I heard was Member, second by Member Sinenci.

Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you. With the repeal of Act 170, Session Laws of Hawaii 2002 on June 30, 2017, there is a continued need to reinstate permanent liability protection for lifeguards, which will increase the level of safety for many, for the many residents and visitors who frequent County beach parks, as well as State expansion to State beach parks.

The proposal on Tort Liability was approved by all four counties for inclusion in the 2020 Hawaii State Association of Counties Legislative Package and should also be included in the 2020 Maui County Legislative Package. And I, I thought, you know, I had heard that the Administration is looking to expand lifeguard services to Pu`u Keka`a. And having this pass would help move that forward in a way that we're not taking on additional liability responsibilities.

And we know that this has worked in the past, because it was in place up until 2017 and, you know, there was no problems. It was just in the effort to make it permanent from temporary that instead of that action occurring, it got repealed instead. So, we've been kind of scrambling ever since to get back to where we were.

You know, a lot of lifeguards have, have fear that, you know, if, if they are to fail in saving someone and making their best efforts, that they'll lose their house or their car or whatever assets they have. So, this is just, you know, to help us help them to provide better lifesaving services throughout the State. So, I respectfully ask for the Council's support.

CHAIR KING: Okay. Thank you. So, this is a bill, again, that isn't being endorsed by HSAC. So, we're just adding it, the request is to add it to the Maui County Legislative Package.

Okay, any other discussion? Member Sugimura.

COUNCILMEMBER SUGIMURA: I just want to add. I remember when this came up and Member Hokama was Chair of the Budget Committee at that time, that he found additional insurance. Cause we heard from the lifeguards, they would come and testify about fear of exactly that and that need for--

CHAIR KING: That was for the Makena lifeguards, the State lifeguards on the State, I mean, on the State property.

COUNCILMEMBER SUGIMURA: I think for all of the other, you know, situations. Because I think only Makena was being covered by the State. And what that action did by the Legislature, or the State, was that all the, all the lifeguards were not covered the other places that they were relying on us to be their lifeguards. So, I support this.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: I just, just don't want people to think that we didn't cover our lifeguards who are out there protecting lives and the public and working hard.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: I mean, we definitely heard them.

CHAIR KING: Yea, that was, that wasn't my recollection, but I don't want to get into that now. So, basically if, if you look at the, if you need to look at the bill, it's County Communication 19-516. It's more of a statewide bill. I think the last time we looked at it was just for Maui County, but.

COUNCILMEMBER PALTIN: And if I can clarify. The State--

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: --did make provisions, you know, for like each, each County has a State beach park where they provide additional services, like we do provide for Makena. And kind of a little bit what the issue to me is in the expansion to Pu`u Keka`a, that isn't actually a State beach park. It's State property, but it doesn't have the title of State beach park. And so, you know, hence the concern.

CHAIR KING: Okay. I'm just going to call for the question if there's no other comments. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure carries nine to zero.

And, Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-210.

NO. 19-517 - TAMARA PALTIN, COUNCILMEMBER,  
(dated December 13, 2019)

Transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO TRANSIENT ACCOMMODATIONS TAX".

CHAIR KING: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 19-517, AND TO  
FILE COUNTY COMMUNICATION 19-517.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR KING: Okay. Moved by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez.

Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. The County's annual allocation of TAT revenue from the State is inadequate to deal with the rising cost of visitor related expenses and increased demands on public service resources such as police, firefighters, parks and infrastructure. This proposal amends the allocation of TAT revenue to Counties based on the recommendations of the State County Functions Working Group established by Act 174, Session Laws of Hawaii 2014, to consider the distribution of duties and responsibilities for public services between the State and the Counties and to recommend the model for the allocation of such revenue.

The proposal on TAT was approved by all four Counties for inclusion in the 2020 Hawaii State Association of Counties Legislative Package and should also be included in the 2020 Maui County Legislative Package. I respectfully ask for the Council's support.

CHAIR KING: Okay. Any questions or comments? This is a fairly recurring bill and I've actually been asked did you guys put anything in there about the TAT this year? And

I think HSAC has, has pretty much given up on it. So, you know, I think it's good to throw it in there on the, on the County's part, in the County's Package.

Any other comments? All those in favor, if not, all those in favor of the motion, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Motion carries nine to zero.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-211.

Madam Chair, proceeding with county communications for referral. The following county communications are recommended for referral to the following Committees as noted.

NO. 19-518 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,  
(dated December 11, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2020, ALARM SYSTEM REVOLVING FUND".

The recommended action is that County Communication No. 19-518 be referred to the Economic Development and Budget Committee.

NO. 19-519 - KELLY T. KING, COUNCIL CHAIR,  
(dated December 13, 2019)

Relating to funding for a comprehensive affordable housing plan.

The recommended action is that County Communication No. 19-519 be referred to the Economic Development and Budget Committee.

(COUNTY COMMUNICATION NO. 19-519 WAS LATER  
REFERRED TO THE AFFORDABLE HOUSING COMMITTEE.  
See pages 117 through 119.)

NO. 19-520 - KEANI N.W. RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,  
(dated December 13, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO  
SHORT-TERM RENTAL HOMES IM THE MOLOKA'I COMMUNITY PLAN AREA".

The recommended action is that County Communication No. 19-520 be referred to the Planning and Sustainable Land Use Committee.

NO. 19-521 - HERMAN ANDAYA, EMERGENCY MANAGEMENT AGENCY  
ADMINISTRATOR, (dated November 27, 2019)

Requesting recommendations of individuals to serve as Community Plan District  
Liaisons for the 2020 Maui County Hazard Mitigation Plan.

The recommended action is that County Communication No. 19-521 be referred to the Water and Infrastructure Committee.

(COUNTY COMMUNICATION NO. 19-521 WAS LATER  
REFERRED TO THE PLANNING AND SUSTAINABLE LAND  
USE COMMITTEE. See pages 115 through 117, 119 and 120.)

NO. 19-522 - ALICE L. LEE, COUNCILMEMBER,  
(dated December 3, 2019)

Relating to sand dune restoration in South Kihei.

The recommended action is that County Communication No. 19-522 be referred to the Water and Infrastructure Committee.

CHAIR KING: Okay, Members, any, any objections to the referrals as read by the Clerk?

Member Hokama.

DISCUSSION AND ACTION RELATING TO  
COUNTY COMMUNICATION NO. 19-521

COUNCILMEMBER HOKAMA: Just more of a clarification, Chair. Your Committee, which I've chaired has dealt with Emergency Management. And just yesterday, Ms. Sugimura, conducted my Committee meeting where we did have a presentation from EM. So, I just want to, some clarity since, you know, if Ms., Ms. Lee would love to take this, be my guest. But I'm just trying to have an understanding of what is being referred to which Committee then, since I already had EM--

CHAIR KING: Oh, he, oh, you didn't hear the recommendation?

COUNCILMEMBER HOKAMA: No, I know. Yea, the recommendation is for Ms. Lee's Committee, but my Committee has--

CHAIR KING: Are you talking about the sand dune?

COUNCILMEMBER HOKAMA: No, no, no. About the--

COUNCILMEMBER PALTIN: 19-521.

COUNCILMEMBER HOKAMA: The County Hazard Mitigation Plan from Mr. Andaya's request. My Committee has been handling the Emergency Management subject area and that office, so I just wanted some clarity.

COUNCILMEMBER PALTIN: Oh, point of clarification. I thought Emergency Management was under PSLU.

CHAIR KING: Okay.

COUNCILMEMBER LEE: Please, I don't want it. Thank you.

CHAIR KING: I think this was referred to the Water and Infrastructure Committee by Ms. Lee. Oh, it was a mistake?

COUNCILMEMBER LEE: No. I didn't, I didn't really ask for this matter.

CHAIR KING: Oh. Who put the, who, who asked to have this posted?

COUNCILMEMBER HOKAMA: It came from Mr. Andaya.

CHAIR KING: Oh, okay. Are you saying it should go to--

COUNCILMEMBER HOKAMA: So, I would just say--

CHAIR KING: HFC?

COUNCILMEMBER HOKAMA: --for consistency since I've been handling the subject matter and we've been having Committee meetings--

CHAIR KING: Okay. I don't have a problem with that.

COUNCILMEMBER HOKAMA: I'm, I'm happy to, no, and again just for clarity purpose, Chair, I just would request that I would be happy to take it and post it as soon as possible.

CHAIR KING: Okay. Well, Ms. Lee has no problem with that. She said it was a mistake, so any, any issues with us referring this to the Healthy Families and Communities?

COUNCILMEMBER KAMA: None.

COUNCILMEMBER PALTIN: I have an issue, because--

CHAIR KING: Ms. Paltin.

COUNCILMEMBER PALTIN: Maui Emergency Management falls under PSLU. So, I mean, it kind of makes sense to go to that Committee.

CHAIR KING: Well, do we--

COUNCILMEMBER KAMA: Jun ken po.

CHAIR KING: Do, I don't know. Do we have a friendly agreement, or should we make, take a vote?

COUNCILMEMBER HOKAMA: That's fine. No.

CHAIR KING: Okay. You're okay with that, Mr. Hokama?

COUNCILMEMBER HOKAMA: Sure.

CHAIR KING: Okay. So, 19-521 will at this point get referred to PSLU.

Okay. Any, any other issues? Mr. Clerk.

COUNTY CLERK: Thank you, Madam Chair. I just note for the Council that earlier in the agenda on County Communication 19-497, the Council did refer Contract C6906, related to the Hazard and Mitigation Plan to the Healthy Families and Communities Committee. Just, just for your information. Thank you.

CHAIR KING: Okay, was that your request, Mr. Hokama?

COUNCILMEMBER HOKAMA: Yes.

CHAIR KING: Okay. You want to keep that there, or? Okay. Is there any issue with that? Okay. Alright. Thank you for that clarification.

Ms. Kama.

DISCUSSION AND ACTION RELATING TO  
COUNTY COMMUNICATION NO. 19-519

COUNCILMEMBER KAMA: Chair, County Communication 19-519, could we refer to Affordable Housing?

CHAIR KING: Oh, I think the reason, I, I mean actually I called you and you never called me back, so I didn't get to have that conversation. The reason I put it in, in EDB is because it was more about where the money is coming from. And then you heard that issue that we have. We have to do some research into a potential statement by Corp. Counsel that we can't use Affordable Housing Funds for a plan. But I'm not sure. We haven't seen that. That's kind of an issue that we have to research. Is that, is there any comment you want to make on that, Ms. Lutey?

CORPORATION COUNSEL: I'm prepared to discuss it in 19-152. But I think that, in that Committee Report, under the Charter Section 9-20, it says that "the funds shall be utilized for", and it lists a whole bunch of things. And then down near the bottom, it discussed about rehabilitation, land purchase, and so forth. So, our interpretation of it on its face was that the planning would need to be within that realm. So, I'm not sure if, if we can vet that out more in Committee perhaps, but.

COUNCILMEMBER KAMA: That was the intent.

CHAIR KING: And the reason why, let me just tell you the reason why when I put it on there, I didn't hear from you is originally I thought, because we had that that discussion in your Committee about using the housing authority funds for this.

COUNCILMEMBER KAMA: Yes.

CHAIR KING: And I didn't want to just assume that you were okay with that, but if you want to have, I would, that's the discussion I wanted you to have, you know, with this item.

COUNCILMEMBER KAMA: Okay.

CHAIR KING: But I didn't want to just assume that you were okay with that, so I just stuck it in here, you know, just--

COUNCILMEMBER KAMA: You can bring it back. I'm fine with that.

CHAIR KING: So, are you okay with that going to Affordable Housing?

COUNCILMEMBER KAMA: Yea.

CHAIR KING: Is everybody okay with that?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR KING: Yea, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, I, I'd be happy to either take it or for it to go to Affordable Housing Committee, just as long as it's taken up quickly.

COUNCILMEMBER KAMA: I have it scheduled for February 5.

CHAIR KING: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: February. Okay. And can't be sooner?

COUNCILMEMBER KAMA: To February 5?

CHAIR KING: Well this is, and so, the, the great thing about this is if we take it up in AH, we're talking about existing funding. So, we don't have to look at the Affordable

Housing Fund for the first 150,000. And the reason why I didn't, because I hadn't heard from you, I didn't want to just assume that you were okay with that. But I'm thrilled if you're okay with that, that we could put it in Affordable Housing. We can discuss the idea of a housing authority versus a housing plan.

COUNCILMEMBER KAMA: Absolutely.

CHAIR KING: Okay.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair, Vice-Chair.

CHAIR KING: Is everybody okay with that?

Call me back when I call you.

COUNCILMEMBER KAMA: Thank you.

CHAIR KING: Okay. Alright. Okay. Anything else? You got that, Mr. Clerk? Anything else? Okay.

So, with those changes, is, are there any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. No objections read by Clerk.

You have a objection, Ms.?

DISCUSSION RELATING TO  
COUNTY COMMUNICATION NO. 19-521

COUNCILMEMBER SUGIMURA: Cause I chaired Mr. Hokama's meeting yesterday, it was, we had Emergency Management come before us. And we did sort of talk about this the community plan district liaison in his Committee. So, I, and I know Member Paltin's.

CHAIR KING: He's okay with that going to PSLU.

COUNCILMEMBER SUGIMURA: Oh, are you okay?

CHAIR KING: Yea.

COUNCILMEMBER SUGIMURA: Cause his Committee, Member Paltin's Committee is so busy, so I just thought it might be a easier flow.

CHAIR KING: I think we already settled that, because Mr. Hokama said he was okay with that.

COUNCILMEMBER HOKAMA: Yea, cause I think Mr. Andaya just needs nine names, so I would just assume each Member would give a district name for Mr. Andaya's consideration.

COUNCILMEMBER SUGIMURA: Okay. So, you're fine then.

CHAIR KING: Okay. Yea, I think that's already settled. Okay. Okay, referrals as read by, as, as discussed by the Council.

Mr. Clerk, committee reports.

COUNTY CLERK: Madam Chair, proceeding with committee reports.

## COMMITTEE REPORTS

COMMITTEE REPORT  
NO. 19-152 - AFFORDABLE HOUSING COMMITTEE:

Recommending that Resolution 19-212, entitled "AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT," be ADOPTED.

CHAIR KING: Okay. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Your Affordable Housing Committee, having met on November 20, 2019, makes reference to County Communication 19-152 [sic] from County Chair Kelly T. King, relating to affordable housing projects pursuant to Chapter 201H, Hawaii Revised Statutes.

By correspondence dated November 12, 2019, the Director of Housing and Human--

CHAIR KING: Okay. I'm sorry. I need to get the motion first.

COUNCILMEMBER KAMA: Oh, I'm sorry.

CHAIR KING: I forgot. The Clerk just reminded me we didn't get a motion.

COUNCILMEMBER KAMA: Okay.

SO, MOVED

COUNCILMEMBER SUGIMURA:

SECOND, SECOND.

CHAIR KING: Do I hear a motion to approve the, the--

COUNCILMEMBER SUGIMURA: Resolution amending resolution.

CHAIR KING: --the resolution as attached in, in 19-152? Okay. So, moved by Member Kama, seconded by Member Sugimura.

Okay. Continue, Member Kama.

COUNCILMEMBER KAMA: Thank you. So, by correspondence dated November 12, 2019, the Director of Housing and Human Concerns transmitted proposed resolution entitled "AMENDING RESOLUTION NO. 18-187 (MODIFICATION NO. 1) TO ALLOW THE DIRECTOR OF HOUSING AND HUMAN CONCERNS TO EXTEND THE DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT".

The purpose of the proposed resolution is to extend deadlines for the development of the Wailuku Apartment Rental Housing Project, consisting of 195 workforce housing rental units and 129 market-rate rental units on 14.4 acres at Waiale Road, East Kuikahi Drive, and Honoapiilani Highway in Wailuku, Maui, Hawaii. The Project was approved through the fast-track 201H process by Resolution 18-187, adopted November 15, 2018, as recommended by the Land Use Committee Report of 18-198.

Resolution 18-187 provided deadlines of two years to commence and five years to complete construction. At the time of approval, all parties, developer Legacy Wailuku LLC, the County Council, and the County Administration, believed the deadlines could be met. However, as stated in the proposed resolution, "Project commencement has been unexpectedly delayed by unanticipated recent events requiring repairs and upgrade to the Maui County Wastewater system".

A representative of the developer advised your Committee the developer has entered into a public-private partnership with the County to design and obtain permitting for the needed improvements to the wastewater system, known as the Lower Main Street Sewer Upgrade, with the County to construct the improvements in accordance with a \$2.5 million appropriation in the Fiscal Year 2020 Budget. This public-private partnership will expedite completion of the improvements, but the Project will still not be able to meet the deadlines in Resolution 18-187, according to the developer's representative.

Accordingly, the proposed resolution would change the Project's deadlines to the following: Commence construction of the Project within one year after the County starts work on the Lower Main Street Sewer Upgrade. Complete construction of the Project within three years after the start the start of construction.

Your Committee expressed support for the new construction deadlines.

The proposed resolution would also delegate to the Director of Housing and Human Concerns the authority to grant an additional extension. Your Committee expressed opposition to this delegation of authority. Therefore, your Committee voted to revise the title and body of the proposed resolution to eliminate references to the Director's authority to grant an extension.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution. Committee Chair Kama, Vice-Chair Molina, and Members Lee, Rawlins-Fernandez, and Sinenci voted "yes". Committee Members Hokama and Sugimura were excused.

Your Committee notes Ordinance 4918, effective December 16, 2018, conditionally approved a District Boundary Amendment to facilitate the Project's development. Your Committee urges the Department of Housing and Human Concerns to consider whether Ordinance 4918 should be amended, if the revised proposed resolution is adopted.

Your Committee is in receipt of a revised proposed resolution, entitled "AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT," approved as to form and legality by the Department of Corp. Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Affordable Housing Committee recommends that resolution, be attached hereto, entitled "AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR THE COMMENCEMENT OF CONSTRUCTION AND

COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT," be ADOPTED.

And this report is submitted in accordance with Rule 8 of the Rules of the Council.  
Thank you, Chair.

CHAIR KING: Okay. Thank you for that report. Any comments or questions? We also have the developer's representative here if you have any. Looks like everyone's gotten all their answers. Okay. If there are no questions or discussion, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: COUNCILMEMBER PALTIN.

CHAIR KING: Measure passes nine to zero.

COUNCILMEMBER PALTIN: Opposed. I'm opposed.

CHAIR KING: Oh, I'm sorry. I didn't hear that. Okay.

Motion passes eight to one. Eight "ayes", one "no"; Member Paltin.

Okay. Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-212.

COMMITTEE REPORT

NO. 19-153 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending that Bill 72 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, EMERGENCY MANAGEMENT AGENCY (STATE HOMELAND SECURITY GRANT (SHSG) PROGRAM)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR KING: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I request the Clerk to also call up Committee Reports 19-154, 19-155, 19-156, 19-157, and 19-158? You ready, Mr. Clerk.

CHAIR KING: Okay. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Thank you for doing that. I was hoping you were going to do that.

Mr. Clerk.

COMMITTEE REPORT

NO. 19-154 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending that Bill 73 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF HOUSING AND HUMAN CONCERNS (VOLUNTARY CONTRIBUTIONS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 19-155 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending that Bill 74 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF HOUSING AND HUMAN CONCERNS (STRATEGIC PREVENTION FRAMEWORK PARTNERSHIPS FOR SUCCESS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

**COMMITTEE REPORT**

**NO. 19-156 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:**

Recommending that Bill 75 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF POLICE (DEPARTMENT OF HEALTH (DOH) GRANTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

**COMMITTEE REPORT**

**NO. 19-157 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:**

Recommending that Bill 76 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF POLICE (EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

**COMMITTEE REPORT**

**NO. 19-158 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:**

Recommending the following:

1. That Bill 77 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2020, AFFORDABLE HOUSING FUND (HABITAT FOR HUMANITY, AFFORDABLE HANA HOUSING PROJECT)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-368, from the Budget Director, be FILED.

**CHAIR KING:** Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORTS 19-153 THROUGH 19-158.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay, moved by Vice-Chair Rawlins-Fernandez, second by Member Sinenci.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Committee Reports 19-153 through 19-157 pertain to amendments to Appendix A, Part I, of the Fiscal Year 2020 Budget for grants for the Emergency Management Agency, the Department of Housing and Human Concerns, Department of Police.

Committee Reports, Committee Report 19-158 will allow the County to provide funding for 100 percent Affordable Hana Housing Project.

All of these items passed unanimously in Committee. I respectfully ask the Members to continue to support these items and this motion. Mahalo, Chair.

CHAIR KING: Okay. Mahalo. Any discussion on these items? Okay. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measures pass nine to zero.

Okay. Mr. Clerk.

COUNTY CLERK: Relative to Committee Report 19-153, for the record, BILL 72 (2019). Relative to Committee Report 19-154, for the record, BILL 73 (2019). Relative to Committee Report 19-155, for the record, BILL 74 (2019). Relative to Committee Report 19-156, for the record, BILL 75 (2019). Relative to Committee Report 19-157, for the record, BILL 76 (2019). And relative to Committee Report 19-158, for the record, BILL 77 (2019).

COMMITTEE REPORT

NO. 19-159 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending the following:

1. That Bill 78 (2019), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII, RELATING TO GRANTING OF FUNDS FOR THE VICTIMS OF CRIME ACT VICTIM ASSISTANCE GRANT PROGRAM, SPECIAL NEEDS ADVOCACY PROJECT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-444, from the Prosecuting Attorney, be FILED.

CHAIR KING: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. May we have the Clerk call up Committee Report No. 19-160 as well?

CHAIR KING: Okay. And do you want to do 161 as well?

COUNCILMEMBER MOLINA: Yea, why not. Member Rawlins-Fernandez has inspired the rest of us, so sure.

CHAIR KING: Thank you. Mr. Clerk.

Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Mr. Clerk.

COMMITTEE REPORT

NO. 19-160 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending the following:

1. That Bill 79 (2019), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII, RELATING TO GRANTING OF FUNDS FOR THE STOP VIOLENCE AGAINST WOMEN FORMULA GRANT, DOMESTIC VIOLENCE INVESTIGATION," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-445, from the Prosecuting Attorney, be FILED.

COMMITTEE REPORT

NO. 19-161 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Bill 80 (2019), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR KING: Okay. Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE  
REPORTS NOS. 19-159, 19-160, AND 19-161.

COUNCILMEMBER LEE:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR KING: Okay. Moved by Member Molina, seconded by Member Lee.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. With regards to Committee Report No. 19-159, on December 3, 2019, your GET Committee met to discuss a proposed bill authorizing the Mayor to enter into an intergovernmental agreement with the State Department of the Attorney General related to funds for the Victims of Crime Act Victim Assistance Grant Program, Special Needs Advocacy Project. Funds will be used to provide emergency and counseling services through nonprofit agencies such as Women Helping Women and Child and Family Services.

And with regards to Committee Report No. 19-160, your GET Committee met on the same day to entertain a bill authorizing the Mayor to enter into an intergovernmental agreement, again with the State Department of the Attorney General, related to funds for the Stop Violence Against Women Formula Grant and Domestic Violence Investigation. And the funds will be used to cover fringe benefit costs for an Investigator position in the Department of the Prosecuting Attorney.

And then, finally, for Committee Report No. 19-161, your Committee met to discuss a proposed bill authorizing the Mayor to enter into an intergovernmental agreement with the State Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division, to settle alleged violations at the Kahului, Kihei, and Lahaina Reclamation Facilities. Following an executive session meeting with the Corporation Counsel, your Committee voted 9-0 to recommend passage of this proposed bill.

And with regards to Committee Reports Nos. 19-159 and 19-160, the Committee voted 8-0 on those issues. Thank you very much, Madam Chair.

CHAIR KING: Okay. Thank you. Any discussion, questions? Alright, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measure passes, the three measures pass nine to zero; unanimous.

Mr. Clerk.

COUNTY CLERK: Relative to Committee Report 19-159, for the record, BILL 78 (2019).  
Relative to Committee Report 19-160, for the record, BILL 79 (2019). And relative to  
Committee Report 19-161, for the record, BILL 80 (2019).

COMMITTEE REPORT  
NO. 19-162 - MULTIMODAL TRANSPORTATION COMMITTEE:

Recommending that Resolution 19-213, entitled "REQUESTING THE MAYOR  
APPOINT A COMMITTEE TO REVIEW CHAPTER 5.16, MAUI COUNTY CODE,  
RELATING TO TAXICABS," be ADOPTED.

CHAIR KING: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 19-162.

COUNCILMEMBER HOKAMA:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: Okay. Moved by Member Sugimura, second by Member Hokama.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Your Multimodal Transportation Committee,  
we met on August 5, September 5, October 17, November 21, to discuss a proposed  
resolution to authorize the Mayor to appoint a committee of not less than three  
members to investigate proposed rate changes, review license and permit  
recommendations, and review the method of computation that determines the number  
of taxi permitted in the County, in accordance with Section 5.16.100(B), Maui County  
Code.

The meetings were talking about taxis versus TNC's. And we did discuss this committee, this resolution in the last Committee meeting that we did have. As the Committee continues to discuss, discuss how to level the playing field among taxis and TNC companies, it was important to review 5.16 as rates for taxis have not changed since the enactment of the Ordinance 3347, which took effect on January 6, 2006.

Your Committee revised a proposed resolution to delete a reference to transportation network companies, which will be taken up as a, as a separate issue in my Committee. Additionally, the Mayor's findings are to be provided to the Council by August 1, 2020. Your Committee voted 6-0 to recommend adoption of the revised proposed resolution. I respectfully ask for the Members support. Thank you, Chair.

CHAIR KING: Okay. Thank you.

Any comments, questions? Okay, I know what this is about. All those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Okay. Measure passes nine to zero.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 19-213.

COMMITTEE REPORT  
NO. 19-163 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 81 (2019), entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT TO B-2 COMMUNITY

BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTIES IDENTIFIED AS TAX MAP KEYS (2) 3-9-003:003 AND (2) 3-9-003:005, LOCATED AT 30 ALAHELE PLACE AND 33 AUHANA ROAD, KIHEI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That the County Clerk RECORD the unilateral agreement; and
3. That County Communication 19-265, from the Planning Director, be FILED.

CHAIR KING: Okay. And we go to Member Paltin for this one.

COUNCILMEMBER PALTIN:

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 19-163.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR KING: Okay, moved by Member Paltin, second by Member Sinenci.

Ms. Paltin.

COUNCILMEMBER PALTIN: This bill will grant Nation Land Company, LLC a Change in Zoning to B-2 Community Business District for two of their parcels in Kihei. This zoning will allow the landowner more flexibility to operate a plant nursery and a bakery on the property.

Your Committee did add three conditions to this Change in Zoning to: 1) Prohibit transient accommodations on the property; 2) Limit the uses allowed on the property; and 3) Set a maximum height of 45 feet for any structure on the property. I respectfully ask the Members consideration of my motion. Thank you, Chair.

CHAIR KING: Okay. Thank you. Any comment on this?

Okay. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair, I speak in support of the motion this afternoon. First, I want to note for the record that I do appreciate the developer meeting with me. And even though I don't sit on the Committee, I thought it was very courteous of them to at least give me their presentation and explain their request that was coming before

Council. I find their request to be very satisfactory in that I believe it fits more into the intent of what they're really doing there and their adjustment after hearing from the Planning Commission. So, I am definitely in support this afternoon. Thank you.

CHAIR KING: Okay. Thank you. And I believe a lot of us met with the developer. And I just wanted to say everyone's always happy to meet with you, Mr. Hokama, at your, at your schedule. But he did meet with most of the Councilmembers.

And it's, it's a business that has been there for a while. It's in the community plan designation and he is just trying to align his zoning with what the community has always experienced his business to be. He had to close down his bakery because the, the zoning isn't correct. And I, I get to hear from my constituents about, you know, what happened to that bakery over there, cause that's where I bought all my bread. And I think I heard from Mr. Raatz that it's the only vegan bread maker on the island. So, he's been suffering a little bit over here too. So, I, I'm in full support of this and I'm glad it came up this quickly.

Any other comments? If not, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Motion passes nine to zero.

Mr. Clerk.

COUNTY CLERK: For the record, BILL 81 (2019).

Madam Chair, proceeding with ordinances, second and final reading.

**ORDINANCES**

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 67 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,  
DEPARTMENT OF PARKS AND RECREATION (HANNIBAL TAVARES  
COMMUNITY CENTER IMPROVEMENTS)

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I request the Clerk also call up Bills 68 and 69?

CHAIR KING: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR KING: Okay. Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 68 (2019)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX A, PART I,  
GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND  
RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS,  
DEPARTMENT OF POLICE  
(HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA))

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 69 (2019)

A BILL FOR AN ORDINANCE AMENDING APPENDIX A  
OF THE FISCAL YEAR 2020 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES –  
SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2020,  
AFFORDABLE HOUSING FUND (KAIAULU O KUPUOHI APARTMENTS PROJECT)

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS BILL 67, BILL 68, AND BILL 69 ON SECOND  
AND FINAL READING.

COUNCILMEMBER LEE:

SECOND.

CHAIR KING: Okay. Moved by Vice-Chair Rawlins-Fernandez, second by Member Lee.

Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. These three bills make various amendments to the Fiscal Year 2020 Budget. I will note that Bill 68 *[sic]* will allow \$6,382,000 from the Affordable Housing Fund to be used for the 100 percent affordable Kaiaulu O Kupuohi Apartments Project. No further discussion, Chair.

CHAIR KING: Okay. Any, any questions or discussion by other Councilmembers? If not, all those in favor of the motion on the floor, say "aye".

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

CHAIR KING: Any opposed?

NOES: NONE.

CHAIR KING: Measures pass nine to zero; unanimous.

Mr. Clerk. These are second and final readings, so they don't have any numbers.

COUNTY CLERK: Madam Chair, there's no further business before the Council.

CHAIR KING: Okay. No further business. And the meeting will be adjourned at 2:47. Thank you, Members for getting through all the material. We will, I will be in the, if anybody wants to join me, I'll be in the conference room in, on the seventh floor and be waiting

a few minutes for the paperwork so we can sign the bill. And I invite the Mayor to come, although he was originally set to come down earlier and, you know, as happens often our schedule gets waylaid because of the, the length of our meetings and our discussion. But anybody who would like to join me at three, we'll see if there's actually any food left in there, and, and sign the bills and make some other announcements.

Okay. adjourned at 2:48.

### ADJOURNMENT

The regular meeting of December 20, 2019 was adjourned by the Chair at 2:48 p.m.



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KATHY L. KAOHU, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

## Testimony

opposed to Bill 70 in Maui, Hawaii.

Good morning members of the Maui County Council. My name is Gustavo Gonzalez and I rise in opposition to this Bill on behalf of the Office of the Public Defender here in Maui. I am a deputy public defender assigned to represent our friends, colleagues, and community members who have been accused of committing criminal offenses who cannot afford to hire a private defense attorney. I am assigned to the District Courts of our County and the vast majority of my cases involve traffic offenses—the kind of offenses that the bill is meant to cover. Our Hawaii Constitution and the United States Constitution guarantee that before any agent of the government—be it the federal, state, or even local authority—takes a person's property, there must first be Due Process of Law. It is a bedrock principle that is deeply engrained in every American court of law. It is what we teach our children and it is one of the powerful rights afforded each person who gets ensnared in our criminal justice system.

This Bill has received a great deal of media coverage and enthusiasm from respected members of the community. The roads are getting more and more dangerous. The Council feels compelled to do something to fix this problem by making the penalties for traffic offenses more severe and instill a greater wariness for individuals to not operate a vehicle illegally. The Council's attempt to address the problem is laudable, but this Bill is not the answer. It presents more problems and challenges than solutions. As a rhetorical point, I know that it's easy to point to offenders and refer to their cars as "weapons we need to keep off the road"

and that point it powerful, but misguided. The rationale often repeated for the need to tow cars of individuals suspected of Operating Under the Influence is that they could post bail and be out on the road the same night. Again, a scary and dangerous proposition, but one that exists more as a figment of one's imagination than an actual problem in Maui.

HRS section 291C-165.5(a), the enabling legislation pointed to by the Council as the basis for this illegal taking, does not contemplate the varied situations that the Council proposes. It provides for towing and storage at owner's expense in contemplation of times when the automobile creates an obstruction or hazard. It is not carte blanche to tow cars, increasing financial penalties and loss of property for those who do not create such an obstruction.

The State Legislature in Hawaii is solely vested with the power to define behavior as illegal, as well as setting forth the punishments which can result from the violation of those laws. Furthermore, it is the sole job of our Judges to determine if, what, and how severely, to punish offenders who have either been found guilty, or have pleaded to the crimes that they have been accused of. And so this Bill presents a vexing question notwithstanding the Due Process problem: has our Legislature in Honolulu properly delegated the power to seize property to the counties? I think the answer is no. Allowing the Maui County Council to modify and expand the range of penalties which may be imposed on individuals who may or may not have broken the law unconstitutionally usurps the prerogative of the State House. For example, HRS 431:10C-117, provides that among the penalties

an individual could face for repeated convictions of driving without insurance, the impoundment and sale of the car.

Driving without a License, contains no similar provision in HI Rev Stat § 286-136. Among the penalties possible for an individual when CONVICTED of the crime are fines, fees, and jail time NOT THE IMPOUNDMENT AND SALE OF THE CAR.

In fact, none of the other enumerated traffic crimes in Bill 70 have such a penalty provision in them. The penalties sought to be imposed by the Council are a new penalty for those crimes, ones which could have and should be imposed by the State Legislature if and when it decides to do so. This is not the proper province of the Council, and for this reason alone, this Bill should be jettisoned.

IF and when an individual is arrested for the crimes enumerated in Bill 70, that individual is presumed innocent until proven guilty. There is no ultimate finding of any fact related to guilt in the instances provided by the Bill that would justify the taking of personal property, without first providing any due process of law.

These additional penalties are the only kind of possible penalties which can be imposed before there is ever any determination of guilt or innocence. The Council seeks to potentially punish individuals, no matter whether or not those individuals are ever convicted of a crime, but rather, premised on the probability that a crime has been committed. There is no remedy in this Bill for wrongful arrest, or acquittal of the underlying crime. Mere suspicion is enough to trigger these penalties.

Those who refuse to comply and pay the fines/fees will have their cars sold by the tow company within 30 days. Oftentimes there is a 47 day gap between the citation being issued in a particular case, such as Driving Without a License, Driving While License Suspended, both of which are generally non-arrestable offenses. So, by the timeline contemplated in this flawed Bill, every single individual who is cited and towed for these offenses will have their cars sold if they are unable to pay the preemptive fines and fees newly created, not by the Court, not by the State Legislature, but by the County Council.

This is another example of a due process violation. Per Bill 70's stated purpose, if an individual is accused of a licensing/registration violation, they are required to PREEMPTIVELY PAY the fines/fees in order to avoid the unjust towing and impoundment of their car. Would this then make the Maui Police Department bill collectors on behalf of the County? Would police officers be required to collect payments via cash, check credit card? Are they required to give change and receipts?

It is undisputed that an additional charge for towing and storage of the vehicle would unjustifiably and unfairly target the poor and homeless in our community. Those who cannot afford to pay fines and fees associated with prior licensing violations ultimately are the ones who will end up facing these situations. Why would the Council want to further punish the poor? If an individual cannot afford to renew or reinstate their license, what rationale would the Council have to further require them to pay for towing and storage

- Fees which they would also not be able to pay, forcing them to lose what in many cases would be their homes, or their sole means of getting to/from home and work?

From an experiment I conducted just two nights ago, the average towing fee for a distance of five miles on this island is \$150.00. The average cost of storing a vehicle overnight is \$30.00. This means that if an individual was to have their car towed, they would face a fine of at least \$1050.00, BEFORE THEIR CAR IS SOLD, assuming that the private tow companies do not vary their fees for cars towed by the police for crimes. Furthermore, each of the towing companies I called stated that they have little to NO SPACE for additional storage of vehicles, no matter how short the duration. While it is undisputed that this would create a boondoggle for the tow companies financially, their own inadvertent admission is that they don't have the space to keep these cars anyway.

Is the Council asking for private tow companies to act as agents of the State?

When a tow company acts on behalf of the State in order to punish wrongdoers, they are acting as the State. However, as stated previously, there is NO remedy in this Bill for wrongful arrests, detainers of property, or wrongful sale of the car.

What is the Council proposing to do if someone is illegally arrested, has their car seized because they can't afford to pay the fees, and loses the only home they have? What if an individual has their car stolen, then the person stealing it is arrested for the crime of habitual OUI? The police, acting under due authority would call its duly appointed agent, a private tow company to take and store the car. But what of the car's lawful owner? At law, there are remedies in tort for some of these offenses, however, if the hypothetical I have were to occur, the

State, or the Council would be liable, as the tow companies would have been acting on its behalf.

The solution to prevent the preventable deaths, injury, and property damage caused by drunk drivers must be reasoned, fair, and, above all, lawful.

Empowering the police to seize property before a conviction and without Due Process of Law, to deprive vulnerable people from perhaps their only significant asset in this world, and to pad the pockets of private tow companies is not the answer. I hope the Council can see that and I hope the Council does not promulgate this into law.

# Climate reality project

I am here today in full support of adopting the resolution in CC 19-515

I would suggest a couple items in the resolution be added or changed.

In the 15<sup>th</sup> whereas paragraph- WHEREAS, under high-emission scenarios, a sea-level rise exceeding 2.4 meters (eight feet) by 2100 is possible, and the nearly one meter (3.2 feet) of sea-level rise projected this century across the State will result in 3,130 acres of land experiencing chronic flooding, erosion, and high waves; and

I would recommend that instead of having eight feet and 3.2 feet in parenthesis, you switch where it says meters and feet, putting meters in parenthesis. that you underline and put in all caps 8 FEET, and 3.2 FEET, to amplify how much of an impact 3 FEET to 8 FEET of sea level rise will have on Maui.

In the 25<sup>th</sup> whereas- WHEREAS, the County of Maui has an opportunity to be a global leader by rapidly organizing a regional emergency climate mobilization effort and converting to an ecologically, socially, and economically regenerative economy at emergency speed, and by catalyzing a unified regional Just Transition and climate emergency mobilization effort this year; now, therefore,

To- WHEREAS, the County of Maui has an opportunity to be a global leader by rapidly organizing and hosting an inaugural regional emergency climate mobilization conference, and effort and converting to an ecologically, socially, and economically regenerative economy at emergency speed, and by catalyzing a unified regional Just Transition and begin planning for a climate emergency mobilization conference and effort this year; now, therefore,

I also suggest to add to the Be It Resolved list another item:

That every department, council, board, and committee within the county of Maui review this RESOLUTION, putting a copy on every wall of every office, and take action whenever possible to decrease the effects and impacts of climate change and plan accordingly, looking at future economic costs vs. current costs, for a future where climate change will be a significant threat to the viability of our island, and take appropriate steps to mitigate those changes.

Scott Shapiro

2019 DEC 20 AM 10:33  
OFFICE OF THE  
COUNTY COUNCIL

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