

# **GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**March 21, 2023**

**Online Only via BlueJeans Link**

**CONVENE: 1:34 p.m.**

**PRESENT:** Councilmember Nohelani Uʻu-Hodgins, Chair  
Councilmember Tamara Paltin, Vice-Chair  
Councilmember Tom Cook, Member (arrived at 1:44 p.m.)  
Councilmember Gabe Johnson, Member  
Councilmember Tasha Kama, Member  
Councilmember Alice L. Lee, Member (left at 4:00 p.m.)  
Councilmember Keani N.W. Rawlins-Fernandez, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**STAFF:** Kasie Apo Takayama, Senior Committee Analyst  
Ana Lillis, Legislative Analyst  
Pauline Martins, Senior Committee Secretary  
Maria Leon, Committee Secretary  
Richard Mitchell, Legislative Attorney  
Richelle Kawasaki, Legislative Attorney  
Ellen McKinley, Legislative Analyst  
Jarret Pascual, Legislative Analyst  
Lenora Dinneen, Council Services Assistant Clerk  
Nālani Fujihara, Hawaiian Language Communications Specialist

Zhantell Lindo, Council Aide, Molokaʻi Residency Area Office  
Roxanne Morita, Council Aide, Lānaʻi Residency Area Office  
Mavis Oliveira-Medeiros, Council Aide, East Maui Residency  
Area Office

Axel Beers, Executive Assistant to Councilmember Johnson  
Braedon Wilkerson, Executive Assistant to Councilmember  
Rawlins-Fernandez  
Davideane Sickels, Executive Assistant to Councilmember Kama  
Dawn Lono, Executive Assistant to Councilmember Sinenci  
Evan Dust, Executive Assistant to Councilmember Kama  
Susan Clements, Executive Assistant to Councilmember  
Uʻu-Hodgins  
Stacy Takahashi, Executive Assistant to Councilmember Cook

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

Kate Griffiths, Executive Assistant to Councilmember Johnson  
Noelani Ahia, Executive Assistant to Councilmember  
Rawlins-Fernandez

**ADMIN.:** Victoria J. Takayesu, Corporation Counsel, Department of the  
Corporation Counsel  
Cory-Lyn Vicens, Boards and Commissions Secretary, Office of the  
Mayor  
Bradley Sova, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Brian Bilberry, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
James Landgraf, Deputy Director, Department of Water Supply  
Gregg Okamoto, Assistant Chief, Department of Police

**OTHERS:** Ke'eaumoku Kapu  
Dustin Kaleiopu  
Junya Nakoa  
Sam Small  
Lianne Suzuki  
Vernon Kalanikau  
Plus (3) other people

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

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CHAIR U'U-HODGINS: . . .*(gavel)*. . . Good afternoon, GREAT gang. Will the GREAT Committee meeting of March 21st, 2023 please come to order. It is 1:34 p.m. I'm your Chair, Nohelani U'u-Hodgins. Members...oh, actually I don't need to say that because we're all in person, right? Awesome. Welcome, Members. I love to see everybody's faces. So, we're going to do our roll call starting with Committee Vice-Chair Tamara Paltin. Good afternoon.

VICE-CHAIR PALTIN: Good afternoon and aloha 'auinalā. Broadcasting live and direct from the 8th Floor. We have no testifiers at the Lāhainā District Office at this time. Thank you.

CHAIR U'U-HODGINS: Thank you. Councilmember Tom Cook will be joining us in a few moments. Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Aloha, Chair, Councilmembers, Committee Members. I'm here in the Chambers, and there's no testifiers at the Lānaʻi District Office. Mahalo, Chair.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Mahalo. Councilmember Tasha Kama, good afternoon.

COUNCILMEMBER KAMA: Aloha ‘auinalā, Chair. And it is great to be in a GREAT meeting such as yours today. Thank you.

CHAIR U‘U-HODGINS: Thank you. Council Chair Alice Lee, good afternoon.

COUNCILMEMBER LEE: Ni hao, Chair --

CHAIR U‘U-HODGINS: Ni hao.

COUNCILMEMBER LEE: -- U‘u-Hodgins. I am here in person and...and no one is at my workspace at home except my little girl Koa.

CHAIR U‘U-HODGINS: Thank you. Good afternoon, Councilmember Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ‘auinalā, Chair, mai Maui nui a Kama. It looks like I...my Internet is not working right now, but we have our Moloka‘i Outreach Specialist Zhantell Lindo at the Moloka‘i District Office reporting no testifiers. Mahalo, Chair.

CHAIR U‘U-HODGINS: Thank you. Aloha, Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha, Chair, and ni hao. Happy to be here. Staff in Hāna has stated there are no testifiers at the Hāna District Office.

CHAIR U‘U-HODGINS: Thank you. And good afternoon, Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good afternoon, Chair. So nice, everybody here.

CHAIR U‘U-HODGINS: I know.

COUNCILMEMBER SUGIMURA: I know, it feels like a Council meeting.

CHAIR U‘U-HODGINS: Oh.

COUNCILMEMBER SUGIMURA: Anyway, good afternoon, and we’re looking forward to your meeting. Thank you.

CHAIR U‘U-HODGINS: Thank you. Today we have a couple of things on our agenda, and so we have a full Staff with us today. From Corporation Counsel we have Corporation Counsel Victoria Takayesu, First Deputy Corporation Counsel Sonya

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
**Council of the County of Maui**

**March 21, 2023**

---

Toma, Deputy Corporation Counsel Brian Bilberry, Deputy Corporation Counsel Bradley Sova, Deputy Corporation Counsel Caleb Rowe. We have today representing the Office of the Mayor, Secretary for Boards and Commissions Cory Vicens. Representing the Department of Police, Assistant Chief Gregg Okamoto. Representing the Department of Parks and Recreation, Director Patrick McCall. Representing the Department of Water Supply, Deputy Director Kimo Landgraf. We also have us...with us today the nominees as requested by our Committee Members. Ke'eaumoku Kapu, aloha. Gary Yoshio Murai, aloha. Dustin Harold Pōmaikai'ilani Kaleiupu, hello. As well as Mr. Bilberry, we introduced earlier. We also have our very dedicated and amazing Committee Staff, Kasie Apo Takayama, Ana Lillis, Pauline Martins, Remi Mitchell, Jean Pokipala, and Lei Dinneen. For those of us joining us online, please see the last page of the agenda for information on the meeting connectivity. We have 11 items on the agenda today. And if we have any testifiers, I will do the little testifier speech. So, testifiers wanting to provide video or audio testimony should have signed up in the lobby, joined online via the BlueJeans link, or called in to the phone number noted on today's agenda. Written testimony is encouraged and can be submitted via the eComment link at [mauicounty.us/agendas](http://mauicounty.us/agendas) as well. In accordance with the Sunshine Law, testimony can occur at the beginning of the meeting, but cannot be limited to the start of the meeting. The Chair will receive oral testimony for agenda items at the beginning of the meeting, and as the item is called up on the agenda. Bless you. All individuals logged into the meeting will be added to the testifier sheet. If you do not intend to testify, please state so in the chat. If you do wish to...wish to testify, please state in the chat your full name and organization, and the agenda items you would like to testify on, and your preference to testify at the beginning of the meeting, or as the agenda item is called up. If you wish to testify anonymously, please notify Staff, and they will identify and refer to you as "Testifier" and assign you a number. Oral testimony is limited to three minutes per item. If you are still testifying beyond those three minutes, I will kindly ask you to complete your testimony. The chat should not be used to provide comments or discussion beyond signing up to testify or to notify Staff you do not wish to testify. Please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you are done testifying, or you do not wish to testify, you can also view the meeting on *Akakū* Channel 53, Facebook Live, or [mauicounty.us/agendas](http://mauicounty.us/agendas). As a reminder, decorum must be maintained at all times. Thank you for your cooperation. Staff has been monitoring individuals joining today's meeting by phone and by video, and we will do our best to take up each person in an orderly fashion. At this time we will call on testifiers wishing to testify at the beginning of the meeting. Staff, please call the first testifier.

MS. LILLIS: Chair, we only have one individual signed up to testify via BlueJeans, Vernon Kalanikau. If you would like to begin your testimony, please unmute yourself. Chair, Vernon has indicated that he does not wish to testify, and he is

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

our only testifier signed up at the moment. If anyone in the Council Chamber or on BlueJeans would like to testify, please make yourself known to us now. I will do a brief countdown. Three...two...one. Chair, no one has indicated that they wish to testify.

CHAIR U‘U-HODGINS: Thank you. If there are no objections, I will now close public testimony for the beginning of the meeting and proceed with our first item on the agenda.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR U‘U-HODGINS: Thank you.

**GREAT-2(9)      NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(RESOLUTION 23-98, MAUI COUNTY CULTURAL RESOURCES**  
**COMMISSION)**

CHAIR U‘U-HODGINS: Okay. So, before...we have...us is Resolution 23-98, entitled “NOMINATING AND APPROVING THE APPOINTMENT OF KE’EAUMOKU KAPU TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION.” Resolution 23-98’s purpose is to nominate and approve or disapprove Councilmember Tamara Paltin’s nomination of Ke’eaumoku Kapu to the Maui County Cultural Resource Commission for a term expiring on March 31, 2024, to fill a vacancy due to the resignation of Daniel Kanahale. The 60-day deadline for the Council to approve or disapprove the nomination is March 26, 2023. Since the deadline is coming up soon, Resolution 23-29 [sic] has also been posted on Friday’s Council meeting agenda for consideration. Will we...we will not be taking action on the resolution today. A copy of the board listing has been uploaded to Granicus. The GREAT Committee received four requests from the Vice-Chair Paltin and Members Johnson, Rawlins-Fernandez, and Sinenci to invite the nominee. At this time I’m going to ask for opening comments from our Councilmember Tamara Paltin. Thank you.

VICE-CHAIR PALTIN: Thank you, Chair. This is a nomination that we had worked together in collaboration with the Mayor’s Office on because initially we weren’t sure whose court it was to do the nomination, and the Mayor would have selected Mr. Kapu, and I would have selected Mr. Kapu, so it seemed like a perfect collaboration. I will say that it was ready for the March 10th agenda, but it was unilaterally decided in violation of the Council Rules to direct refer it because it was thought to be controversial, and I disagree with that decision. I will say that Mr. Kapu is working already with the County, Parks and Rec, and Corp. Counsel regarding reinterment or...I’m not sure of the correct words, but regarding the iwi that is being exposed through erosion at Puamana Beach Park, and also with

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

Dr. Six, and trying to take what they're doing at Puamana and to develop an overall Countywide policy on this because it's not only Puamana where it's occurring, there's other places also on the North Shore and...and like that. So, he...I can...he can explain more of the details of that, but that's on a total voluntary basis. And so, it...it makes good sense to me that we include his voice officially. And also, my belief is that there isn't anyone on the Cultural Resources Commission at this time from...or living in Lāhainā, and that's where the Historic Districts 1 and 2 are. I think Wailuku is the only other historic district. So, it was really important to get a cultural member from Lāhainā who's already doing the work to, I think, both of us. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Paltin. At this time I'd also like to recognize Councilmember Tom Cook who has joined us. I would also like to request some opening comments from Ke'eaumoku Kapu. Mr. Kapu, will you please join us up front?

VICE-CHAIR PALTIN: Oh, Chair, one more thing I forgot to mention.

CHAIR U'U-HODGINS: Yes.

VICE-CHAIR PALTIN: Over the past couple years, I think the Cultural Resource Commission had to be cancelled because of lack of quorum about five or six times, so it...it's really important.

CHAIR U'U-HODGINS: Thank you for that. Mahalo. Mr. Kapu, aloha. Thank you for joining us today. If you would like to start with whatever opening comments you'd like.

MR. KAPU: Yeah. Aloha. Ke'eaumoku Kapu from Lāhainā. I've kind of served on the Cultural Resources Commission years ago. I did a four-year term, and also served on other commissions at the State, as well as the Federal level. So, when it comes to tradition and culture, I'm kind of a strong advocate for that. This past week I've been in front of Lāhainā Harbor on the impact on that boat that has inundated the Historic District, and working with the Department of Land and Natural Resources to try to find a remedy on how to abstract [sic] the boat and not impacting the historic corridor. So, at the same time, also working in tandem with the County of Maui with the ROE that just was granted about a month ago for Moku'ula. So, it's an ongoing thing. Mahalo, Tamara Paltin, for bringing up the Puamana issue. It's been long waited for, and we're hoping that we can get a community meeting to get some feedback on how we can go forward in the best way by not impacting a lot of the things that are...basically been washing up along the shoreline present until today. Mahalo to the County for also identifying that important area by closing it down. I think that's a temporary fix for now until we figure out the exact course of where we need to go on a long-term

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

management plan. So, I've been doing this for a long time, for many years, and haven't stopped. My responsibility is...I like...I like to mention that I'm the janitor, and being the janitor there's a lot of things that needs to be done. And also, advocating, trying to get...trying to get a lot of the community to the forefront. In fact, we have a meeting 5:00 today, so I going meet...I going miss the County address that's going to happen downstairs because we have one meeting to talk about five potential proposed wells that the County wants to put in for Lāhainā, so that's going on at 5:00 today. It's a periodic consultation that I'm steer heading [sic] to try to get a lot of the stakeholders and a lot of the community together and get some feedback on how these things can go forward, and basically not to infringe upon traditional and customary practices as well. So, I hope my testimony in front of you today spikes a bigger understanding of why we need real advocates at the forefront so we can do things in a pono manner. Thank you.

CHAIR U'U-HODGINS: Mahalo, Mr. Kapu. Before we get into...excuse me, I'm kind of recovering from a cold so I sound a little weird and I might have some cough moments. But before we get into discussion, I'd like to do a last call on testimony for item GREAT-2(9).

MS. LILLIS: Chair, it appears that Junya Nakoa has signed up to testify on GREAT-2(9). Junya, if you'd like to begin your testimony, you may unmute yourself now. Chair, we're not seeing a response from Mr. Nakoa at this time. I believe you can move on. And he's the only one signed up to testify. I can do a brief countdown for Junya or anyone else that would like to testify, please make yourself known to us now. Three...two...one. Chair?

CHAIR U'U-HODGINS: Thank you. Mr. Nakoa, if you'd like to provide any written testimony, please do so. If there's no one else wishing to testify, without objection, I'd like to now close oral testimony.

COUNCILMEMBERS: No objections.

**. . .END OF PUBLIC TESTIMONY FOR GREAT-2(9). . .**

CHAIR U'U-HODGINS: Thank you. And again, as a reminder, written testimony can still be accepted. Members, in the interest of time, let's do a three-minute question period per Member with a one-minute follow up. Members, do we have any questions? Chair Lee?

COUNCILMEMBER LEE: Good afternoon, Ke'eaumoku. Thank you for coming. You...you do have your admirers, but you have a few detractors as well. And so as someone who's very passionate and who advocates for the culture, do you feel

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

that when applications come before you, you still can be objective and impartial?

MR. KAPU: Oh, definitely. I think it all boil down to the pono process on how we need to incorporate the traditional management with the contemporary ways of how we do things in the government. So, I think that's really important.

COUNCILMEMBER LEE: Okay. And then when you were on the commission before, did you have any problems with any of the projects?

MR. KAPU: No. I think the only problem back that time, oh, and that's like about 15, maybe 18 years ago, understanding the policies behind 343, and being involved with the Burial Council, you know, 6E, 13-300 gave me the drive to understand on the County level, under HRS' of what is important and how we need to go forward by stressing the importance of that...those policies.

COUNCILMEMBER LEE: Okay. Thank you, Madam Chair. I just want to let you know that I...I will support this nominee. Thank you.

MR. KAPU: Thank you.

CHAIR U'U-HODGINS: Mahalo, Chair Lee. Any further comments or discussion? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Kapu.

MR. KAPU: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for your willingness to serve on the CRC again. I usually ask nominees like three questions. One is attendance, do you foresee any problems attending the meetings?

MR. KAPU: No. In fact, my 18-plus years of being on all boards and commissions, I never missed a day. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Impressive.

MR. KAPU: So...yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: My next question I usually ask is what is your experience with the commission, but you've served on it before. And then the last question I...I usually ask is how do you foresee contributing to the commission?

MR. KAPU: I think, you know, being involved in boards and commissions in the past,



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

the County is in great dire need, the State as well. Dealing on the Burial Council, you know, how we can kind of wili those things together because now that we're dealing with the coastal erosion and stuff like that, I think it's a great opportunity to be involved in those policymaking on how the State and the County can come together to find...resolve in addressing those issues. Because once the iwi falls in the ocean, that's State jurisdiction, but it came from the County side. So, how do you infuse those things together by having those two agencies make immediate action plans to address those issues. I think I can greatly help out in that capacity.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Yes --

MR. KAPU: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- we definitely need help in that area. So, mahalo for your work from before, and you continue to work and commitment to that work. Mahalo, Chair.

MR. KAPU: Mahalo. Thank you.

CHAIR U'U-HODGINS: Mahalo, Member Rawlins-Fernandez. Do we have any further discussion? Member Paltin?

VICE-CHAIR PALTIN: Thank you. I'm not sure if this question would be for Mr. Mitchell or Ms. Takayesu. I just was reading over the resolution, and...and it was my intent to appoint Mr. Kapu to the cultural seat that's reserved for the commission if...if he's willing to accept it, which I think he is. Do I need to make formal designation that he would be in that cultural seat?

CHAIR U'U-HODGINS: Somebody else? Not me.

MR. MITCHELL: Okay.

MS. TAKAYESU: Thank you. The resolution specifically says the Maui County Cultural Resources Commission. He is the group Hawaiian culture ethnic history on our commission chart, so I don't believe any further clarification is necessary, but it's always welcome.

VICE-CHAIR PALTIN: Okay. I guess if it was necessary, I would need an ASF by tomorrow morning, or need to submit an ASF to designate him that seat. But I believe Mr. Kanahele vacated the cultural seat, and I'm not sure if it's just if he's filling that seat, he's filling the cultural role or not.

MS. APO TAKAYAMA: Chair?

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MS. TAKAYESU: I can defer to --

MS. APO TAKAYAMA: Chair?

MS. TAKAYESU: -- Ms. Vicens but...

MS. VICENS: Councilmember Paltin, you are correct, he is filling the seat.

CHAIR U'U-HODGINS: Speak into the mic, please.

MS. VICENS: Oh, sorry. Can you hear me now?

CHAIR U'U-HODGINS: Yeah, thank you.

MS. VICENS: Okay. So, yes, Councilmember Paltin, he is fulfilling the vacancy that Daniel Kanahele had, which is the cultural practitioner. So, that is the role and designee.

VICE-CHAIR PALTIN: Okay. So, no further clarification?

CHAIR U'U-HODGINS: One second.

MS. APO TAKAYAMA: Chair?

CHAIR U'U-HODGINS: Yes.

MS. APO TAKAYAMA: Yes, he is filling that vacant seat. However, at the time that we appointed Mr. Kanahele, we noted in his resolution for clarity that he would be filling the...the designated seat that you're speaking of. So, I think it may be best to just do that anyway because we do have two seats open. One is designated for a cultural practitioner, and then one is for...I believe it's an archaeologist or an architect or...so, you know, just to clarify that it's not for the other seat.

VICE-CHAIR PALTIN: Okay. I'll...I'll try to get an ASF in for Friday, just to make it super clear that he would fill the cultural practitioner seat.

CHAIR U'U-HODGINS: Thank you, Member Paltin, for clarifying that. Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, just for clarification. Has the Mayor proposed the other two that will be also leaving the CRC?

MS. VICENS: Chair?

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
**Council of the County of Maui**

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Ms. Vicens?

MS. VICENS: Thank you, Councilmember Sinenci, for that question. The other two seats had been filled, were members that had been approved by this body on March 10th.

COUNCILMEMBER SINENCI: Oh, Mr. Awana.

MS. VICENS: Yes.

COUNCILMEMBER SINENCI: Yeah, okay.

MS. VICENS: And then there is that architecture vacancy that is actually with the Council to fill.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR U‘U-HODGINS: Thank you, Member Sinenci. Do we have any further discussion or questions? Councilmember Cook?

COUNCILMEMBER COOK: Thank you. Thank you, Ke‘eaumoku, for your willingness to serve. I really respect your experience, your knowledge, your passion. I’m concerned...in previous testimony, I know how passionate you are, and on different issues, borderline little bit like threatening the Council as far as like basically getting out of our lane, the decisions we make, being careful. And I actually respect you for that. I’m also...I’m being, you know, very transparent, talking story with you because I am concerned about that. I would like to support you. What I need to hear from you is, are you willing to be objective and look broadly, the cultural...the current community needs? Because we do have a...kind of a big divide, what we all want, but we all on one island, one family.

MR. KAPU: For years I’ve gone that route trying to be a strong advocate to address certain issues. If it’s...follow the Hawai‘i State Constitution and the laws that go with that, that’s where my drive is. I...most...sometimes did kind of be objective in many things because I understand policies. And by understanding a lot of those policies, it kind of gives me an overwhelming overlook on a lot of things. But I know looking at conflicts of problematic situations, I’m only one person on the board out of everybody else that serves, and I’m pretty sure that we can come up with the right resolution to all kinds of conflicts...if there is any conflict. I’ve always been passionate, very passionate to making sure that we’re placed in...on how things need to be managed in certain ways. So, that’s why my advocacy has a lot to do with my involvement with a lot of the generational knowledge people of certain moku, and I think that’s important, and I think that’s where my passion comes from. Because a lot of the people with generational knowledge are no

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

longer with us today, but they're in me, so I'm trying to be that strong advocate to stay the course, to make sure that anything that we do . . . *(timer sounds)*. . . is going to provide for our general community in broad. So, mahalo.

COUNCILMEMBER COOK: Okay. Thank you...thank you for that.

MR. KAPU: Thank you.

CHAIR U'U-HODGINS: Thank you, Member Cook. Do we have any further comments or discussion? Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Ke'eaumoku, for wanting to put yourself out there again and again and again and again. And although politically we come from different ideologies, but I think when it comes to our culture, I think that's when we can really come to total agreement. So, I support you sitting on this Cultural Resources Commission because I know the problems that they have had in the past, and I've always wanted to look for really totally committed Native...Kānaka Maoli who are so committed like you that they don't miss the meetings, they go over, above, and beyond what they should be doing because that is your calling and that is your kuleana. So, Chair, I will be supporting his nomination. Thank you.

MR. KAPU: Thank you.

CHAIR U'U-HODGINS: Thank you, Member Kama.

MR. KAPU: Thank you.

CHAIR U'U-HODGINS: Do we have any further discussion? You want to say something? No?

COUNCILMEMBER JOHNSON: Oh, no, Chair. My questions were answered. I just rise in full support. Mahalo for all of your service and your time served helping our communities. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Johnson.

MR. KAPU: Thank you.

CHAIR U'U-HODGINS: I would also like to echo what Member Kama said, and I'm happy to support you. Thank you so much for always participating in our meetings and your dedication to our community.

MR. KAPU: Thank you.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U'U-HODGINS: Seeing any further discussion...no further discussion...Member Cook?

COUNCILMEMBER COOK: I just want to say I look forward to working with you.

MR. KAPU: Same here. All of you.

CHAIR U'U-HODGINS: Thank you. Okay. Due to the Council's upcoming deadline to approve or disapprove the nominee, Resolution 23-98 is posted on Friday's Council meeting on the agenda for consideration. That said, if there's no objections, the Chair will defer this item.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER pending further discussion.**

CHAIR U'U-HODGINS: Thank you so much. Mr. Kapu, thank you so much for being with us today.

**GREAT-2(7) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(RESOLUTION 23-93, LIQUOR CONTROL ADJUDICATION BOARD)**

CHAIR U'U-HODGINS: Okay. Moving on. We have before us Resolution 23-93, entitled "APPOINTMENT OF A MEMBER TO THE LIQUOR CONTROL ADJUDICATION BOARD FOR THE COUNTY OF MAUI." Resolution 23-93's purpose is to approve or disapprove the Mayor's nomination of Gary Murai (reappointment) to the Liquor Control Adjudication Board for a term expiring on March 31, 2028. The 60-day deadline for the Council to approve or disapprove the nomination is April 25, 2023. A copy of the board listing has been uploaded to Granicus. The GREAT Committee has received four requests from the...from Vice-Chair Paltin...Vice-Committee-Chair [sic] Paltin, Members Johnson, Rawlins...Rawlins-Fernandez, and Sinenci to invite the nominee. I'd like to now request opening comments from the Mayor's representative Cory Vicens.

MS. VICENS: Thank you, Chair. Thank you, Councilmembers. We have in front of you today Mr. Gary Yoshio Murai. Gary retired with the Corporation Counsel in 2021 after 11 years as...in the C&D or the Counsel and Drafting Division. He has spent 30 years of service as an attorney within the various divisions here in Maui County. You can see from his application why he wants to serve. Basically it is, he feels, our civic duty to serve on boards and commissions. His familiarity with the function of the Liquor Control and [sic] Adjudication Board brings really a well-rounded experience that would be valued to them. He volunteers with the

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
**Council of the County of Maui**

**March 21, 2023**

---

Legal Aid Society of Hawai'i. He is a board member of the Maui Mediation Service. Mayor Bissen felt Mr. Murai's experience and understanding of the boards and commissions made him an excellent nominee for the Liquor Control and [sic] Adjudication Board, and thanks you in advance for his consideration. On a personal note, I had the opportunity to work directly with Mr. Murai when I staffed Board of Ethics, and I believe he would bring great value to the Liquor Control Adjudication Board. Mr. Murai is present here today to take any questions from our Members. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Ms. Vicens. At this time we would like to now request opening comments from Mr. Murai. If you could please join us up front. Thank you.

MR. MURAI: Thank you...thank you, Madam Chair. Good afternoon, and good afternoon to the GREAT Committee Members. My name is Gary Murai, and I applied for appointment to the Liquor Control Adjudication Board. The reason why I did this is because I do have an interest in regulating the liquor industry. Our liquor laws are meant to protect the public, to protect public safety, protect public health, and to provide the liquor industry with an orderly marketplace. I say this because the public deserves diligent enforcement of liquor laws and to be protected from the ill effects of alcohol abuse, including drunk driving, assaults, domestic violence, and the health problems that alcohol abuse can result...result from. On the other hand, the liquor industry, which includes brewers, distillers, wholesalers, distributors, bars, restaurants, retailers, their employees, and the consumers also deserve fair and consistent enforcement of liquor laws. Now, the Liquor Control Adjudication Board is only one part of the whole, you know, regulatory scheme, but they perform...they only do one thing. The Adjudication Board only does one thing. They hear and adjudicate complaints brought by the Director of Liquor against the liquor licensees for violating State and County liquor laws. So, the function of this board is to hear and adjudicate complaints, and by doing so, you know, I guess it's...it's my hope that what we have is...is a healthy industry that also...that does not adversely affect public health or public safety. If my appointment is approved, I can promise you that I will be diligent, I'll be fair, impartial, and like my dad told me when I was growing up, half the battle in anything is showing up. That's right. So, I don't want...I don't want to take up too much of your time, but I'll be glad to answer any questions you folks may have.

CHAIR U'U-HODGINS: Mahalo, Mr. Murai. Before we go into discussion, I'd like to do a last call for testimony for GREAT-2-7...2(7).

MS. LILLIS: Chair, no one has signed up to testify. If anyone would like to testify in the Council Chamber or on BlueJeans, please let us know now. I will do a brief countdown. Three...two...one. Chair, there has been no response.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection, I would now like to close oral testimony.

COUNCILMEMBERS: No objections.

**. . .END OF PUBLIC TESTIMONY FOR GREAT-2(7). . .**

CHAIR U'U-HODGINS: Thank you. As a reminder, written testimony will continue to be accepted into the record. Again, Members, I'd ask if we could stick to a three-minute questioning period with a one-minute follow-up round. Who would like to begin discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good afternoon, Mr. Murai. Good to see. I hope retirement life --

MR. MURAI: Thank you.

COUNCILMEMBER JOHNSON: -- is treating you well.

MR. MURAI: It is. Thank you.

COUNCILMEMBER JOHNSON: Great. So, you know, often we have people come before boards and commissions who have very limited experience working with the County, working with Robert's Rules. You were a Corporation Counsel for many years. Can you speak on that, is...is the tools you bring into coming into this commission?

MR. MURAI: Well, for almost 11 years I was assigned to advise...you know, I guess when you're around long enough, you eventually get to advise just about every board and commission in the County. And I was thinking about it, and I think I've...at one time or another I've advised just about every board and commission in Maui that there is. And as you say, people come to us with various levels of skill and background, and I do know that the Staff does a good job of trying to bring people up to speed by various trainings, orientations in things like Robert's Rules of Order, the...you know, the Sunshine Law and...and things like that. You know, even how...you know, how ordinances are passed, how administrative rules are made. So, I know there's always a danger when you have...when you have a former lawyer on a board or commission that...you know, that they may, you know, dominate the conversation, and I don't want to be that...I don't want to be that guy. I do hope that I can bring in a...you know, in a gentle and a professional way...you know, if my colleagues...well, first of all, the first person who would, you know, guide the board or commission is the assigned Deputy

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

Corp. Counsel, but you know, the members are...also should have some level of skill themselves. I...I...if people ask my advice I'll be glad to give it to them, but I'm...I'm not...I'll try not to be the guy who gives the unsolicited advice.

COUNCILMEMBER JOHNSON: Thank you, Mr. Murai, for your answer. I appreciate that. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Member Johnson. Member Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Always good to see a fellow Viking serving Maui County. I just was wondering, it says this is reappointment. Was this your first choice?

MR. MURAI: It was. You know, in fact, it was my only choice. I...I...and I'm not sure why it says reappointment.

VICE-CHAIR PALTIN: Oh, it's not reappointment.

MR. MURAI: I...this is...I've never been on a County board or commission before. You know, I was wondering what...why it said reappointment, and the only thing I could figure was maybe, you know, the...yeah, I don't know why.

VICE-CHAIR PALTIN: Okay. I think with your opening comments, that's all my questions have been answered. Thank you so much.

MR. MURAI: You're welcome.

CHAIR U'U-HODGINS: Thank you, Member Paltin. Member Cook?

COUNCILMEMBER COOK: I find you refreshingly qualified and articulate, and I think the board will really enjoy working with you.

MR. MURAI: Appreciate it. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Cook. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Murai.

MR. MURAI: Good...good afternoon. Always good to see you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Good afternoon. Good to see you, it's been too long. I know you're super busy with retirement, so my first question is, do you see any issues with attendance?



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MR. MURAI: You know, the Adjudication Board, I think they normally meet on Thursday mornings, I think they meet on the first Thursday of the month. I just live up the road. I...I don't have any excuses not to show up, so, no worry, I'll do my best to attend.

COUNCILMEMBER LEE: Is it golfing?

MR. MURAI: No, it's not. I have plenty bad habits, but golf is not one of them.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that response, Mr. Murai. Let's see, okay, I don't need to ask you the second question because we know you're very experienced. And then I guess the last question, do you have anything additional that you would like to share with us regarding how you foresee yourself contributing to this board?

MR. MURAI: Well, number one is being there because I know that sometimes boards have a hard time doing business because they lack a quorum. And so, you know, I cannot stress the importance of my commitment of showing up. I do plan on being an active member. I do plan on...you know, again, you know, because this board has only one major function, I think bringing an open mind, you know, bringing...trying my best to be fair and impartial, to hear both sides of the story is...you know, and reaching the right result, good for the public, and good for the industry because the industry needs to be able to rely on fair and consistent application of the rules, so...

COUNCILMEMBER RAWLINS-FERNANDEZ: Perfect response.

MR. MURAI: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: We're happy to have you back onboard.

MR. MURAI: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll be supporting your nomination. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Rawlins-Fernandez. Any further discussion? Okay. Seeing none. I would like to entertain a motion to recommend the adoption of Resolution 23-93.

COUNCILMEMBER KAMA: So moved.

COUNCILMEMBER SUGIMURA: Second.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

COUNCILMEMBER SINENCI: Second.

CHAIR U‘U-HODGINS: Okay. So, we got a tag-team motion. I’ll go with...I’ll go with motion made by Councilmember Kama, and seconded by Councilmember Sugimura. Unless there’s any further discussion, at this time I’d like to entertain a motion to recommend Gary Murai’s name, without reappointment, be placed on Exhibit “B” for approval.

COUNCILMEMBER KAMA: So moved.

CHAIR U‘U-HODGINS: Thank you. Motion made by Councilmember Kama, and second by Councilmember Sugimura. Do we have any further discussion? Seeing none.

VICE-CHAIR PALTIN: Oh, I think Member Rawlins-Fernandez had a...

CHAIR U‘U-HODGINS: Oh, hi. Sorry. Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Mahalo. Should we also like strike the reappointment off of the Exhibit “A?”

MS. APO TAKAYAMA: Chair, yes, you can include that in your motion if that’s okay.

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Clean.

CHAIR U‘U-HODGINS: Can we have a motion to strike the reappointment language from the resolution?

COUNCILMEMBER KAMA: So, we can include that in the motion.

CHAIR U‘U-HODGINS: Okay. Thank you. So, we have a motion on the floor made by Councilmember Kama to move Mr. Murai’s name to Exhibit “B” and also remove the reappointment language, and seconded by Councilmember Sugimura. Thank you. Any further discussion? Okay. Seeing none. All those in favor, please raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

CHAIR U‘U-HODGINS: All those in favor [sic] please raise your hand and say “no.”

MS. APO TAKAYAMA: Chair, that’s nine “ayes,” zero “noes.” The motion carries.

# Council of the County of Maui

**March 21, 2023**

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

**NOES:**    **None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: MOVE GARY YOSHIO MURAI TO EXHIBIT "B" OF THE  
RESOLUTION AND REMOVE THE WORD  
"REAPPOINTMENT."**

MS. APO TAKAYAMA: And now you're back to the main motion as amended.

CHAIR U'U-HODGINS: Thank you. And like we have to do all the time, hana hou that vote please.

COUNCILMEMBER KAMA: Hana hou.

CHAIR U‘U-HODGINS: All those in favor?

COUNCILMEMBERS: Aye.

CHAIR U‘U-HODGINS: Thank you.

MS. APO TAKAYAMA: Chair, that's nine "ayes," zero "noes." The motion carries.

## Council of the County of Maui

**March 21, 2023**

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

**NOES:   None.**

**ABSTAIN:     None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTION 23-93, CD1, TO APPROVE GARY YOSHIO MURAI TO THE LIQUOR CONTROL ADJUDICATION BOARD.**

CHAIR U'U-HODGINS: Thank you very much. Congratulations --

MR. MURAI: Thank you, everybody.

CHAIR U'U-HODGINS: -- Mr. Murai. Okay. Thank you, Members. This item will now move on to Council's full consideration.

**GREAT-2(10) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(RESOLUTION 23-101, LIQUOR CONTROL ADJUDICATION BOARD)**

CHAIR U’U-HODGINS: Okay. Moving on. We have before us Resolution 23-101 entitled “RELATING TO THE APPOINTMENT OF DUSTIN HAROLD PŌMAIKA‘ILANI KALEIOPU TO THE LIQUOR CONTROL ADJUDICATION BOARD FOR THE COUNTY OF MAUI.” Resolution 23-101’s purpose is to approve or disapprove the Mayor’s nomination of Mr. Kaleiupu to the Liquor Control Adjudication Board for a term expiring March 31, 2025, to fill a vacancy replacing Shane Dudoit. The 60-day deadline for the Council to approve or disapprove the nomination is April 30, 2023. A copy of the board listing has been uploaded to Granicus. The GREAT Committee received four requests from Committee Vice-Chair Paltin and Members Johnson, Rawlins-Fernandez, and Sinenci to invite the nominee. At this time I’d like to request opening comments from the Mayor’s representative Ms. Vicens.

MS. VICENS: Thank you, Chair and Councilmembers. You have before you the Mayor's

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

nominee, Mr. Dustin Harold Kaleiupu. He does go by Dustin. We felt that he satisfied the consideration for this nomination. When we originally reviewed Mr. Kaleiupu's resume...or application, he...it was filed in 2022, early 2022. Since then he has had a change in job. He was originally with MEO. His updated application has been provided to the Committee...the GREAT Committee, and if you do need a copy of that, I do have a hard copy we can share with the Members as well. So, as I said, he was with the Maui Economic Opportunity, and he worked with underage drinking prevention program as coordinator. Today, he is with...he had notified Ipo...former Community Liaison Ipo Mossman of his change in work status late last year. He is with the Westin Nanea Ocean Villa. He is a food and beverage server...supervisor, and he is a Lāhainā resident, and will fulfill that district that...that we don't have on this board at this time. He volunteers and provides guidance to youth regarding drinking and drugs. We think that he brings a...a fresh perspective as someone who is in the industry and working with youth in our community. The Mayor is...was very happy to put forth this appointee, and hopefully next member of the Liquor Control and [sic] Adjudication Board, and hopes for your consideration. He...I understand that he is online and would be available to any questions the body has. Chair.

CHAIR U'U-HODGINS: Thank you, Ms. Vicens. At this time I would like to ask the nominee, Mr. Kaleiupu, for any opening comments he might want to share with us. Aloha.

MR. KALEIOPU: Aloha, Members. Can everyone hear me okay?

CHAIR U'U-HODGINS: Yeah.

MR. KALEIOPU: All right. I do want to apologize in advance for any background noise. I am in my office right now, and it's a shared workspace, so I'd like to apologize. Thank you for having me here before you today. Like Ms. Vicens said, I've previously worked with MEO's Youth Services Department as a Program Coordinator for the Underage Drinking Prevention Program, as well as youth suicide prevention, and bullying prevention. I was interested in applying for the board because of...actually, well, my boss kind of wanted me to do it, and he suggested that I apply for a board (*audio interference*) initially it was going to be the Commission on Youth, but I found this and it was the first response that I got, and after reading through meeting minutes and getting to see exactly what role the board does play, I found that it was a really interesting and valuable board to be a part of.

CHAIR U'U-HODGINS: Mahalo, Mr. Kaleiupu. Again, before we move into discussion, I'd like to do a last call of testimony for GREAT-2(10). Staff?

MS. LILLIS: Chair, no one has signed up to testify. If anyone would like to testify, please

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

let us know now. We'll do a brief countdown. Three...

MR. NAKOA: I stay. Hui, I like talk. I like talk.

MS. LILLIS: All right. Great. Please begin your three minutes of public testimony.

MR. NAKOA: Yassah. Sorry, I went miss the Kaleiupu [sic] one too, I was busy in another meeting. But I support this nomination of Dustin. Buggah is one good smart buggah. You know what I mean? He not dumb like me. But he get...you know, he get the passion for take care of our community. I've seen this buggah in work, so I mean, proud that the buggah stay doing 'em. I stoked that he stay getting involved, brah. So proud of you, Dust. I support you. Shoots. You guys have a great day. Yassah.

MS. LILLIS: Could you please identify yourself for the record?

MR. NAKOA: Junya Nakoa.

MS. LILLIS: Thank you.

MR. NAKOA: Shoot.

CHAIR U'U-HODGINS: Mahalo, Mr. Nakoa. We always appreciate your comments, but remember our decorum. We don't call anybody names, including ourselves, so please don't call yourself any names. Okay. Thank you.

MR. NAKOA: Okay.

CHAIR U'U-HODGINS: Okay. Mahalo. All right. Staff, do we have anybody wishing to testify?

MS. LILLIS: Chair, no one else has signed up to testify. I will do again a brief countdown for a last call to give us public testimony. Three...two...one. Chair, no one has indicated that they wish to testify.

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection, I will now close oral testimony.

COUNCILMEMBERS: No objections.

**...END OF PUBLIC TESTIMONY FOR GREAT-2(10)...**

CHAIR U'U-HODGINS: Thank you, thank you. As a reminder, written testimony will be continued to be accepted into the record. Again, Members, let's please implement

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

a three-minute question period with a one-minute follow up. Who would like to begin the discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Aloha, Mr. Kaleiupu. Thank you for your willingness to serve. I appreciate you. I was going through your application form, and I...obviously I can tell you have a great passion for serving your community and helping out youth and children, and now you're on this board. So, this board is...you know, it's...has a heavy...it's a heavy topic, right? So, can you speak on your past experiences with working with kids and, you know, tying that in with, you know, the Liquor Control Education...Adjudication Board, and that way the...the...some of your experience working with kids and, you know, partner...or Coalition for Drug Free Youth, how does that affecting...how has that influenced you in your...in choosing this, and what...what are you think you're going to...how is that going to play out when you're actually sitting on the board? Thank you, Chair.

MR. KALEIOPU: Thank you, Member Johnson. Most of the work that I did with MEO and with the Coalition for Drug Free Youth was to find ways to prevent youth from being served alcohol, prevent youth from having the ability to purchase alcohol, and finding ways that we could support the community and members of the community who are selling liquor to strengthen their policies and procedures within their establishments, and also helping them to abide by the rules set forth by the County. So, it's just influenced me to have a more serious mind at...looking at how much alcohol can affect youth when rules are being violated.

COUNCILMEMBER JOHNSON: Yeah, I appreciate that. A very heavy topic. Thank you, Chair. No further questions.

CHAIR U'U-HODGINS: Thank you, Member Johnson. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. And mahalo, Mr. Kaleiupu, for your willingness to serve. I just wanted to ask you a question. You know, we've had some legislation at the State level where they're looking to reduce alcohol as far as, you know, when they're...they're looking...when they're stopping people. Would you support bringing down that blood alcohol level?

MR. KALEIOPU: Thank you, Member Sinenci. I think that's something I don't have enough familiarity with speaking on right now, but I do understand that the current blood alcohol (*audio interference*) that the police use that people can be very intoxicated, and it might be something helpful.

COUNCILMEMBER SINENCI: Thank you for your response. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Member Sinenci. Member Paltin?

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Kaleiopu, for your willingness to serve. I'm pretty much in support, I just had one question. If the Westin Nanea Ocean Villas had come before the Liquor Control Adjudication Board while you were still in your role, would you recuse yourself from that complaint?

MR. KALEIOPU: Thank you, Member Paltin. Yeah, that's something I've had to think about, and I think it would be important for me to recuse myself just to have an unbiased stance there for that matter.

VICE-CHAIR PALTIN: Thank you. That was my only question, and I'll be supporting the nomination.

CHAIR U'U-HODGINS: Mahalo, Member Paltin. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Kaleiopu. Mahalo for your willingness to serve on this board. So, I'm not sure if you were on, but I...I ask all the nominees at least three basic questions, the first is regarding attendance. Do you foresee any problems with attending the...the board meetings? I believe they're the first Thursday morning. I don't know, Mr. Murai said when it is.

MR. KALEIOPU: Yeah. The first Thursday mornings, 9:00 a.m., I don't see any restrictions with my schedule.

COUNCILMEMBER RAWLINS-FERNANDEZ: Awesome. Because quorum is important. Second, have you ever attended any of the meetings, or reviewed the meeting minutes, or anything like that?

MR. KALEIOPU: Yeah, I have not attended any of the meetings, but I did take the time to review, I think, the last four months of minutes just to familiarize myself with the process.

COUNCILMEMBER RAWLINS-FERNANDEZ: Good job. And then last question, I know you kind of spoke to it already, but if you wanted to add anything further regarding how you envision contributing to the board?

MR. KALEIOPU: Yeah, just having a background not only working with the community and nonprofits with youth specifically in alcohol, but also being an employee at an alcohol-serving establishment, I think it's a good way to have both sides and, you know, be able to see it from both ends there. I was reading through the minutes, and I got to read about the case that involved someone in Lāhainā at Lāhainā Sports Bar, which is two blocks from my house, and that involved someone that did lose their life to a drunk driving incident. So, I, you know, want



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

to be passionate in my capacity to serve, but also unbiased and (*audio interference*) as much as possible.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Kaleiupu.

MR. KALEIOPU: Mahalo.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U‘U-HODGINS: Mahalo, Member Rawlins-Fernandez. Member Sinenci?

COUNCILMEMBER SINENCI: Chair, just a question...clarifying questions for Ms. Vicens. It looks like there are two vacancies, and then two outgoing members. Would both Mr. Murai and Mr. Kaleiupu be filling the vacancies?

MS. VICENS: Thank you, Councilmember. You are correct, on this board we had two vacancies that were due to terming. Mr. Murai would fulfill the original nominee, Mr. Mossman. Mr. Kim was approved by this body on March 10th. Mr. Kaleiupu would fill the vacant spot five. It didn't have a district designee, but I saw that there was a puka for Lāhainā and to...I've heard that this body, it's important to all of you to have all representation. So, Lāhainā is an area where we have a lot of tourism, a lot of youth, so we considered it in our vetting process. The other vacancy is one that is for the Council to fill by April 15th.

COUNCILMEMBER SINENCI: Okay. Great.

MS. VICENS: So, that would leave this board with just one hole should this nominee be approved. Thank you.

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

CHAIR U‘U-HODGINS: Thank you, Member Sinenci. Do we have any further questions? Bless you. Or discussions? No. Seeing none. Okay. I would like to entertain a motion to recommend the adoption of Resolution 23-101.

COUNCILMEMBER SUGIMURA: So move.

COUNCILMEMBER KAMA: Second.

CHAIR U‘U-HODGINS: Thank you. Motion made by Councilmember Sugimura, and seconded by Councilmember Kama. Do we need any further discussion? Seeing none. Excuse me. Seeing no further discussion. All those in favor, please raise your hand and say "aye."

**March 21, 2023**

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

**GREAT-2(11) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS  
(RESOLUTION 23-102, AFFIRMATIVE ACTION ADVISORY  
COUNCIL)**

CHAIR U’U-HODGINS: Okay. Moving on. Before...we have before us Resolution 23-102, entitled “RELATING TO THE APPOINTMENT OF BRIAN ANTHONY BILBERRY TO THE AFFIRMATIVE ACTION ADVISORY COUNCIL FOR THE COUNTY OF MAUI.” Resolution 23-102’s purpose is to approve or disapprove the Mayor’s nomination of Brian Anthony Bilberry to the Affirmative Action Advisory Council for a term expiring March 31, 2025, to fill a vacancy replacing Ipo Mossman. The 60-day deadline for the Council to approve or disapprove the nomination is April 30th, 2023. A copy of the board listing has been uploaded to Granicus. The GREAT Committee received four requests from Committee Vice-Chair Paltin, Members Johnson, Rawlins-Fernandez, and Sinenci to invite the nominee. At this time we’re going to now request opening statements from the Mayor’s representative Ms. Cory Vicens.

MS. VICENS: Thank you, Chair. Aloha, Councilmembers. This nominee that the Mayor has brought forth, Mr. Brian Bilberry, is fulling a County of Maui...there’s three on this council, and this is one of those three positions. He has nine years as a Deputy with the Corporation Counsel in the Litigation Division. He is aware that there is an annual report, and had some thoughts on that when we spoke on it. He would like to have more of a direct and positive involvement in the community, which was his...you know, his reason and motivation for coming forward. Actually, Mr. Bilberry responded to very early in January when the boards and commission queried our County employees if anybody was interested in being on a board, and Mr. Bilberry stepped up, and so, we were happy to see that. He volunteers weekly with the Maui Self Help Center. It’s a service of the courthouse. He provides assistance to members of our community who are seeking legal help. Mayor Bissen felt Mr. Bilberry was an excellent match for the Affirmative Action Advisory Commission [sic] and hopes you agree with him. Mr. Bilberry is here, and you can have him have any of your questions answered. Thank you.

CHAIR U’U-HODGINS: Mahalo, Ms. Vicens. Mr. Bilberry, if you would like to have any opening comments. Thank you.

MR. BILBERRY: Thank you, Chair. And good afternoon, Members. I do have some opening comments. And...well, actually first I wanted to say I don’t think I’ve been up here since I can remember. And so, you’ve got me for three items today, so my hope is, is that you don’t get tired of me before the afternoon is over. But I did view this as an opportunity to engage in public service beyond my current role as Deputy Corporation Counsel. I did...as Ms. Vicens mentioned, learn that the current Administration was looking to fill this vacancy. Part of my motivation is the perception and observation in my view of what is a high level of competence,

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

caliber, and commitment of the current Administration to public service. And I think that the...that that was somewhat reflected in this body's virtually unanimous approval of all of its...all of the Mayor's department heads and nominees for the departments. My understanding of the responsibilities and duties of the Affirmative Action Committee [sic] are essentially that it primarily consults with the Administration.

*. . . (Staff adjusts microphone closer to speaker's mouth). . .*

MR. BILBERRY: Oh, I try not to be too loud. But that it primarily consults with the Administration regarding Maui County's equal...or equal employment opportunity policies and program, and that, as Cory mentioned, annually the Council reviews the Administration's annual report to the Federal Government. And as I understand it, and also anticipate, the Council promotes diversity, anti-discrimination, anti-harassment, anti-retaliation, and safeguards protected activity in the workplace, and that would include people who report discrimination or report harassment, report the equal employment opportunity process that people engage in, and whistleblowing. And then I also believe it includes pay parity and...and that is a consideration of the Council. On a more legal note, the discrimination and employment policies are required to comply with the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex, and national origin, and the Rehabilitation Act of 1973, which permit...prohibits discrimination against people with disabilities in a Federal capacity, Federal employment. And then in 1990, the...is one you've probably heard of, the American with Disabilities Act, which prohibits discrimination even outside of the Federal context. And then there's Chapter 6...or 363, which is the Hawai'i Civil Rights Commission...which established the Hawai'i Civil Rights Commission, and Chapter 378, which just...is...deals with employment practices in Hawai'i. As far as qualifications go, I have a law degree. I think that might mean something. I have worked with Maui County's Department of Corporation Counsel coming up on nine years now, and that includes handling and assisting with employment-related cases involving retaliation and discrimination, a couple of which have involved department directors administrations ago. And in closing, I would just point out I am a pretty passionate and compassionate person despite what many perceive as maybe a stoic demeanor. And I certainly believe in the civil rights of all individuals with physical...well, all individuals of all physical abilities, all sexual orientations, all national origins, all religions, all genders, and all races. And I'm prepared to take any questions.

CHAIR U'U-HODGINS: Thank you very much for that opening statement. Before we get into discussion, I would like to double check and see if we have any testifiers waiting to testify on this item GREAT-2(11).

MS. LILLIS: Chair, no one has signed up to testify. I will do a brief last call. If you

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

would like to testify, please let us know now. Three...two...one.

CHAIR U'U-HODGINS: Members, seeing there are no individuals wishing to testify, without objection, I will now close oral testimony.

COUNCILMEMBERS: No objections.

**. . .END OF PUBLIC TESTIMONY FOR GREAT-2(11). . .**

CHAIR U'U-HODGINS: Thank you very much. As a reminder, written testimony will continue to be accepted into the record. Again, Members, let's...I mean I don't know if I need to say it because everybody's been so timely, but three minutes, one-minute follow up. Thank you very much. Who would like to start discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Mr. Bilberry. Good to see you on that side. It's...I know you say...you say it's...you haven't done it in a while, but I'm happy to have you. So, I...I have a little...I'll tell you a little of my personal experience, and then I have a question. So, when I was growing up as a kid, mixed-race kid in the...in the inner city schools in Cleveland, Ohio, we got bussed, and the reason why we got bussed, because I'm mixed race, I click all the boxes, they could put me in all the different school districts to meet a minority quota, right. So, that was a real clanky, hard on parents, hard on communities at that time for affirmative action. And now, 2023, has...has the laws been updated, has...has...has it been not...has...has it changed since...since those days of this...what...have we learned anything in all these years of trying to do affirmative action is where I'm going.

MR. BILBERRY: Yeah, that's a weighted question. I don't think bussing still happens. As far as have we learned anything, I guess the Supreme Court is going to let us know real soon, and I'll...I'll be happy to revisit your question after they make some rulings on some cases they're now considering involving affirmative action programs in universities.

COUNCILMEMBER JOHNSON: Right.

MR. BILBERRY: Yeah, I...

COUNCILMEMBER JOHNSON: Okay.

MR. BILBERRY: It's...it's...it's a pretty loaded question, I mean apart from...

COUNCILMEMBER JOHNSON: Okay. So --

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MR. BILBERRY: Yeah.

COUNCILMEMBER JOHNSON: -- can I add...can I...I still have three minutes, so I have a follow up.

MR. BILBERRY: Sure, sure, yeah.

COUNCILMEMBER JOHNSON: I'll pivot a bit. You...you mentioned the annual reports, and you...and it seems to me that you had a conversation with the Administration on the annual reports. And can you expand on that, what that was, what you feel...

MR. BILBERRY: Yeah. Yeah, you know, I actually looked for one. I...I went to a number of different resources, and I couldn't find one, but from what I've been able to...to read, it involves mainly statistics on employment, who's employed. I'm also imagining the claims, any claims that have been made, and it's a compliance document from what I gather. Probably fairly comprehensive.

COUNCILMEMBER JOHNSON: Okay. Thank you so much.

MR. BILBERRY: Yeah, thank you.

COUNCILMEMBER JOHNSON: Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Member Johnson. Any further questions, comments? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Bilberry. Mahalo for your willingness to serve on this council. Okay. So, my three questions. Do you anticipate any problems with attendance?

MR. BILBERRY: I do not.

COUNCILMEMBER RAWLINS-FERNANDEZ: I know you're...you're in litigation, sometimes there's scheduled. So, are...I'm not sure if there's like a regular monthly meeting, or if it's...

MR. BILBERRY: Yes, from what I understand it's one annually. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, do you...are you going to have problem with the one? No, I'm just kidding.

MR. BILBERRY: I don't think so. I could always find somebody to fill in if there's a

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

litigation matter that needs to be covered.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Have you ever attended any one of them or reviewed?

MR. BILBERRY: You know, I have not. I have attended other boards and...well, in my capacity as Corporation...Deputy Corporation Counsel, I've attended other commission and board meetings.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I'm looking at the last agenda for...and that was posted on February 14th, 2019. The...the latest agenda, February 14th, 2020...

MR. BILBERRY: Yeah, I believe there is a more recent one. I actually found the one you're looking at --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. BILBERRY: -- and I found one that was 2020. It may have been February, 2020.

COUNCILMEMBER RAWLINS-FERNANDEZ: I clicked on that one and it...it opened the 2019 one. So, it looks like maybe it needs to be updated, the website. I think it looks like it falls under Department of Management, so we can talk to Department of Management about updating that. And it looks like there's...they do like surveys from the...the --

MR. BILBERRY: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- with, you know, with the employees in --

MR. BILBERRY: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- the different departments to receive --

MR. BILBERRY: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- feedback to make any kind of determination or...do you...I don't know. I guess if you haven't participated before, I'm not super familiar with what they do either, so I'm just checking it out to see. I didn't realize they only meet once a year, and I guess that's...so how do you envision contributing to what they do? Would you add anything new?

MR. BILBERRY: Well, I think having a legal background might be useful, and that's against the backdrop of the various Federal statutes I listed off for you here a

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

moment ago in terms of compliance. But I don't want to presume to think that a...that a lawyer is necessary, but --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. BILBERRY: -- I don't think it'll hurt either.

COUNCILMEMBER RAWLINS-FERNANDEZ: You know, one of the bargaining units, Bargaining Unit 3 --

MR. BILBERRY: Oh, bargain, yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- you know, you talked about, you know, there shouldn't be any discrimination based on race, religion, country of origin, sex, and so I don't know if you would like look...there...there seems to be a correlation on Bargaining Unit 3 . . . *(timer sounds)* . . . primarily being female. So, if...if that's something that this Council could investigate to see if that correlation means anything to their lack of raises, that would be great.

MR. BILBERRY: I'm sorry, is there a question there or...

COUNCILMEMBER RAWLINS-FERNANDEZ: No, no question. I guess would you do it?

MR. BILBERRY: Would I do...

COUNCILMEMBER RAWLINS-FERNANDEZ: If it's appropriate. I don't even know if it is.

MR. BILBERRY: Oh, absolutely. Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Great.

MR. BILBERRY: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: That was the question. Thank you so much, Mr. Bilberry.

MR. BILBERRY: Thank you, Councilmember.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Rawlins-Fernandez. Any further...Member Paltin?



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Bilberry, for your willingness to serve. I just was...wanted to...in your opening statements, you mentioned about the harassment and violence in the workplace policy. Is that something that is also within the annual report?

MR. BILBERRY: You know, I don't know, but I would presume that if there are claims, there may be, but I also know that those might be confidential, certain investigations might be confidential.

VICE-CHAIR PALTIN: Or I mean the policy. I think it...the policy we're working off of is from 2015, and I had heard the Administration was looking into updating it. And is that something that would be under the purview of you folks as Affirmative Action Council?

MR. BILBERRY: That's a good question. I don't know the answer to that. I have also heard that they were looking to update that policy. I can certainly make an inquiry if...as to whether that is something that would come within the purview of this particular council.

VICE-CHAIR PALTIN: That would be awesome. And...and if you could see if who...who would enforce the policy on the council, that would be great as well.

MR. BILBERRY: You mean the Affirmative Action Advisory Council?

VICE-CHAIR PALTIN: Who would enforce the violence in the workplace policy on the council?

MR. BILBERRY: Yeah, I believe that would come under...that may come under DPS.

VICE-CHAIR PALTIN: Okay. And then the other question I had, was this your first choice of boards and commissions to serve on?

MR. BILBERRY: It was in response to communications that there was an opening on this board that...that got my interest. Yeah. And then there were others I listed that I saw also would typically have a County employee as a member, and I listed them just out of interest.

VICE-CHAIR PALTIN: Okay. I think that satisfies all my questions. I'm supportive. Thank you.

MR. BILBERRY: Thank you.

CHAIR U'U-HODGINS: Mahalo, Member Paltin. Member Sinenci, followed by Member Rawlins-Fernandez.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

COUNCILMEMBER SINENCI: Oh, thank you. Just a question for Ms. Vicens. It looks like the Mayor did add additional, it looks like right now. Do we have quorum on this council?

MS. VICENS: Thank you, Councilmember Sinenci. With the approval of Mr. Bilberry it would. If I may, Councilmember Rawlins-Fernandez, you had some questions as well as Councilmember Paltin. Your question regarding the meeting and report. The data is aggregated by the Department of Personnel Services, put together and brought forth to the advisory council for them to review and make any recommendations. At that annual meeting, that is when they would take any public testimony on it as well. I think I was as surprised as you on this board only meeting one time annually. So, whether there is...especially for a...that...what they report on goes to the State level, what's happening in the County of Maui, which brings me to Councilmember Paltin, your questions about, you know, whether there is the Administration updating policy. And this would seem the body that could, so I will take your thoughts back to the Department of Management and Mayor. You know, that maybe there's some opportunity here to expand this Council's role and purview of what we're doing. So, thank you. I hope that answers your question, Councilmember Sinenci, as well.

COUNCILMEMBER SINENCI: Yeah, did the Mayor do...does the Council put forth a nominee on this one as well?

MS. VICENS: The Council does not. This will fill...this particular council only has seven members. This was a vacancy that was with the resignation of Ipo Mossman at the end of December, and Mr. Bilberry did step up. I...I did, in speaking with him, told him that if it was only one meeting a year that maybe there was an opportunity if he would like to, you know, put his hand into another board or commission, and so, he's going to see how this goes for him, and we'll...we'll go from there. He is a busy litigator for our Department of Corporation Counsel. Thank you.

COUNCILMEMBER SINENCI: Okay. Mahalo.

MS. VICENS: Chair, thank you.

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR U'U-HODGINS: Thank you. Member Rawlins-Fernandez, did you have any further questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. A question for Ms. Vicens...and mahalo for answering those earlier questions.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MS. VICENS: You're welcome.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, do you know when the next meeting will...or are...are...were...was the Administration waiting to get quorum before scheduling the annual meeting?

MS. VICENS: So, that's a really great question, thank you. I don't have an answer for you...that. However, I...it...my curiosity has been piqued. This does fall under the boards and commissions that is administered by the Mayor, so I think a little bit more research and talking with the chair, we'll have to determine that as well.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Vicens. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Paltin. Member Kama, did you have some comments?

COUNCILMEMBER KAMA: I...I had a question for Ms. Vicens. So, if I look on the website proper, it says that many of them are...have already either termed out or will term out at the end of this month. And you're only going to have one person, aside from Mr. Bilberry, for '24...until '24, and then he's going to go until '28; is that correct?

MS. VICENS: So, Madam...thank you, Councilmember Kama. You are correct, this body did approve three members of the community to serve on this council. So, we will still be able to have quorum. It's a good opportunity, with four new individuals coming to a seven-member body, to maybe take a revisit what their responsibilities and roles can be to our community. So, I will take this information back, and we'll do a little bit further research on how this can be...this body can be more effective in our community, and for our employees as well. Thank you.

COUNCILMEMBER KAMA: Thank you.

MR. BILBERRY: I like the sound of that.

CHAIR U'U-HODGINS: Thank you, Member Kama. Any further discussion? Member Sugimura, followed by Member Johnson.

COUNCILMEMBER SUGIMURA: Thank you. I really want to comment that I'm grateful to see you volunteer. I've always respected you when you come to the Chambers in your job with Corporation Counsel. To me, it says a lot that caliber like yourself, as well as Gary Murai, are coming forward, and I appreciate that because you can contribute a lot. And I know finding time is probably the hardest

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

thing with your busy schedule. But I...I just wanted to say I fully support you, and thank you very much.

MR. BILBERRY: Thank you, Councilmember. Thank you.

CHAIR U‘U-HODGINS: Thank you, Member Sugimura. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. This question...a quick question for the...the Department’s...Ralph Thomas is no longer with us, who is the Director of Public...Personnel? I’m sorry, I made the mistake. Yeah, Risk Management, or Ralph Thomas, he left right? So, who is the director for that?

MS. VICENS: So, I think what you are trying to ascertain is who is the representative for the EEOC within the County. I’m sorry, Councilmember Johnson, I don’t have that information. We can provide that at...

COUNCILMEMBER JOHNSON: Sure. Sorry. Thank you so much. Thank you, Chair.

CHAIR U‘U-HODGINS: Thank you, Member Johnson. Member Paltin?

VICE-CHAIR PALTIN: And just going off of Member Johnson’s question. Mr. Thomas used to go over those information with us like annually so we’re not harassing each other and whatnot. It might be time for a refresher. Thanks.

CHAIR U‘U-HODGINS: Thank you, Member Paltin. Do we have any further discussion or comments before we move on? Okay. Thank you. At this time I would like to entertain a motion to recommend the adoption of Resolution 23-102.

COUNCILMEMBER SINENCI: So moved.

COUNCILMEMBER KAMA: Second.

COUNCILMEMBER SUGIMURA: Second.

CHAIR U‘U-HODGINS: Thank you. Motion made by Councilmember Sinenci and seconded by Councilmember Kama. Is there any further discussion? Huh? Okay. Great. Seeing none. All those in favor, please raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

MS. APO TAKAYAMA: Chair, that’s nine “ayes,” zero “noes.” The motion carries.

## Council of the County of Maui

**March 21, 2023**

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

**NOES:   None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTION 23-102, TO APPROVE BRIAN ANTHONY BILBERRY TO THE LIQUOR CONTROL ADJUDICATION BOARD.**

CHAIR UU-HODGINS: Thank you. Congratulations, Mr. Bilberry. And thank you so much for being with us (*audio interference*).

MR. BILBERRY: Thank you, Chair. Thank you, Members.

CHAIR U'U-HODGINS: Thank you. Okay. Before we continue, I'd like to take a short ten-minute recess before we continue on to our litigation. So, at this time I'd like to take a ten-minute recess to reconvene at 3:05. Is somebody saying Chair or am I hallucinating? Okay. Okay. Okay. We'll be in a recess for the next ten minutes, to return at 3:05. The GREAT Committee is now in recess. Thank you. . . .*(gavel)*. . .

**RECESS: 2:55 p.m.**

**RECONVENE: 3:13 p.m.**

CHAIR U'U-HODGINS: . . . *(gavel)*. . . Aloha, GREAT gang. It is 3:13. Will the GREAT Committee please reconvene. If it's okay with you guys, considering we have a very lengthy agenda, and we also have the State of the County at 5:00, thank you, if we could take up the last four items, if we could kind of rearrange the agenda, take up the last four items, take testimony, do our opening remarks and save deliberations and discussion for the end, and hopefully we can kind of group those four together. If there's no objections, is that okay with everybody?

COUNCILMEMBERS: No objections.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Okay. Thank you. So, we’re going to call up items GREAT-11(4), GREAT-11(12), GREAT-11(3) [sic], and GREAT-11(5) [sic], proceeding...and then proceed later with the rest of the items. The resolution for these litigation matters have the settlement amounts listed on the resolutions, and do not need executive session. Again, if it’s okay with everybody, I’d like to group those together.

MR. MITCHELL: Excuse me, Chair. Could you repeat the resolution numbers again just so we’re clear on which ones?

CHAIR U‘U-HODGINS: Absolutely. GREAT-11-...GREAT-11(4), GREAT-11(12), GREAT-11(13), and GREAT-11(15). Thank you. Okay. So, thank you, Members.

**GREAT-11(4) LITIGATION MATTERS (RESOLUTION 23-33, RELATING TO  
SETTLEMENT AUTHORIZATION: RHONDA HAMASAKI; CLAIM  
4077629) (PROPERTY DAMAGE)**

CHAIR U‘U-HODGINS: We have before us Resolution 23-33, entitled “AUTHORIZING SETTLEMENT OF CLAIM NO. 4077629 OF RHONDA HAMASAKI.” Resolution 23-33’s purpose is to authorize the settlement amount of the claim filed on June 29th, 2022, in the amount of \$62,139.16. The claim alleges damages to the claimant’s property located at 1582 Mill Street, Wailuku, Maui, Hawai‘i, resulting from a water main break. At this time I’d like to please request opening comments from Deputy Corporation Counsel Caleb Rowe.

MR. SOVA: Hey. Hello.

COUNCILMEMBER RAWLINS-FERNANDEZ: He’s not Caleb.

CHAIR U‘U-HODGINS: And not Caleb Rowe, and who do we have here today?

MR. SOVA: While I’m very flattered to be...sorry about that. Deputy Corporation Counsel Bradley Sova. I’m here to speak on all of the claim matters that we are discussing. As to the first one that was mentioned, No. 4077629 concerning Rhonda Hamasaki, I think the summary that was given by the Chair is fairly comprehensive, and I know there were materials provided to all the Councilmembers. I’m happy to try to answer any questions that anyone may have.

CHAIR U‘U-HODGINS: Thank you, Mr. Sova. I would like to also ask opening remarks from Kimo Landgraf--we have him in the audience--if he has anything to add.

MR. LANDGRAF: *(Speaking from the gallery)* No, we don’t have anything to add at this

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

time.

CHAIR U‘U-HODGINS: Okay. Water does not have anything to add at this time. Thank you so much. At this time I’d like to see if we have anyone wanting to testify on this item. Staff?

MS. LILLIS: Chair, no one has signed up to testify. I can give a short countdown. If you would like to testify, please let us know now. Three...two...one. Chair, no one has indicated that they wish to testify.

CHAIR U‘U-HODGINS: Thank you. We’re going to save deliberations and move on to our next one. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. My understanding of the updated Sunshine Law as of last July is that we have to make a decision immediately upon closing testimony of the item. And because the items aren’t grouped in the same way that they’re grouped in the agenda on the Council meeting, that’s what has given us that wiggle room to take them in groups. But the way that our Committee agendas are is, they’re each their own item. So, if an attorney, whoever would like to weigh in on this, please, if they could provide their interpretation of this being cogent under the...if it’s okay.

CHAIR U‘U-HODGINS: Yeah, absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: We’re not...we’re violating Sunshine Law.

CHAIR U‘U-HODGINS: Thank you for that, Member Rawlins-Fernandez. Mr. Mitchell?

MR. MITCHELL: Chair, if we could just have a brief recess, maybe five minutes --

CHAIR U‘U-HODGINS: Yeah.

MR. MITCHELL: -- just to double check on this.

CHAIR U‘U-HODGINS: Okay. Thank you so much. We will double check. Let’s reconvene in five minutes. Oh. Are you sure? Okay. Let’s reconvene in five minutes. The GREAT Committee...

MR. MITCHELL: State the time that we are currently in and then the time we come back.

CHAIR U‘U-HODGINS: Let’s reconvene in six minutes then at 3:25. . . .(gavel). . .

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

**RECESS: 3:19 p.m.**

**RECONVENE: 3:27 p.m.**

CHAIR U’U-HODGINS: . . .(*gavel*). . . Welcome back. It is 3:27. Will the GREAT Committee please reconvene. And before we continue, I’d like to ask Mr. Mitchell to provide some comments on Member Rawlins-Fernandez’s Sunshine question. Thank you, Mr. Mitchell.

MR. MITCHELL: Thank you, Chair. Member Rawlins-Fernandez, sorry for ducking my head while I’m trying to talk to the mic and look at you at the same time. So, what we’re proposing is that we will have Corporation Counsel introduce each item one at a time but we’re taking them up as a group of four, and then after each item, entertain testimony...public testimony without closing it, and then at the end of the fourth one, we will check to make sure there’s no testimony on all...any of the four, close testimony, and then have one vote on all four because the settlement amounts are stated in the resolutions. And we don’t see any issue with the Sunshine Law, or even Robert’s Rules, doing it that way.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Mitchell. Is that clear as mud for everyone? Crystal clear. Mahalo.

MR. MITCHELL: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U’U-HODGINS: Thank you for that clarification. Okay. Okay. So, let’s continue, let’s move on.

**GREAT-11(12) LITIGATION MATTERS (RESOLUTION 23-85, RELATING TO  
SETTLEMENT AUTHORIZATION: PAUL CLEVELAND; CLAIM  
4070761) (PROPERTY DAMAGE)**

CHAIR U’U-HODGINS: We have before us Resolution 23-85, entitled “AUTHORIZING SETTLEMENT OF CLAIM NO. 4070761 OF PAUL CLEVELAND.” Resolution 23-85’s purpose is to authorize settlement of the claim, filed on May 25, 2021, in the amount of \$13,593.87. The claim alleges damages to the claimant’s property located at 404 Auhana Road, Kihei, Hawai‘i, resulting from a water main break. Again, at this time we’re going to request opening comments from Deputy Corporation Counsel, this time I’ll get it right, Mr. Bradley Sova.

MR. SOVA: Thank you. So, again, I think that’s a pretty good general summary of the



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

claim. I will note there was an opinion from a DWS employee at the time that the hub end of the transmission line split, broke off, it was an older component. So, just to the extent that you can understand a little bit better about, you know, how the flooding occurred, how these damages were brought about. But again, I don't know that I have too much to add beyond what's already been said and certainly not beyond what's been provided, but happy to answer any questions.

CHAIR U'U-HODGINS: Thank you so much. Mr. Landgraf, in the audience, do you have anything to add?

MR. LANDGRAF: *(Speaking from the gallery)* Nothing to add.

CHAIR U'U-HODGINS: Okay. We have nothing to add from the Water Department. Thank you so much. Do we have any testifiers at the moment?

MS. LILLIS: Chair, no one has signed up to testify on GREAT-11(12). If anyone would like to testify, please let us know now. I will do a brief countdown. Three...two....one. Chair, no one has indicated that they wish to testify on this item at this time.

CHAIR U'U-HODGINS: Thank you so much.

**GREAT-11(13) LITIGATION MATTERS (RESOLUTION 23-86, RELATING TO  
SETTLEMENT AUTHORIZATION: PEDRO ORTEGA; CLAIM  
4072926) (PROPERTY DAMAGE)**

CHAIR U'U-HODGINS: Okay. We're going to continue on. Before...we have before us Resolution 23-86, entitled "AUTHORIZING A [sic] SETTLEMENT CLAIM OF NO. 4072926 OF PEDRO ORTEGA." Resolution 23-86's purpose is to authorize the settlement of the claim, filed on October 15th, 2021, in the amount of \$43,952.29. The claim alleges damages to the claimant's property located at 2068 Kahekili Highway, Wailuku, Maui, Hawai'i, resulting from a water main break. At this time we are now going to request comments from Deputy Corporation Counsel Bradley Sova.

MR. SOVA: Thank you. Again, I believe that was a good general summary of the claim. I will just add, as I did before, there was a DWS employee that had looked at the water main in question, noted that there was not at least recent maintenance on that water main, and that the breakage was likely due to age. So, that's how that came about. Then one additional note, I believe it is in the materials, but here, this is a subrogation claim, so it is a payment to the claimant's insurance company on their behalf.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Thank you, Member [sic] Sova. At this time I’m going to ask Deputy Director Landgraf if Water Department has any comments.

MR. LANDGRAF: . . .*(inaudible)*. . .

CHAIR U‘U-HODGINS: They have nothing to add at this time. And we will continue moving on.

COUNCILMEMBER LEE: Chair?

MS. LILLIS: Chair, public testimony.

CHAIR U‘U-HODGINS: Chair Lee?

COUNCILMEMBER LEE: Yeah, you may want to ask the representative from the Water Department come take a seat here because his comments should be on the...on the record...on the mic.

CHAIR U‘U-HODGINS: Thank you, Chair.

COUNCILMEMBER LEE: Yeah.

CHAIR U‘U-HODGINS: Deputy Director, we miss you so much, we want you to join us on the blue carpet. Thank you.

MS. LILLIS: Chair, public testimony on this item. No one has indicated that they wish to testify on GREAT-11(13). If you would like to testify, please let your...please let us know now. I will give a brief last call. Three...two...one. Chair, no one has indicated that they wish to testify.

CHAIR U‘U-HODGINS: Thank you, Ana.

**GREAT-11(15) LITIGATION MATTERS (RESOLUTION 23-87, RELATING TO  
SETTLEMENT AUTHORIZATION: HAWAIIAN ELECTRIC COMPANY;  
CLAIM 4080380) (PROPERTY DAMAGE)**

CHAIR U‘U-HODGINS: Okay. We’re going to continue on. We have before us Resolution 23-87, entitled “AUTHORIZING SETTLEMENT...CLAIM NO. 4080308 [sic] OF HAWAIIAN ELECTRIC COMPANY.” Resolution 23-87’s purpose is to authorize settlement claim, filed on January 13th, 2021, in the amount of \$10,309.94. The claim alleges damages to the utility pole fronting at 287 Baldwin Ave., Pā‘iā, Maui, Hawai‘i. At this time we’re going to request opening comments from Bradley Sova.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MR. SOVA: Just to give a little bit more context, so this incident did occur around 2:00 a.m. January 13th, 2021. There was a DWS employee who was coming from a late job Upcountry, did state had nodded off at the wheel, lost control, that is when the collision with the utility pole occurred. And then just one other note for clarity, you know, there has been a bit of discrepancy throughout the materials whether this is Maui Electric Company, Hawaiian Electric Company, you know, ultimately it would appear that the person who would receive payment is Hawaiian Electric Company, that's why that is the name that is put to the resolution.

CHAIR U'U-HODGINS: Thank you, Mr. Sova. Deputy Director of Water, do you have any opening comments?

MR. LANDGRAF: No, nothing to add for that.

CHAIR U'U-HODGINS: Okay. Thank you very much. At this time I'd like to open testimony for this item. Staff?

MS. LILLIS: Chair, no one has indicated that they wish to testify on GREAT-11(15). I will give a brief last call. If you would like to testify, please let us know now. Three...two...one. Chair, no one has indicated that they wish to testify on this item at this time.

CHAIR U'U-HODGINS: Okay. Thank you.

CHAIR U'U-HODGINS: Before we move on to deliberations and discussions, I would like to open up testimony again for the last four items for GREAT-4 [sic]...or GREAT(-4) [sic], GREAT-11(12), GREAT-11(11) [sic], and GREAT-11(13). Staff, do we have any testimony?

MS. LILLIS: GREAT-13, -15 [sic].

CHAIR U'U-HODGINS: Thank you.

MS. LILLIS: Chair --

CHAIR U'U-HODGINS: Yes.

MS. LILLIS: -- no one has indicated that they wish to testify. Again, this is going to be the last...it's going to be the last call. If you would like to testify, please let us know now. Three...two...one. Chair, no one...no one has indicated that they wish to testify.

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

to testify, without objection, I will now close oral testimony for the last four items.

COUNCILMEMBERS: No objections.

**. . .END OF PUBLIC TESTIMONY FOR GREAT-11(4), -11(12), -11(13),  
AND -11(15). . .**

CHAIR U’U-HODGINS: Thank you. As a reminder, written testimony will continue to be accepted into the record. Members, in order to stay on the track of time, again, we will be implementing a three-minute question round with a one-minute follow up. Do we have any discussion? Member Sinenci? Thank you.

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, just a question for Mr. Savo [sic]. You mentioned subrogation. And it looks like on a couple of these, the...the claimant’s personal insurance paid for it, and then now the County, you mentioned, will be paying back their insurance company. Can you briefly expand on that?

MR. SOVA: Sure. I can just give a very general explanation. Actually, the first three claims, each of the ones involving flooding, I believe are each subrogation claims. So, yes, the individual made a claim against their insurance company, and the insurance company, you know, took steps to pay that. They do then, if there is an issue of County liability, they can go through our claims process to make a claim, that’s typically reviewed by our Risk Department, as well as our insurance adjuster, John Mullen, just to determine whether that this is something that we might be liable for. If it...if it’s concluded that there is likely liability, that’s generally passed on to myself or another attorney in my office for review just to make sure there are no issues of liability or other legal issues. And then if that’s approved, that’s where the settlement typically would be forwarded to the Council and committees for review. So, it is to the insurance company as a subrogor or subrogee...sorry, archaic terminology, but on behalf of the claimant just to collect the monies typically because the insurance company has already paid out a set amount, and then has requested reimbursement through the County on behalf of their client.

COUNCILMEMBER SINENCI: And...and, Mr. Savo [sic], so all those cases the County was found liable for these?

MR. SOVA: I don’t want to get too far into the County’s liability, just because I think we would be going...at least edging toward executive session, but there was a determination made, as I said, both by our insurance adjuster, our Risk Department, and then reviewed by myself, that liability was probable such that a settlement was authorized.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Member Sinenci. Do we have any further discussion? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Let's see. I guess Mr. Sova. Okay. For the...for the four items, it's property damage or, I guess...okay. For the...the items having to do with the water main break damaging people's properties, mostly their houses. I mean it's pretty substantial damage. One is from like 2021, one is from 2022. It...is there like a formula...so when we, as the County, find that we do have liability for the damage, is there a formula to provide these individuals either reimbursement if they have to, you know, take out any...any loans, or put anything on their credit cards, to pay back their interest because it wasn't their doing that this damage occurred? Or is there any, I don't know, compensation for the time that they had to then take to take care of this damage that they didn't cause?

MR. SOVA: So, I think that's a good question, but I sort of will give a general answer which is, you know, when the claim is received, as noted, that's generally reviewed by our insurance adjuster, John Mullen Company, and those are things that they consider as far as what is a reasonable settlement. You know, not everything is necessarily going to be paid for. You know, part of the reason we have this claims process is so that people can get paid in hopefully a timely and expeditious manner. You know, they don't necessarily always collect everything. They might if the case were to go through litigation, but you know, it is a way to get compensation for those things for which they are out of pocket and for which that we have determined we are at least likely liable.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, if the claimant does not include on their settlement proposal time that it took to take care of the damage that happened, is that then not considered in determining a settlement?

MR. SOVA: If it's raised by the claimant, then it is something that is considered by the...the insurance adjuster in calculating the settlement. Here, it's a little different, as noted these are subrogation claims, so most of it has already been paid by...by the claimant's insurance company, who is then asking for compensation in turn from us. So, not all of those things are necessarily within the scope here, but just from having reviewed claims generally, yes, those are things that are at least considered if raised.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for broadly answering. And then I...I...I have a little more familiarity on the...the process involved. . . .(timer sounds). . . So, if it's not brought up, then it may not be considered.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MR. SOVA: That's a fair statement.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Sova. Mahalo, Chair.

CHAIR U'U-HODGINS: Mahalo, Member Rawlins-Fernandez. Do we have any further discussion? Member Sugimura, followed by Member Paltin.

COUNCILMEMBER SUGIMURA: Thank you. So, I just want to ask kind of a general question. So, we have enough money in...for...to pay out all these claims? I guess maybe that's Corp. Counsel.

MR. SOVA: Yes.

COUNCILMEMBER SUGIMURA: Okay. Since we were talking about it this morning. So, thank you.

MR. SOVA: Yeah.

CHAIR U'U-HODGINS: Member Paltin?

VICE-CHAIR PALTIN: Thank you. I just was wondering, these I guess three were from water main breaks, and then we had that other gentleman also, I think his was a water main break. And I just was wondering, is this like an average thing, or is any...is there any preventative things? I mean I would be bummed out if this happened at my house, and I wouldn't want it to happen to our people's houses. But is it unavoidable, or is there any prevention measures that we can take?

MR. LANDGRAF: Well, sometimes it is unavoidable because we just don't know the condition of the water main.

CHAIR U'U-HODGINS: Can you...can you move the mic up closer so we can all hear your nice voice? Thank you.

MR. LANDGRAF: Sometime it is unavoidable and, you know, a lot of times we don't know the conditions of the water mains, so that's why we have initiated a condition assessment of the whole water system. So, by doing so, we will have a better knowledge of what our system looks like, and if we need to go to certain areas and do repairs then we can do that...or replacement.

VICE-CHAIR PALTIN: Thank you. I think that was the answer I wanted without even knowing that was the answer I wanted.

CHAIR U'U-HODGINS: Ditto. Thank you. Okay. Members...Member Cook?

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

COUNCILMEMBER COOK: Two questions for the Deputy Director. Was the truck totaled? It looks totaled.

MR. LANDGRAF: Yes. Yes, the truck was totaled.

COUNCILMEMBER COOK: And so, that's basically just the County auto liability?

MR. LANDGRAF: Yeah. So, basically what we do is we keep the vehicle and if we need to...

COUNCILMEMBER COOK: Parts.

MR. LANDGRAF: Parts. Yeah.

COUNCILMEMBER COOK: Okay. And then was the employee injured?

MR. LANDGRAF: No, the employee was not injured.

COUNCILMEMBER COOK: Lucky. Okay. Mahalo.

MR. LANDGRAF: Yeah.

CHAIR U'U-HODGINS: Thank you, Member Cook. Member Kama?

COUNCILMEMBER KAMA: So, if the truck was totaled, is DWS...might get a new truck?

MR. LANDGRAF: No, we won't. We have to put in and buy a new vehicle, we don't just get it replaced.

COUNCILMEMBER KAMA: How long is that going to take?

MR. LANDGRAF: Well, even nowadays, because of all the backlog and, you know, needing new vehicles, it could take two, three years.

COUNCILMEMBER KAMA: '25 for the water tank, that's pretty...anyway. Thank you. Thank you, Chair.

CHAIR U'U-HODGINS: Mahalo, Member Kama. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Just a follow-up question. Does...do we have insurance to cover some of these claims, or because it's...somebody else is the claimant, do we utilize some of our...

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MS. TAKAYESU: Thank you. We're self-insured, so we can't file a claim with anyone. We're insured...we insure ourselves, so...we have to take...we have to take the loss.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR U'U-HODGINS: Mahalo, Member Sinenci. Any further questions or discussion? No? Okay. Seeing none. I would like to entertain a motion to recommend the adoption of Resolution 23-33, 23-85, 23-86, and 23-87.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR U'U-HODGINS: Thank you. . . .*(laughing)*. . . Motion made by Councilmember Sugimura and seconded by Councilmember Kama. Is there any further discussion on these items? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'll be voting in favor of the motion, and I just wanted to thank Deputy Director and Director Stufflebean for their forward thinking and planning in doing that assessment. I really look forward to that being used as a tool to prevent these incidents from occurring as frequently in the future. Mahalo. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you. I agree. Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. Just for a final comments. Although, you know, through water we find all life, but sometimes it can also be a detrimental force for...for us and for our residents. So, happy that we could make amends and support our residents. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Sinenci. Any further discussion before we move on to the vote? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. I just want to welcome Bradley Sova, and first...first time we're seeing him here, and welcome to our team. So, thank you very much.

MR. SOVA: Thank you.

CHAIR U'U-HODGINS: Thank you.

COUNCILMEMBER SUGIMURA: Good job.



# Council of the County of Maui

**March 21, 2023**

CHAIR U'U-HODGINS: Welcome. Any further discussion? Okay. Seeing none. All those in favor, please raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MS. APO TAKAYAMA: Chair, that's nine "ayes," zero "noes." The motion carries.

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

**NOES:** None.

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTION 23-33, 23-85, 23-86, and 23-87.**

CHAIR U’U-HODGINS: Thank you. Thank you, Kasie. Thank you, Members. This item will move on for full Council’s consideration. Thank you, thank you. We are now going to start where we originally left off. Thank you. Give everybody a moment to get settled. Okay. We do have to end relatively soon. *Akakū* also has to go and film the Mayor’s opening, or County address as well, so I’m not too sure how far along we will get. Looking at you, Kasie. Thank you.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

**GREAT-11(20) LITIGATION MATTERS (RESOLUTION 23-107, RELATING TO  
SETTLEMENT AUTHORIZATION: KAREN GOO, ET AL. V. MAYOR  
ALAN ARAKAWA, ET AL.; CIVIL CAAP-17-0000858)**

CHAIR U’U-HODGINS: But we have before us Resolution 23-107, entitled “AUTHORIZING A [sic] SETTLEMENT OF CARY...KAREN GOO, ET AL. v. MAYOR ALAN ARAKAWA, ET AL., CIVIL CAAP-17-0000858.” The Resolution 23-107’s purpose is to authorize settlement of the claim, filed on December 2nd, 2027 [sic]. We are now going to request opening comments from Deputy Corporation Counsel Brian Bilberry. Mr. Bilberry?

MR. BILBERRY: Thank you, Chair. This matter has been around for a while. It involved the Maui Lani Project District, and a dispute in the context of development that was going on there over the...over a height restriction that was codified in the Maui County Code. And I...I vaguely remember this case because I was in private practice and...and peripherally involved over a decade ago. So, after...I’m going to try to really kind of explain this concisely, but just procedurally, this...this case has got some history. Where it is now is, it’s on appeal in front of the Intermediate Court of Appeals. But where the case began was, again, a dispute between residents adjacent to this project that was being developed, which was again, in the Maui Lani Project District, and they were concerned about the height of potential construction given grading that had occurred. And the definition of the Maui County Code at that time, which provided that the height for purposes of determining the restriction, would be either from the finished grade, or the natural grade, whichever was lower. And as I recall, and...and have recently been able to refamiliarize myself about, the developers at that point in time were of the position that the height was measured from the finished grade, and the adjacent residents were of the position that the height would be measured from the natural grade before finish grade was built up. The Second Circuit Court, at that time, Judge Joel August, now retired, ruled that the Code should be interpreted to mean the lower of the two, and he ruled against the developer. And the matter went up to the Intermediate Court of Appeals. Pending that appeal, Maui County Code was amended to provide that projects that had already received Phase II approval prior to September 4th, 1991, could determine height based on the finished grade. And then this matter ended up in front of the Supreme Court, and they had some questions about whether that amendment to the Code was in order to circumvent the earlier decision by Joel August, Judge August, and they sent it back to the Circuit Court, Second Circuit Court to make that determination. And at that point in time, Judge August had retired, and the matter was given to Judge Rhonda Loo. And she did some additional fact finding, and determined that the amendment of the Code was not an attempt by the Council or the...the County to circumvent the judicial process in order to render the controversy moot. And she granted a motion to vacate the earlier 2008 order by Judge August determining that height would be measured from the lower of

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

natural grade and finished grade. And so, now, what's on appeal is the...is that determination. I see some perplexed faces. Is this making any sense? . . .(laughing). . . Yeah. I probably should have done a flow chart or PowerPoint.

COUNCILMEMBER KAMA: So...

MR. BILBERRY: Yes, please.

COUNCILMEMBER KAMA: So, this is the Maui Lani...

MS. APO TAKAYAMA: Chair?

CHAIR U'U-HODGINS: *(Audio interference)* deliberations until we open up --

COUNCILMEMBER KAMA: Okay.

CHAIR U'U-HODGINS: -- public testimony; am I correct? Okay. Member Kama, can you please...let's hold those thoughts.

MR. BILBERRY: Okay.

CHAIR U'U-HODGINS: Thank you so much.

MR. BILBERRY: All right. So, the attorney who's handling the current appeal has agreed to dismiss the appeal in exchange for...yeah. I wasn't going to...I wasn't going to give an amount, but...yeah. We're...we're...we're in...we've reached a tentative settlement with the attorney who's handling the appeal. And that I can discuss in a little more detail in executive session...yeah. And at this point, I guess I would request that we go into executive session to discuss it further. I can give you a little more detail, maybe try to clarify what is, again procedurally, kind of a confusing case. It took me a while to figure it out. So, understandably --

CHAIR U'U-HODGINS: Thank you.

MR. BILBERRY: -- if anybody has questions about it, I'm...again, I'll be happy to address them in more detail in executive session, and also, give you the terms of the proposed settlement.

CHAIR U'U-HODGINS: Thank you, Mr. Bilberry. At this time I'd like to double check with our Staff to see if we have any testifiers for this item.

MS. LILLIS: Chair, no one has indicated that they wish to testify on this item, GREAT-11(20). If you would like to testify on this item, please let us know now. I will give a brief countdown. Three...two...

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MR. NAKOA: Yo, howzit?

CHAIR U‘U-HODGINS: Aloha, Mr. Nakoa. Do you wish to testify on this item?

MR. NAKOA: Yeah.

CHAIR U‘U-HODGINS: Okay. Your three minutes starts now.

MR. NAKOA: . . .*(inaudible)*. . . Okay. For those of you on this Council who was here the last term, I think this one kind of sound familiar about a project here in Nāpili that we’ve been trying to get some closure as Nāpili residents because of this jam-up. And...and the Administration, the prior Administration, Corp. Counsel, including the Planning Department and Public Works, kept telling us...I sorry, I going say this again, that we stupid, that we don’t know what we’re talking about, that Planning Department and Public Works is correct. When we have evidence, choke evidence, of about the same thing that’s happening in this case, about the grading, about the height of the whole house, about the wall, about everything. So, I glad the...the bruddah that just went talk earlier went give ‘em the description about the whole grading and where it’s supposed to start and all that stuff because the prior Planning Department Director said straight out of her mouth and to this Council--well, the prior Council--that if it was up to her, she would not have had passed this SMA permit for plenty reasons that we pointed out. We was hoping that there was an investigation, formal investigation, and this Council never let ‘em happen. We had lawyers just recently going talk to this Administration and Corp. Counsel to talk about...educate ‘em about this. Corp. Counsel just...just went tell us...well, tell the lawyers that they think that they’re correct, that the Planning Department and the Public Works was all correct in their findings. Now, I hear this happening right now. And...and then you guys like go in executive session, me as a constituent of this...this...this County like know what the heck is going be said, what is going be done because we still got to still look at that stupid thing right down the road. We got to still look at ‘em, still got to deal with ‘em. I just go to the store . . .*(timer sounds)*. . . I get harassed, I get...let me finish. I get harassed about oh, yeah, what’s going on? I don’t know, I no deal with this...this...this Administration now, the new one, but we frustrated. Okay. So, I very interested to hear what’s going to happen in this case because I will be part of that one litigation, and I going...a part of against this...against this County and --

CHAIR U‘U-HODGINS: Mr. Nakoa...

MR. NAKOA: -- Greg Brown. So, just letting you guys know that I...we...we will be listening. Sorry, stay piss off. Shoots.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Okay. Thank you so much. Members, any clarifying questions for our testifier? No. Seeing none. Mahalo, Mr. Nakoa. Staff, do we have any other --

MR. NAKOA: Shoots.

CHAIR U‘U-HODGINS: -- testifiers?

MS. LILLIS: Chair, no one has indicated that they wish to testify. If anyone on...

MR. SMALL: Yes, I did.

MS. LILLIS: Oh.

MR. SMALL: I’m here.

MS. LILLIS: Please begin your...please identify yourself and begin your three minutes of public testimony. Mahalo.

MR. SMALL: Hello. Thank you very much. Sam Small here. Hi. Always a pleasure to participate in this democratic process. Perhaps to elaborate on the angry Hawaiian, this...Mr. Bilberry just referenced how...what we commonly call break the law to make the law. With Sand Hills, they violated the existing gradance...grading ordinance to build able to build those massive walls, which became such a problem, and they willfully did that. And there were a number of things that came after they willfully did that. Two are important, I think. First is what’s called validity of permit, which is, I think, in Title 16, which puts the responsibility on a developer so that the developer, if they misrepresent, which they did in Sand Hills because the developer knew that the existing regulations limited it at the height of those walls. So, they knew that they were violating when they made their application. The County screwed up because the County allowed them to do it. And validity of permit was created after Sand Hills so that would never happen again, so that if a developer misrepresents from the beginning, it’s the developer’s problem, and because the County approved it, does not make it right. Okay. So, validity of permit is hugely important when it comes to Greg Brown. It was created because of Sand Hills. Also, they changed the grading ordinance after the fact, and that’s what Mr. Bilberry referenced too. And we did the same thing with Greg Brown. When Greg Brown’s initial permits were issued wrongfully, with misrepresentation, they...there was no height limit related to that district. It was vague. Two stories, no specific height limit. Now, we all say that it’s a single-family home, and all single-family homes are limited to 30 feet, but that was ignored. And the Council saw fit to add a 30-foot restriction after the fact. So, now, there’s a 30-foot restriction. In that sequence, stop work orders were issued to Greg Brown because of permit violations. And

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

when those stop work orders were released, there is an absolute responsibility to ensure that the new law . . . *(timer sounds)*. . . applies, not the old law. And that's what...that's what Mr. Bilberry just laid out for you, and you can go into executive session. That's what happened at Sand Hills, they now are going by the new height restrictions, and we, as a community, demand that the new height description in Nāpili Bay that the Council created must apply to Greg Brown. And he is not in compliance, he is in violation. And that's how Sand Hills relates to Greg Brown. Thank you for the time. . . . *(timer sounds)*. . .

CHAIR U'U-HODGINS: Thank you, Mr. Small. Members, do we have any clarifying questions? Member Sugimura?

COUNCILMEMBER SUGIMURA: So...yeah, this is probably a question for you or one of the attorneys. So, right now, we have the...we do not have the Greg Brown case --

CHAIR U'U-HODGINS: We do not.

COUNCILMEMBER SUGIMURA: -- on the Council agenda. And the last two testifiers were pretty upset at us and the County for something that's not on the agenda. So if that does happen again, I hope you will stop them and --

CHAIR U'U-HODGINS: Thank you.

COUNCILMEMBER SUGIMURA: -- and keep us on the agenda.

CHAIR U'U-HODGINS: Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR U'U-HODGINS: Members, any further clarifying questions regarding this item for Mr. Small? Seeing none. Thank you. Staff, do we have any further testifiers?

MS. LILLIS: Chair, no one has indicated that they wish to testify on this item. If you...if anyone would like to testify, please let us know now. I will give a last call. Three...two...one. Chair, no one has indicated that they wish to testify on this item at this time.

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection I will now close oral testimony for item GREAT-11(20).

COUNCILMEMBERS: No objections.

**. . .END OF PUBLIC TESTIMONY FOR GREAT-11(20). . .**

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: No objections. Thank you so much. Members, in the interest of time, and we do have to probably recess soon, but we also have to begin deliberations, I would like to implement a three-minute questioning period with a one-minute follow-up round. Member Kama, would you like to continue or start our discussions?

COUNCILMEMBER KAMA: I was going to...I wanted Mr. Bilberry to bring me back to the issue we are talking about at hand, that’s the Sand Hills, those 30...the Maui Lani lots, there are 50 of them, and then they’re right on the...they’re kind of like along Palama Drive. That’s that...this is what we’re talking about here? The one that goes back like 25 years?

CHAIR U‘U-HODGINS: . . .(*inaudible*). . .

MR. BILBERRY: Excuse me.

CHAIR U‘U-HODGINS: Thank you.

COUNCILMEMBER KAMA: It goes back about 25 years?

MR. BILBERRY: Yeah, like I...it...I wasn’t here 25 years ago, sorry.

COUNCILMEMBER KAMA: But the issue...the issue, right? Okay.

MR. BILBERRY: Yeah. I know the initial litigation was in 2008 and --

COUNCILMEMBER KAMA: Oh, in 2008.

MR. BILBERRY: -- the project...so, the project may --

COUNCILMEMBER KAMA: 15.

MR. BILBERRY: -- very well have gone back.

COUNCILMEMBER KAMA: 15 years, yeah.

MR. BILBERRY: But...yeah.

COUNCILMEMBER KAMA: Okay. And I don’t think we’re going to solve it in...in the next 15 minutes, Chair. So, my sense is maybe we should just recess now because *Akakū* needs to get out there, right. And we need to get out of here because they’re going to lock at 4:30, and that means we have to get out to the front door, right, on the 2nd Floor. So --

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER KAMA: -- that’s my comment, Chair. Thank you.

CHAIR U‘U-HODGINS: Well, thank you for beginning deliberations. If there...Member Sinenci?

COUNCILMEMBER SINENCI: Just curious, Chair, do you have an alternate recess date should we go into recess?

CHAIR U‘U-HODGINS: Yes. Thank you so much for asking. We are scheduled on March 30th at 9:00 a.m. right here on this beautiful blue carpet.

COUNCILMEMBER SINENCI: That’s...okay. That’s the same date as the Lāhainā...

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER SINENCI: Okay. But that’s not until later. All right. Thank you, Chair.

CHAIR U‘U-HODGINS: Yeah. We’ll do 9:00 a.m., and I believe Lāhainā is at 6:00.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR U‘U-HODGINS: We’ll have a long, full day. Do we have any further comments before we recess this meeting? Member Paltin?

VICE-CHAIR PALTIN: Oh, I just was wondering if the option for like a flow chart or a PowerPoint was still on the table when we come back on 9:00?

MR. BILBERRY: I’m sorry, Councilwoman, could you repeat that?

VICE-CHAIR PALTIN: Just was wondering if the option for a flow chart or a PowerPoint was still on the table? Because it’s a little murky.

MR. BILBERRY: Yeah, maybe. There may be a better way to communicate it without trying to make a picture out of it or...or a graph. Maybe just a simple chronology might be better. Yeah.

VICE-CHAIR PALTIN: Yeah. Because I was reading --

MR. BILBERRY: Now, I may have a conflict --



**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

VICE-CHAIR PALTIN: -- what's on the Granicus...

MR. BILBERRY: -- on the 30th, I...I...

VICE-CHAIR PALTIN: Oh.

CHAIR U'U-HODGINS: Okay.

VICE-CHAIR PALTIN: And it was a little lawyer-y.

CHAIR U'U-HODGINS: Yes, heavy in the legalese. Do we have a representative from Corp. Counsel to be with us on the 30th?

MS. TAKAYESU: Yes, Chair, I can cover it for Mr. Bilberry.

CHAIR U'U-HODGINS: Thank you.

MR. BILBERRY: Yeah, my conflict is not definitive yet. I know somebody is trying to set a deposition for that date.

CHAIR U'U-HODGINS: Okay.

MR. BILBERRY: And I'll try to move it now.

CHAIR U'U-HODGINS: Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Are all the items left on the agenda time sensitive?

CHAIR U'U-HODGINS: I don't believe so, but I'll double check with Kasie. Kasie...

MS. APO TAKAYAMA: Chair, I would defer to Corporation Counsel on that. They...they requested these items be placed --

CHAIR U'U-HODGINS: Okay.

MS. APO TAKAYAMA: -- on the agenda.

CHAIR U'U-HODGINS: Ms. Takayesu?

MS. TAKAYESU: I'm sorry. What was the question?

CHAIR U'U-HODGINS: Are they time sensitive, the three remaining items?

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

MS. TAKAYESU: Well, we would like to have them heard as soon as possible. We do have quite a few still yet to be put on the agenda, and I know that this particular one with reference to Goo, it's holding up a project. So, if we could get that settled. I mean if that...we can get that heard, that would be definitely time sensitive. The other ones are older, so we would like to have them heard, but . . .  
*(inaudible)*. . .

CHAIR U'U-HODGINS: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I...I wasn't super clear, so this item is time sensitive, but the other items that we did not take up are not time sensitive, there's no deadline. This one does not have a deadline, but a project is waiting, which is why it's time sensitive, but there's no deadline.

MR. BILBERRY: Wittmer, we really need to take up. We really need to take up Wittmer. That's the --

CHAIR U'U-HODGINS: The next one.

MR. BILBERRY: -- that's the next one. Yeah, it's a wrongful death claim, and it's been around for a while. We have the possibility of...well, I probably shouldn't be talking about it. But...but...

COUNCILMEMBER RAWLINS-FERNANDEZ: So, the next...so this item, the Maui Lani...

MR. BILBERRY: And the next.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, both...those two items are the time-sensitive items?

MR. BILBERRY: Yes.

MR. SOVA: The remaining one on there, Gregory Crowton, that's not specifically time sensitive, but we are...we're hoping to get that taken care of. You know, that is something where we do have, I believe, an amount that has been resolved. The claimant, I think, has agreed to that, so it...it would be good if that could move forward in an expeditious manner, but there's no specific deadline, or there aren't the sort of constraints that were on the other two cases that were mentioned, Wittmer and Goo.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Because we're heading into budget, and we'll have budget, and you know how thick budget is. And I know for those that haven't done budget yet, you'll need all the time that you can get. And so if these are not...you know, don't have deadlines attached to them, then I think you

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

would probably want to prioritize like reviewing that budget so that when we get into session, you're ready. But so it sounds like those three items--Chair, is that your plan to take up those three items?

CHAIR U'U-HODGINS: Yeah. Yes, it is. It is, so we can move...move these along, if that's okay with everybody. Okay. Member Kama?

COUNCILMEMBER KAMA: So, my understanding is that the way you've laid it out for us today, and for the 30th, that when I figured it out timewise, that we will be able to take care of the rest of the agenda items on the 30th when we come back together.

CHAIR U'U-HODGINS: Yeah, we will have --

COUNCILMEMBER KAMA: Right? Yeah.

CHAIR U'U-HODGINS: -- three remaining items on this agenda --

COUNCILMEMBER KAMA: Right.

CHAIR U'U-HODGINS: -- to address on the 30th --

COUNCILMEMBER KAMA: So...

CHAIR U'U-HODGINS: -- at 9:00 a.m.

COUNCILMEMBER KAMA: So, I want to ask Corp. Counsel, does the next two weeks that we're going to recess, does those two weeks matter?

CHAIR U'U-HODGINS: The next nine days.

COUNCILMEMBER KAMA: Nine days.

MR. BILBERRY: They matter to me on the Wittmer case.

COUNCILMEMBER KAMA: Because...because then what I'm thinking in my head is do we continue this meeting until we can get this out of the way, or do we just come back on the 30th? That's my...that's what my thoughts are, and that's why I asked the question. It's nine days. Can we wait nine days? That's my question. Thank you.

CHAIR U'U-HODGINS: Okay.

MR. BILBERRY: Yeah, I would say...to address your question from the...the...again, the

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

Wittmer case perspective, nine days is not going to be detrimental, but certainly waiting until after budget potentially would be.

COUNCILMEMBER KAMA: But I think the Chair's intent was to take care of it --

MR. BILBERRY: Right.

COUNCILMEMBER KAMA: -- on the 30th, get it out of the way, so then once we get into budget, we don't have any...none of the committees have anything outstanding. So, yeah. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Kama. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Was Member Kama suggesting we recess and reconvene tonight after the State --

COUNCILMEMBER KAMA: No, no, no.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- State of the County?

COUNCILMEMBER KAMA: No, no. My...my thought was, let's just recess today, reconvene on the 30th, and finish up all the agenda items. That was where I was going.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Because the last three agenda items are...is the rest of the --

CHAIR U'U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- agenda.

CHAIR U'U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

CHAIR U'U-HODGINS: Member...oh, thank you. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you. And I'm just looking at the...the schedule that Member Sugimura passed out today...or I...I received today. It looks like the 30th is also when the...the...the...our department questions are due that afternoon.

COUNCILMEMBER SUGIMURA: That is correct. Oh, sorry, Chair. That is correct.

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

---

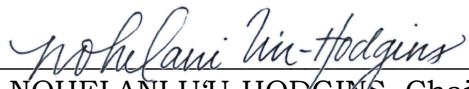
CHAIR U‘U-HODGINS: No, that’s fine. Thank you, Member Sugimura. Okay. Thank you, Member Sinenci. Any further discussion? No. Okay. Kasie, you have anything to add before we recess this meeting?

MS. APO TAKAYAMA: No, Chair. Thank you.

CHAIR U‘U-HODGINS: Okay. Thank you. It is 4:14 p.m., the Government Relations, Ethics, and Transparency Committee is now in recess until 9:00 a.m. on Thursday, March 30th, 2023. We will reconvene on the same BlueJeans link, and our in-person viewing and testimony location will be here in Council Chamber. This meeting is in recess. Thank you. . . .*(gavel)*. . .

**RECESS: 4:15 p.m.**

APPROVED BY:

  
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NOHELANI U‘U-HODGINS, Chair  
Government Relations, Ethics, and  
Transparency Committee

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Transcribed by: Daniel Schoenbeck

**GOVERNMENT RELATIONS, ETHICS, AND  
TRANSPARENCY COMMITTEE**  
Council of the County of Maui

**March 21, 2023**

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 62 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 28th day of April 2023, in Kula, Hawai'i



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Daniel Schoenbeck