

WATER AND INFRASTRUCTURE COMMITTEE

Council of the County of Maui

MINUTES

February 8, 2024

Online Via Teams

CONVENE: 9:07 a.m.

PRESENT: Councilmember Tom Cook, Chair
Councilmember Gabe Johnson, Member
Councilmember Tasha Kama, Member
Councilmember Alice L. Lee, Member (Out 10:23 a.m.)
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Nohelani U‘u-Hodgins, Member (In 9:10 a.m.)

EXCUSED: Councilmember Yuki Lei K. Sugimura, Vice-Chair

STAFF: Ana Lillis, Legislative Analyst
Jarret Pascual, Legislative Analyst
Richard Mitchell, Legislative Attorney
Yvette Bouthillier, Senior Committee Secretary
Jennifer Yamashita, Committee Secretary
Lenora Dineen, Council Services Assistant Clerk

Roxanne Morita, Council Aide, Lāna‘i Residency Area Office
Jade Rojas-Letisi, Council Aide, Makawao-Ha‘ikū-Pā‘ia Residency Area Office
Zhantell Lindo, Council Aide, Moloka‘i Residency Area Office

Jared Agtunong, Executive Assistant to Councilmember Cook
Stacy Takahashi, Executive Assistant to Councilmember Cook
Kate Griffiths, Executive Assistant to Councilmember Johnson
Axel Beers, Executive Assistant to Councilmember Johnson
Davideane Kama-Sickels, Executive Assistant to Councilmember Kama
Nayleen Kama, Executive Assistant to Councilmember Kama
Michele McLean, Executive Assistant to Councilmember Lee
Haunani Madela, Executive Assistant to Councilmember Rawlins-Fernandez
Dawn Lono, Executive Assistant to Councilmember Sinenci
Gina Young, Executive Assistant to Councilmember Sinenci
Laura McDowell, Executive Assistant to Councilmember U‘u-Hodgins

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the Corporation
Counsel (All)
Bradford K. Ventura, Fire Chief, Department of Fire and Public Safety (WAI-1(15))
Oliver Vaas, Fire Fighter IV, Department of Fire Public Safety (WAI-1(15))
Jordan Molina, Director, Department of Public Works (All)

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OTHERS: Kai McPhee, Punakea Palms (WAI-19)
Mark Deakos (WAI-19)
(8) additional attendees

PRESS: Akakū: Maui Community Television, Inc.

CHAIR COOK: . . .*(gavel)*. . . Will the Water and Infrastructure Committee of February 8th, 2024, please come to order. The time is now 9:07 a.m. May I ask that all participants silence all noise-making devices. I am your Chair, Tom Cook. Members, per the Sunshine Law, please identify by name who, if anyone, is in the room, vehicle, or workplace with you today, excluding minors. Before we begin, I would like to ask the Department representatives who have joined online to please turn on your cameras when it's your time to speak. We would greatly appreciate it. Now, I'd like to introduce the Committee Members. Vice-Chair Yuki Lei Sugimura is excused today. Councilmember Tasha Kama, good morning.

COUNCILMEMBER KAMA: Good morning, Chair. And aloha kakahiaka to everyone. It's a beautiful day. Thank you.

CHAIR COOK: Councilmember Tamara Paltin is also excused today. Councilmember Gabe Johnson.

COUNCILMEMBER PALTIN: Oh, I'm over here. I made it to D.C.

CHAIR COOK: Oh, okay. Good morning, Member Tamara Paltin.

COUNCILMEMBER PALTIN: Good morning, or good afternoon, wherever you're at. There's nobody here with me in the hotel room.

CHAIR COOK: Good to see you. You look nice and warm. Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Good morning, Chair, Councilmembers, and community members. I'm here and ready to work. Mahalo.

CHAIR COOK: Councilmember Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. Aloha kakahiaka kākou. Mai Molokaʻi Nui A Hina. I'm at the Molokaʻi District Office, alone on my side of the office, and there currently aren't any testifiers to testify here at the beginning of the meeting. Mahalo, Chair.

CHAIR COOK: Council Chair Alice Lee, good morning. Did we lose Alice?

COUNCILMEMBER LEE: No. Can you hear me now?

CHAIR COOK: Yes.

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COUNCILMEMBER LEE: I...I don't know. I don't know what happened. I tried to unmute. Anyway, I'm here in my workspace. No one else is here and, in case you're traveling to Africa, you can...when you see people, you can say, oi, in Africa. And that's a greeting. Oi.

CHAIR COOK: Oi.

COUNCILMEMBER LEE: That's it. That's it. Nothing else.

CHAIR COOK: We...we can hear you, Chair Lee, but we can't see you; just so you know. Councilmember Nohe U'u-Hodgins is arriving. And Councilmember Shane Sinenci, good morning.

COUNCILMEMBER SINENCI: Hey, good morning, Chair, and aloha au ia 'oe from my home office. I'm here by myself and Staff at Hāna said there are no testifiers.

CHAIR COOK: From the Department of Fire and Public Safety, we have Fire Chief Brad Ventura and Lieutenant Oliver Vaas. From the Department of Public Works, we have Director Jordan Molina. From the Office of Recovery, we have Managing Director Josiah Nishita. Is Josiah online?

MR. PASCUAL: No, Chair, but we can get into contact with them to see if he can join us.

CHAIR COOK: Okay. And from Corporation Counsel, Deputy Corporation Counsel Caleb Rowe.

MR. PASCUAL: Chair, I apologize. Deputy Michael Hopper is online for today for Corp. Counsel.

CHAIR COOK: Okay.

MR. HOPPER: Good morning, Chair.

CHAIR COOK: Mr. Hopper. From OCS, our Committee Staff, Jarret Pascual, Ana Lillis, Yvette Bouthillier, Remi Mitchell, Jean Pokipala and Lei Dineen. Please see the last page of the agenda for information on meeting connectivity. Members, we have two items on today's agenda, WAI-1(15), WAI-19. WAI-1(15) relates to a discussion on public infrastructure...public infrastructure improvements needs in West Maui. WAI-19 relates to amending the emergency repair provisions and disaster-affected areas under the building code. Now moving on to testimony at the beginning of the meeting. Staff, do we have any testifiers?

MS. LILLIS: Chair, no one has signed up to testify. If anyone would like to testify, please let Staff know by raising your hand on Teams or signing up in the Council chamber. We will give a brief countdown. Three, two, one. Chair, it appears no wishes to testify.

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CHAIR COOK: So, Members, any objections to closing public testimony for the morning and we'll have testimony after each item?

COUNCILMEMBERS: No objections.

. . .CLOSE PUBLIC TESTIMONY AT BEGINNING OF THE MEETING. . .

CHAIR COOK: Members, I'll proceed with our first item on the agenda. As a reminder, we will continue to take testimony after opening remarks of each item. We'll move on to our first item, WAI-1(15). Members, the first item is WAI-1(15), a discussion on Public Infrastructure Improvements within the 2023 West Maui wildfire burn areas. Members, there's been significant interest in understanding the Administration's overall plan for rebuilding Lāhainā. As of last week Thursday, the U.S. Army Corps of Engineers has completed cleanup of a total of 30 properties, and the work continues. With the cleanup ongoing and the Administration introducing legislation to consolidate and expedite the permit review process, questions remain on the Administration's plan to address public infrastructure needs in West Maui prior to the rebuilding efforts. We've heard countless stories about inadequate evacuation routes, blocked roads leading to deadly gridlock on the highway and on Front Street. We've also heard about the lack of water issues with water pressure and inability to access private water systems to fight wildfires. My goal is to facilitate open discussion on necessary improvements to public infrastructure, especially with roads and public water, to help rebuild a resilient West Maui, one where the disaster experienced last year will never happen again. Prior to this meeting, I requested from the departments a map of West Maui burn zone that identified substandard roads that should be expanded or improved for ingress and egress reasons and future emergency evacuation road needs. For this meeting today, Members, I've invited the Departments of Fire and Public Safety and Public Works, as well as the Office of Recovery to focus on the substandard roads and cul-de-sacs and areas for desired emergency evacuation routes. I would like to first ask the Department of Public Works for any opening comments. Director Molina, opening comments.

**ITEM 1(15): PUBLIC INFRASTRUCTURE IMPROVEMENTS WITHIN 2023
WILDFIRE BURN AREAS (RULE 7(B))**

MR. MOLINA: Thank you, Chair. Good morning. Jordan Molina, I'm the Director at Public Works. Just give me a sec. I'm going to try to do my best to kind of respond to your question. We don't have a kind of all-encompassing map at this time related to the request, but what I would direct people to at this point in time is our real property tax maps, which do give you the...all the roads. It will give you the property lines. It will also give you the building footprints and the building information for each individual parcel. The substandard roads, we are...as we discussed yesterday in the DRIP Committee that Fire is working with us to identify those hotspots where, you know, we feel like we got to take a closer look at those rebuilds before allowing reconstruction of those homes. And you know that's, again, specific to kind of the minimums for egress for evacuation purposes. We haven't...I guess just the substandard road can mean a lot of things depending on which standards you're concerned with. And so, what we've been talking about is just that minimum standard for fire access that we want to try to provide. I guess I'll...I'll stop there, Chair, and be available for questions. Thank you.

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CHAIR COOK: Thank you, Director Molina. Now, I'd like to move on to Fire and Public Safety for their opening comments.

MR. VENTURA: Good morning. Can you hear us? Excellent.

CHAIR COOK: Yes.

MR. VENTURA: Good morning. Fire Chief Ventura here from the Fire Department. I just wanted to reiterate what Director Molina was mentioning that, you know, our roles are still the same as they were in yesterday's meeting, to maintain the egress access, as well as water supply. So we'll work with everybody and all of our partners to identify the roads that need to be widened. And the Water Department has already shared yesterday that they're going to be increasing their capabilities, so that's perfectly in line with what we're looking for. Thank you.

CHAIR COOK: Thank you, Chief. Do you have a presentation that you would like to make?

MR. VENTURA: We did not have a presentation today, just some bullet points that we can share that were sent in to the WAI Committee.

CHAIR COOK: Not yet. Thank you. The...what you sent us for the Lāhainā Fire Protection Mapping Project was very comprehensive and helpful, so I didn't know if we had that where we could show it.

MR. VENTURA: Some of the...some of the maps were a little broad and not detailed enough, and then some of the maps that included some of the water infrastructure we ended up rescinding...rescinding just due to protecting the water infrastructure information. So we didn't want to elaborate. Everything that we kind of shared in our bullet points regarding road width and such, we're happy to go over that with you, if you want. But as far as the maps goes, the maps that we have weren't really adequate for what you needed.

CHAIR COOK: No, thank you, Chief, and I'm complementing the Department for...for the work in progress. So even though it's not ready for presentation, I just wanted the public to know how diligently you've been working on it. So thank you for that. Managing Director Nishita, do you have any opening comments?

MR. PASCUAL: Chair, we tried getting into contact with Office of Recovery, but they're unavailable at this time. Staff will let you know if they join us.

CHAIR COOK: Okay, thank you. At this time I would like to open public testimony for WAI-1(15). Staff, do we have testifiers?

MS. LILLIS: Chair, no one has signed up in the chambers or online on Teams. If anyone would like to sign up on Teams, please raise your hand. It is a feature that is at the top of the screen to raise your hand to sign up for public testimony. Please let us know. We will

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give a brief countdown. Three, two, one. Chair, it appears no one wishes to testify.

CHAIR COOK: Okay, Members, seeing that there are no individuals wishing to testify, without objections I will now close oral testimony. As a reminder, written testimony will continue to be accepted into the record.

. . .CLOSE PUBLIC TESTIMONY (WAI-1(15)) . . .

CHAIR COOK: Members, I'm proposing two rounds of three-minute questions per member. Are there any objections? Thank you, Members. I would now like to open the floor for questions and discussions starting with Councilmember Tasha Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Mr. Molina and happy you can be here. You know, I'm not really familiar with Lāhainā as Member Paltin is and so, when I try to imagine in my head what that...that entire burned area would look like, in terms of trying to...to help facilitate or help you folks to be able to look at other ways to create better egress and ingresses so that we can make sure that...that when we start to rebuild that this never happens again. So how close can you get in terms of a map, you know? I mean, even if you have to draw with paper and pencil. I mean, it's just kind of like better than not having nothing at all. And I...I'm not sure if I was privy to wanting to go to the TMKs to look up all the properties to see what they look like, so is there a...an alternative to a map or something, Director Molina?

MR. MOLINA: Thank you, Member Kama. So what's publicly available right now is on Google Maps. They have aerial imagery of Lāhainā post-fire. So that's probably the best publicly available resource at this time. As far as the evacuation routes, yeah. We still have to work with our GIS people to build out what those routes will look like and put them into...if you tie them into the existing network. So that map is still in progress before we can put that out to the public. Thank you.

COUNCILMEMBER KAMA: Follow-up question...so, in terms of mapping, getting and working with other entities, do we have private land owners and other agencies, or State or Federal properties, that are within what you all are trying to do that you have to work with to be able to create this new escape route?

MR. MOLINA: Yeah, so of the escape routes contemplated by Fire and that are relayed...either relayed in the community plans as proposed projects, or that are part of anticipated development involve basically other non-County lands. So, of course, to the north with Leiali'i, that's all the State's property mauka of the existing developments that would need to be...get the land from to put...build those routes out there. When we talk about Kelaweā Mauka, upper Lahainaluna Road, the only connection point is through the State's bypass roads, so we need to coordinate with the State to get that access point established. And then going to the south is all private property with West Maui land and Kamehameha Schools that would need to be engaged to build those routes out through their lands.

COUNCILMEMBER KAMA: And when will that engagement begin, or has it already begun?

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MR. MOLINA: . . . *timer sounds*. . . Beyond what's shown in the Community Plan, there hasn't been that next level of engagement yet on the evacuation routes because we're still working to refine those models on what the recommendations going forward are going to be.

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

CHAIR COOK: Member Johnson, questions?

COUNCILMEMBER JOHNSON: Thank you, Chair. So I have a few questions that might bounce around a bit. So, you know...while we're talking about the roads, is, you know... when we're moving the toxic debris out of the burn zone, does the Department have any plans to build any dust fences along the corridors of the transportation of the...of the debris?

MR. MOLINA: So there is the, kind of the perimeter dust fence that the State DOT helped establish to kind of contain it within the burn zone. And then part of the protocol with debris hauling is the burrito wrapping, and the burrito wrapping is intentionally for that transport mitigation so that when the trucks are flying down the road and the winds are blowing, that we don't have the debris spreading. So those are the mitigations right now.

COUNCILMEMBER JOHNSON: The dust fences aren't necessary is what you're saying?

MR. MOLINA: Yeah, I believe so.

COUNCILMEMBER JOHNSON: Even along the corridor where they're traveling outside of the burn zone because of the burrito.

MR. MOLINA: Yeah, because right now that corridor is limited to the crossing right before the dump, Olowalu dump.

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: So they're taking down the lower road...the...the...yeah, the existing Honoapi'ilani Highway to the south, which is...has limited traffic at this time.

COUNCILMEMBER JOHNSON: Okay. The lower Honoapi'ilani Highway.

MR. MOLINA: Correct. And there's no...once you get south of Lāhainā, you don't have any --

COUNCILMEMBER JOHNSON: Right.

MR. MOLINA: -- developments on either side.

COUNCILMEMBER JOHNSON: Right. Okay. Thanks for that clarification. I want to ask the

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Fire Department a question, if they're still on.

CHAIR COOK: Chief?

COUNCILMEMBER JOHNSON: Okay.

MR. VENTURA: Yes.

COUNCILMEMBER JOHNSON: Thank you. Thank you, Chief, for joining us. I appreciate...I really like your guys' weird background. I can see...I can see everybody. Teams is new, so...so basically, you know, several years ago, these two students of Lanai, Jasmine and Keoni...Keona Humphrey, they made this app. They were...they were doing a STEM-from-home program, and they made this app where they would put in by ArcGIS locations where our fire hydrants were in our community of Lanai City. And it was so good because then they turn...they turned it over to everybody who needed to know. They...I assume...I'm sure they gave it to the Fire Department. They gave it to the water company. But just having that kind of ArcGIS map of where the fire hydrants were, I think was really good. And it's student-initiated. I was wondering...I'm sorry, I just don't this, but do you guys have, like, a ArcGIS location of all of the fire hydrants?

CHAIR COOK: Chief.

MR. VENTURA: Yeah, thank you for the question. Thanks, Chair. We do. And we have all of the Department of Water Supply hydrants in our apparatus in our mobile data consoles, and the ones that sometimes we don't have located on our mapping is the private ones that are on private property. But other than that, we have all our public hydrants.

COUNCILMEMBER JOHNSON: Is that ever a problem for your department, Chief, if there's a private, you know, private property and you guys are unable to locate it? Does that happen often, or sometimes?

MR. VENTURA: No. I'll give you an example of the situation. . . .(timer sounds). . . So over here in this area by Walmart and Home Depot, there's a lot of Department of Water Supply infrastructure and hydrants that are on our mapping. And then our crews will go through pre-plans of, let's say, Home Depot. And in their pre-plan, they identify where all the hydrants are in the parking lot, and the FDCs, and the standpipes.

COUNCILMEMBER JOHNSON: Okay. Thank you. My time's up. Thank you, Chair.

CHAIR COOK: Councilmember Rawlins-Fernandez, do you have questions for our experts?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I asked all my questions yesterday. Mahalo, Chair.

CHAIR COOK: Thank you. Chair Lee, would you have any questions?

COUNCILMEMBER LEE: Chair, if you don't mind, I'd like to follow Member Paltin because she

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has all the, you know, boots-on-the-ground information. So rather than, you know, be spotty with my questions, I'd rather she go first.

CHAIR COOK: Okay. I got a thumb's up. Member Paltin, you're up.

COUNCILMEMBER PALTIN: Thank you. My first question regarding the enforcement of no on-street parking for road widths of 20 feet or less. My understanding is that's not currently going on countywide, and so maybe the Police needs to be a part of this discussion. I know that it...like, parking is not a priority with the...they're down 25 percent of their patrol officers and whatnot. So I know we want to get people back into their...their houses, but maybe Police as well as MECO needs to be a part of the conversation because, with those narrow road widths, my understanding is we also wouldn't be able to underground the power lines. And so I...I was wondering if we're not able to enforce no on-street parking right now in substandard road sizes, what is it, like, I...I haven't seen Police in the conversation, and what is it that makes us think that we will be able to enforce that in the future?

CHAIR COOK: Director Molina.

MR. MOLINA: Thank you, Member Paltin. You're correct; we haven't yet fully engaged MPD because we've kind of just, I guess, brought forward this kind of low-hanging proposal to try and address the...the road access issues short of, you know, pushing into private property and taking more land than what's there currently. But yeah, as...now that we've kind of had an opportunity to vet this out, yeah. You're right that the MPD enforcement is going to be a critical part of making these accessways and these egress routes be functional when the time comes that the...they be needed. Thank you.

COUNCILMEMBER PALTIN: Yeah. And I believe you said yesterday too that, with the substandard road sizes, there will not be the opportunity to underground the power lines either?

MR. MOLINA: It'd definitely be much more difficult until we do a full-on assessment to see how much space there is for all the utilities to exist in a 20-foot corridor. And then the...the second part of that is, right now, there is no trigger to do any undergrounding short of the...the County and the Council supporting a massive CIP project to do that undergrounding on behalf of the community.

COUNCILMEMBER PALTIN: So I know yesterday you said policy would be for us to make a law, but if the Administration and the Council is working together, is there a way to do community outreach to see...check the temperature? Like...like I said yesterday, you know, not wanting to give up any of your property because of a...a road versus not wanting to give up your property where 100 people died and people are scared every time it's windy or they get stuck in traffic is two different things. So, I mean, I'm open to...to doing public outreach in coordination with the Administration. . . .(timer sounds). . . Is that a possibility?

MR. MOLINA: Yeah, totally. We can start working on that. Thank you.

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COUNCILMEMBER PALTIN: And then if Chair Lee wants to ask a question, I'm not sure what Oil Road is. Is that the one below the new development, the Kūku'ia one? Oil Road?

MR. MOLINA: No. Oil Road refers to the road behind Wahikuli, the Cane Haul Road.

COUNCILMEMBER PALTIN: And...and that's makai of Kaiāulu o Kūku'ia?

MR. MOLINA: Correct.

COUNCILMEMBER LEE: Chair, I yield...I yield my time, Chair. I yield my time to Member Paltin.

CHAIR COOK: Okay. Member Paltin, questions?

COUNCILMEMBER PALTIN: Sure. The...the other question I had was...I know MECO is coming up on...or HECO is coming up on some pretty big decisions and not just about undergrounding and stuff like that, but about where, like, their power centers are...will be if, like, they run out of power and things like that. Is there point that we see bringing them in to this conversations because that is a part of infrastructure, even though it's not County, but it's...you know, it's infrastructure?

MR. MOLINA: Yeah, I mean, they're definitely going to be a part of this. We haven't been in communication recently, as far as what those future plans are outside of the restorative work that's been going on. But yeah, we will be engaging with them once...I guess, yeah, if they do have any plans to modify their system, and vice versa, any plans we might have to do improvements, as well, to their facilities.

COUNCILMEMBER PALTIN: Okay. And then I was wondering, you know, with the next bill that we're discussing, it's not clear who does and doesn't qualify for those things. And right now we're talking about the substandard roads and possible extensions of roads to facilitate emergency egress. To me, if we pass the bill without clarifying who it applies to, we may have some very upset people thinking that it will apply to them, as well. So was that a thought to...to clarify who could apply for it and who could not because of substandard infrastructure and things like that?

MR. MOLINA: Thank you, Member Paltin. So, to clarify, everybody...or all the parcels in the burn area can use the process. The issue becomes whether you need additional review or not as part of the approvals.

CHAIR COOK: At the --

COUNCILMEMBER PALTIN: Yes.

CHAIR COOK: -- risk of interrupting --

COUNCILMEMBER PALTIN: Oh, go ahead.

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CHAIR COOK: At the risk of interrupting, could we have this for the next agenda item?

COUNCILMEMBER PALTIN: Sure. Sure.

CHAIR COOK: Any other questions regarding the evacuation routes and the current item?

COUNCILMEMBER PALTIN: If people could tell me what the Old Stuart Road is.

MR. MOLINA: That's basically the continuation of Oil Road once you hit center, the cane fields mauka of Kā'anapali.

COUNCILMEMBER PALTIN: And...and these extensions would be for emergency access only and not for day-to-day use?

MR. MOLINA: As we discussed yesterday, we don't really have this kind of evacuation route-only facilities right now. And so, if that's the direction we want to go with these routes, then we'll just have to plan accordingly. Right now, to my knowledge in the Community Plan, there wasn't Oil Road being developed as a full-on transportation corridor at this time. I think the intent was that the north bypass would. . .*(timer sounds)*. . . serve that function and then just those mauka-makai roads would then feed into the bypass.

COUNCILMEMBER PALTIN: Thank you.

CHAIR COOK: Thank you, Member Paltin. Member Nohelani U'u-Hodgins, questions?

COUNCILMEMBER U'U-HODGINS: Sure. Thanks, Chair. Good morning, everyone. I know we're talking about parking on streets and the widening of...or potential widening of roads. In fires that are--Director Molina, it says, to maintain a clear 20-foot width, there should be no street parking on streets less than 28 feet wide. So 28 feet is not significantly larger. That'd be four feet on either side. What I will say, though, as we're talking about police enforcement on...on roads, is that, one, we...I'd rather prepare for it now, and then we don't have to send police out there to get people in trouble for parking in the road. We have to remember that most people live in multi-generational house...homes because they cannot afford to move out. And as we're rebuilding a town and we're allowing people to build what was, we have to assume that that's exactly what was. It's that people were living in multi-generational homes because they can't afford to move out. And when we are in a time where construction is super expensive, we have to then assume more people are going to be living with each other and on each other. So I hope that Admin can work with Member Paltin and talk stories with the community, and we can figure out how to not let people get in trouble for parking on the roads and we have no other option to park. I'd rather them park on the road than park on the grass and their kid play on the road. So I hope we can work that out. That's all I have to say. Thanks, Chair.

CHAIR COOK: Thank you. So I have a question for --

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COUNCILMEMBER SINENCI: Hey. Thank you, Chair.

CHAIR COOK: Member Sinenci, your questions.

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, mahalo. For Director Molina, we've heard a lot from the Lāhainā community about making Front...portions of Front Street a pedestrian promenade. Has the Department or...had these early conversations?

MR. MOLINA: We have not. To my knowledge, there has not been any sort of deeper engagement on that conversion at this time.

COUNCILMEMBER SINENCI: Okay. Thank you for that. And then for Chief Ventura, we continue to hear, you know, stories about the...the August fires from our families, including Tanner's interview...his national interview, just some of the details. So has the Department, you know, talking about making those changes, hearing how different this fire was to maybe even include the use of ocean water?

MR. VENTURA: Thank you for the questions, Councilmember Sinenci. There have been thoughts of how we could utilize it. It would be a big infrastructure undertaking that we'd be working with multiple Departments on. In...in the event of an emergency, in a failure of the public water system, it would be something we would utilize for firefighting if the infrastructure was put in place.

COUNCILMEMBER SINENCI: Okay. Because just some of the details, especially on Front Street, was, you know, how hot it was or the roads being just scorching, so those...those things we've never heard about, you know, these types of fires. So I was just wondering if the Department was making changes to address some of these details.

MR. VENTURA: Yeah. Nothing in particular with our operations. What we...we've gathered and have learned from others who have dealt with fires like this that were wind-driven is, basically, they go away from firefighting pretty quickly and they go directly into the evacuating. They don't worry about fighting the fire, and they just let it burn its course through town.

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

CHAIR COOK: Thank you. Is there a need for a second round before the Chair asks questions? Members, anybody else have other questions? Okay. Is the Office of Recovery on yet, Staff? Okay. Maybe Director Molina will be able to answer this. We understand the Administration is in the process of evaluating vendors to assist the Department of Public Works with processing emergency permits, but is the Administration planning on developing a post-fire master plan for Lāhainā consistent with the West Maui Community Plan that at least identifies infrastructure issues that will guide the Department of Public Works, so permits are not prematurely issued in areas where infrastructure development is necessary?

MR. MOLINA: Thank you, Chair. Yeah, so the Community Planning RSF is tasked with kind

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of putting together that master plan based on off what the Community Plans say. But it's--at this point, you know, any sort of master plan would not be law unless it gets adopted. So it's back to what we discussed yesterday about whether the policy will be...or how the policy will address these infrastructure improvements. Are we going to maintain course, which is currently that the commercial properties have to do it and residential do not? Are we going to expand it into the residential to some extent, like we talked about yesterday, at least providing the widening...perhaps maybe not all the full improvements, but at least the...the land we need? Or do we task them with the whole improvements, like everybody else? So yeah, it's a...that'll be a work in progress as we go through putting together that master plan and doing some of those outreach efforts that Member Paltin and Member Hodgins mentioned to get a sense of kind of what the community temperature is. But I think, at the end of the day, it will still have to come back to Council to set that final policy as far as what the Administration is going to implement and require of the property owners when they rebuild. Thank you.

CHAIR COOK: Thank you, Director. Question for the Chief of the Fire...Public Works...well, question for Fire and Public Works. What is the status of identifying the roads and intersections that need improvement, or roads that need to be extended in light of the wildfires to ensure the extent possible emergency egress and ingress and evacuation routes?

MR. MOLINA: Thank you, Chair. So, yeah, the Fire Department has been working with our GIS staff to put together the...the listing of roads that we think, you know, are suspect of being too small, and then one of the additional follow-up efforts is Fire to do field verifications to really lock in on those hot spots that are of most concern so that we can flag those parcels during the permit review. And then, as a parallel effort, we have the life...LifeSim modeling going on to map out some of those potential evacuation routes to see how the evacuation times, you know, are...are affected and then kind of figure out what that prioritization is for which one of these new routes we pursue, you know, at the top . . .*(timer sounds)*. . . of the priority list. Thank you.

CHAIR COOK: So Members' permission, the Chair has one more question for the Director. So that...that work will be somewhat of an overlay to see how it works with the West Maui Community Plan?

MR. MOLINA: That's correct because most of these road extensions we're considering would be in some way related to proposed developments already contemplated in the community plans.

CHAIR COOK: Thank you for your answer. So Members, if there are no objections, the Chair would like to defer this item.

COUNCILMEMBERS: No objections.

ACTION: DEFER pending further discussion

CHAIR COOK: I would like to thank the Department of Fire and Public Safety and Public

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Works for being here this...with us this morning. I want to acknowledge your responsiveness to our questions and how diligently you're working, and we're lucky to have you on board. Thank you.

MR. VENTURA: Thank you, Chair.

ITEM 19: BILL 21 (2024), AMENDING CHAPTER 16.25, MAUI COUNTY CODE, RELATING TO SECTION 105 PERMITS OF THE BUILDING CODE ADMINISTRATIVE AND SUPPLEMENTAL PROVISIONS (BILL 21 (2024))

CHAIR COOK: Members, the next item is Bill 21 (2024). The bill's purpose is to provide an expedited process for issuing certain building permits following an emergency. Bill 21 would also apply to future gubernatorial disaster proclamations. Members, at our last WAI meeting, we discussed the proposed expedited permitting process for wildfire-affected areas. Last week, I met with Director Molina, Deputy Corporation Counsel Hopper, to further understand Bill 21. Following that meeting, I issued an amendment summary form with the proposed CD1 version that we can address during decision-making. The CD1 version attached to the ASF is unsigned but, as of yesterday, Corporation Counsel transmitted to us the proposed CD1 version of Bill 21 approved as to form and legality. At this time, I would like to ask the Department of Public Works to provide opening comments and explain how Bill 21 works. Director.

MR. MOLINA: Thank you, Chair. Okay. So I'd like to direct the Committee to the Department's correspondence January 19, 2024. I tried to do my best to summarize what is and what will be proposed to change from the existing emergency permitting provisions in the building code. So through...I guess what I'll...the way my letter is organized, I kind of walk through what the current scheme is and then how we're proposing to modify that scheme. So under the existing law, what...what the emergency permit process does is it creates a modified application. This modified application allows us to put these emergency permits in their own lane of the review process so that they can get the attention and focus, and they will not get comingled with the regular stack of permits that we're working through. The other effect of the modified application for us is it lets us to consolidate electrical and plumbing permits so that we just reduce the amount of processing that we have to do and consolidate that review to make it more expeditious. Currently, only your residential properties are allowed to utilize the emergency permitting provisions. In addition, the trigger right now is that you had existing structure that was damaged in order to qualify for this emergency permitting process, too. So only single-family dwellings that were damaged currently can engage in this process. So all your commercial stuff is excluded. Multi-family projects are excluded from emergency repairs. So...so that's number three. Number four is the bypassing of agency reviews. So under the current provisions, I am not required to engage with any agencies to reissue permits for those damaged structures, except in the case of non-conforming structures that require Planning Department review. And of course the rationale behind that is you're putting back what was, so really there shouldn't be material change in the conditions to have concerns for your utility needs, your land use needs, et cetera. Right now, there's a seven-day auto-approval, so if you submit and we don't get a response to you in seven days, you are entitled to start building your home.

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The last component, it's this deferral of your fees, which gives you up to two years after the disaster to pay your building permit fees. So that's...in general that's kind of what the emergency permit process enables an effective property to...to move forward with. So now, what we're...after, you know, assessing what happened in Lāhainā, assessing kind of our needs, particularly your housing needs and housing challenges, myself, my staff at DSA, as well as with Administrator Hart and representatives from our County reviewing agencies, you know, have been working since September to try and figure out how we can streamline our processes to facilitate the rebuilds, so our...our...our efforts...or the proposal in front of you is a result of that collaboration. So one of the first things we're doing, going on to page 3 of my letter, number one. So we have a few other permits, notably driveway permits and grading permits, where we think it might be appropriate to consolidate into this review package as well. And so that's what we're proposing to allow us to consolidate those additional applications for those other related permits into this single emergency permit application. Two is to extend the applicability to your commercial property and vacant lands in the disaster area. This is in part because of such the widespread damage we saw in Lāhainā, and the loss of that commercial base, which is not only services, but your jobs for your community. We thought it was appropriate to allow them to engage in this emergency permit process as well and not be in the regular line with everybody else. Similarly, the vacant land consideration is there are some empty lots and so, if...if there is an opportunity to get another house in the burn zone to get that, you know, unit count up, we thought that was appropriate. And of course given the widespread nature of the damage that if you're...happen to just be in the burn zone and not one of these structures, we didn't think it was appropriate to exclude you just...just because that's what the rule says. We thought it was appropriate to treat Lāhainā and the whole burn zone as kind of one class of permits to be managed. The current...so, again, the...one of the...number three, the expansion is to do beyond just restoring what was. One of the issues that came up early on is building code compliance. With the amount of old structures we have in Lāhainā, it was...we anticipate it's unavoidable for these structures to have to be changed to footprint to some extent to meet current building codes, even to put back a three-bedroom with another three-bedroom. So we did anticipate that the footprints would not be maintained the same, and we're okay with that because of how we handle first and second dwellings currently outside of the burn zone. A lot of the utilities are prepared to handle the first and second dwellings, and so we felt that allowing them to rebuild first and second dwellings was not going to be a major issue in the permit process, and it would be something we could accommodate expeditiously. The other part of that is also allowing the 'ohanas to go up under this expedited permitting where none may have existed previously, as another strategy to try and facilitate more units getting on the ground sooner than later. Of course, I'm speaking kind of strictly in terms of the structure. There is still land use things that may apply that have to be resolved with those proposed rebuilds. And then, of course, allowing the commercials to also modify their rebuilds as well. So number four is the agency reviews. So we're still maintaining that ability but in a more limited way. So right now your commercial structures do not get any special waivers of the agency reviews. They go through full review as if they were in the regular process. But the benefit of course is in their...they're in the special emergency permit line, and so they'll get more timely reviews because they will not be in the regular queue at this point. But all the same requirements that a

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typical project would go through for commercial would apply. The other one is when the residential properties exceed the second dwelling. So once that third dwelling hits, generally you have infrastructure conflicts. You have fire requirement conflicts. So those will have to require additional review for the third one. And then there are some situations where we think we're going to need additional review. So one example being those fire...those accessways that are too narrow that Fire is going to have concerns with. Any place that has a particular infrastructure issue, that we're either going to take time to work through or maybe not aware of at this time, and anything kind of that might be unusual outside of the normal kind of your typical house and 'ohana situation, any sort of other infrastructure issue, any sort of historic-type issue. So basically anything else that might be of concern gets flagged here as well. The next item is extending the review time from seven to 15. This is just what we think is more reasonable in today's world of what plans review involves, what agency review involves. Yeah, the seven days was a little tight. I think maybe thirty years ago, that might've worked, but not today. So we're asking for that 15 day. We're also asking that it's not an auto-approval anymore. We don't think that's an appropriate measure. So what we are offering is that, if we do not get our review done within that 15 days, the applicant can demand issuance. So it...there is...there's a requirement on the applicant to, you know, push their issue when the time comes, and we'll respond accordingly. There's also our ability to withhold that 15-day review if there's those other issues pending that we've identified. So if you...your property is flagged for whatever reason we've deemed that, you know, additional review is needed, then that 15-day review does not apply to you any longer. The deferral of permits fees, we are proposing to modify that to make it due upon final inspection. The concern being...is that two-year window that currently exists creates a situation where applicants are now outside of the permit process and we have to enforce, or launch a separate enforcement action to go collect fees. And it's always harder to chase people down when they don't need you anymore. So we're proposing to keep the fee collection within the permit process and just push it to final inspection, so they don't have to put that upfront when they're applying. So we can kind of help move them along a little quicker without losing our control to get the fees that will be required. Then the last one, which we think is a huge one, is this reissuance of permits within the last five years. So because those buildings--and we're talking about entire structures that had been built, not your kind of minor improvements and additions and things like that. So prime example is our Kupuohi improvement project that was just built in November of 2022. We are going to be able to just give them their permits again, so they can start rebuilding sooner than later. Currently in our building code, permit applications are good for five years, and so that accounts for things that are in the queue pending. It also addresses any sort of code revisions that may occur in that five-year window, that you're basically locked in within that time frame, and so we felt that was an appropriate window to apply in this case with those rebuilds. And so if you have something within the last five years that got built, we are comfortable just reissuing your permit as a way to kind of expedite those more recent structures getting back on. And, you know, because we've seen those recently, we've, you know...we're comfortable that the standards aren't so far out to have concern about rebuilding those or rechecking new plans to be prepared for those properties. So that is the overview of what we're trying to accomplish with the proposals in front of you today. So yeah. I'm happy to answer any questions. Thank you, Chair.

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CHAIR COOK: Thank you, Director Molina. Now on the testimony for WAI-13...WAI-19. Staff, do we have testifiers?

MS. LILLIS: Chair, no one has signed up to testify. If anyone would like to testify on Teams, please select the raise hand option at the top of your screen. If anyone would like to sign up on the chamber, please let Staff know; otherwise, we're gonna give a brief countdown. Three...oh, we do have a testifier, Chair. It appears Mark Deakos would like to testify. We're going to unmute him shortly. And we also have Kai McPhee...would also like to testify. One second. Mark, if you'd like to begin your three minutes of public testimony, you may do so now. Mark? Chair, we can return to Mark. He is unmuted on his end, but would need to unmute on their end. Kai McPhee, we're going to go to you for public testimony. Your camera and mic are disabled...are enabled and you would need to unmute yourself to begin your three minutes of public testimony.

. . . BEGIN PUBLIC TESTIMONY (WAI-19) . . .

MR. MCPHEE: Good morning, Council. Can you hear me?

MS. LILLIS: Yes.

MR. MCPHEE: Good morning. Thank you, guys, very much for...for hearing what I have to say today. My name is Kai McPhee. I am a lifetime resident of Lāhainā. Most of you have actually already heard my family's story. We have a farm in Lāhainā. We grow coconuts. And I've grown up in Lāhainā my whole life, and we are currently trying to find a housing solution. My wife and son and I lived in Lāhainā, and our...our house was destroyed. It was a rental, and we're currently sheltering with Red Cross, and we would really, really, like to get out of this situation and get back to our farm and our business and rehire our employees and start contributing to our community again. But we just cannot do that if we are physical displaced from...from the only thing we have left in Lāhainā, and that is our family's farm. So we have been just embroiled in a process of trying to find any type of solution to live and house ourselves on our farm. We...we are open to any possible path or solution that might exist. We have a couple things that we've been trying to do. One is called farm labor dwellings. It seems like a very reasonable option for us, but we have not been making much progress on that front. We've been getting pushed into this emergency proclamation temporary housing permitting situation, and that has been a dead-end road for us as well. So I just don't know if we're not organized, or the system's not organized or how this is going to work for us, but we're four months into a lot of really hard work that isn't really going anywhere. One of the things we were told by zoning is that if they let us do what we're trying to do, then everybody's going to be able to do it. And what I say to that is, if there are others that are in our situation, which I'm sure there are, and qualified in the ways that we do, they should absolutely be allowed to build housing in the way that we're asking to. We're not asking for a personal exception. We're trying to preserve our community's existence on the West Side, and you can use us as an example of how it can be a solution and not how to close open doors. I really, really miss my community. And I want to get back to contributing to it and supporting it, but I can't do that . . . *(timer sounds)* . . . if we are physically displaced. So I wish I wasn't putting so much time and energy into this now. I wish I was building a home and getting back to my life

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and my business. But this is all I have time for, so I'm here. Use me. Use my story, whatever you need to do. I am ready to just forge solutions however possible. Thank you very much for your time.

CHAIR COOK: Thank you for your testimony. Members, clarifying questions? Chair Lee?

COUNCILMEMBER LEE: Okay. Thank you for your testimony. You mentioned that you're trying to obtain a permit for farm dwellings. Could you be more specific on why you're having difficulties?

MR. MCPHEE: The way that...thank you for your question. Can you hear me?

COUNCILMEMBER LEE: Yes.

MR. MCPHEE: Okay. The way that I understand it at this moment is that it's really boiling down to a misinterpretation/misrepresentation of our application. There are specific criteria that are required to qualify for these farm labor dwellings and, in any reasonable interpretation of our application, we meet all the criteria. But there are just some obstructions that seem manufactured for the purpose of denying the ability to get farm labor dwellings. I don't know that...I don't know that anyone has ever been able to successfully obtain a farm labor dwelling in history. But if it exists now, this isn't something that we would have to magically create a new law about. It exists...it's a tool we can use to house people now.

COUNCILMEMBER LEE: Excuse me. Can you tell us what you're...the impediment is exactly...what exactly is the...what's holding it back?

MR. MCPHEE: We have not officially filled out a application for building permits on the MAPPS system because we have been given very discouraging responses from...specifically the Office of Zoning is giving us very discouraging feedback in our inquiry for this path.

COUNCILMEMBER LEE: Can you name one discouraging feedback comment you've received?

MR. MCPHEE: When it...when it comes to the specifics of the farm labor dwelling, one of the requirements is that you have to show \$35,000 in ag revenue for two consecutive years per permit that you're applying for. We have shown between \$100 and \$300,000 in ag revenue on our taxes for the last seven years. Zoning is not qualifying that income as ag revenue. They are choosing to interpret it as something that doesn't qualify for ag revenue. Another obstacle that we have...another one is that you have to show that you have been using what's called agricultural water, and the way that Zoning is interpreting that is County-supplied agricultural water. Where our farm is situated, we don't have access to County water. We are on a private water system, but we do pay a separate agricultural water bill, and we have for 20 years. The third qualifying requirement would be that 51% of the land area of your property is...is utilized in agricultural, and they keep moving the goalpost on that one as well. You only need to qualify for two of these three, and we should have a clear path to housing permits. But again, it feels to us like Zoning is looking for ways to move the goalpost or make it unobtainable. What Zoning

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has been doing is...is pushing us towards this temporary permit, which we have been trying to follow, but that is also been a dead-end road. But in reality, it's not a solution for us. We need permanent housing. We need permanent long-term housing so that we know we can continue this generational farm and...and maintain our residency on the West Side. If we can't house ourselves on our property, we will be pushed out of the West Side. We will lose our farm.

CHAIR COOK: Thank you for your testimony.

COUNCILMEMBER LEE: Yes.

CHAIR COOK: Members, any clarifying questions?

COUNCILMEMBER LEE: Chair Cook, could...could we get this young man's telephone number, please?

CHAIR COOK: Yes, Chair Lee.

COUNCILMEMBER LEE: Thank you.

CHAIR COOK: Okay. Staff, could you connect and get the contact information for the testifier?

MS. LILLIS: We'll do our best, Chair.

CHAIR COOK: Okay. Member Johnson and then Member Rawlins-Fernandez.

COUNCILMEMBER JOHNSON: Thank you, Chair. I was just going to ask what Chair Lee asked. We want to reach out to you and get your contact info. And my email...you can email me all the details, if you'd like. Gabe.johnson@mauicounty.us. There is a bill going through the Planning Commissions now, I just want to inform you, that is addressing some of those concerns that you mentioned on--but yeah, I...I understand. Please send...reach out to us and send us the details. Mahalo.

CHAIR COOK: Member Rawlins-Fernandez, clarifying question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah. So I look forward to that additional information, and I just wanted to clarify the response that Chair Lee had asked for the testifier, and mahalo for your testimony this morning. The \$300,000 that you showed planning, was that all from selling produce from the farm?

MR. MCPHEE: Our farm grows coconut...coconuts and also other fruits, mostly mangoes, avocados. All of--our business model is a farm-to-consumer, so we have...our farm is a place that people can come to visit. They can learn about coconut trees specifically. We teach people about the history and the culture of coconut trees here in Hawaii and all over the world. We teach them about the growing cycle, the life cycle through interactive opening and tasting of the coconuts. We have a small farm stand where we make everything fresh from our farm direct to the consumer. That is where the majority of

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our business income is generated.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Okay. So it's not the selling of produce. So you have events and stuff, it sounds like, and you charge for those events, and you have permits for those events?

MR. MCPHEE: It's not events. It's...it's an open market on our farm that is available to the public.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So it's services...the services that you're providing, not the produce that your selling is where the revenue, the \$300,000 that you're reporting, not from selling coconuts and mangoes.

MR. MCPHEE: Well, it's all based on the production and, I would say, selling of...of our...of our products and...and value-added products that we make from the produce that we grow. We could call it Agritourism. We could call it --

COUNCILMEMBER RAWLINS-FERNANDEZ: Um-hum.

MR. MCPHEE: -- direct-to-market, like a farm stand style. I have --

COUNCILMEMBER RAWLINS-FERNANDEZ: Farms...okay.

MR. MCPHEE: Sorry. I have...I have letters of support from the Hawai'i Farmers Union, and I have letters of support from Hawai'i Agritourism Association. This is a very important model of agriculture for Hawaii. You know --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I mean, I...I...I...\$300,000 is just a lot of money, and I...I...so I just wanted clarification on...on that. I'm not asking for letters of support for your business and your business model, but--because I thought perhaps your farm sold produce worth of \$300,000 and, if that's not the case, Staff has put in the chat the email address for you to email the Committee your information, and then that way we'll...I'll have a better understanding of some of the...the obstacles that you shared in your testimony today. Mahalo. Mahalo, Chair.

CHAIR COOK: Thank you.

MR. MCPHEE: Thank --

CHAIR COOK: Any other clarifying questions --

MR. MCPHEE: Thank you.

CHAIR COOK: -- or the next testifier? Staff?

MS. LILLIS: Chair, the next testifier is Mark Deakos to be followed by the number ending in 6448. Mark, you are unmuted on our end. You would need to unmute your camera

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and microphone in order to give your three minutes of public testimony. Chair, we can return to Mark before closing public testimony, but the last individual signed up to testify is the number ending in 6448. Please hit *6 to unmute. And we would ask for your full name before starting your public testimony. The number ending in 6448.

MR. DEAKOS: Can you hear me now?

MS. LILLIS: Yes, we can hear you.

MR. DEAKOS: Okay. Yeah, I don't know. It wasn't allowing me to unmute. This is Mark Deakos. I just called in. It's not allowing me to unmute on the online, but Mark Deakos. I'm a 28-year resident of West Maui. Thank you, Chair Cook and Members of the Council for allowing me to testify. I do have four items I just want to address; some of it might bleed into the previous item. But regarding the Front Street infrastructure, I know comments were made that sea level rise is a hundred years away. So reusing existing infrastructure should be considered. I think anyone that's visited West Maui lately, it's quite obvious sea level rise is a clear and present danger now, and we need to adapt now. So, the latest 100-year models project 8-foot rise in sea level by the end of the century. So also comments were made, I believe yesterday, that there's no direction on how to proceed with managed retreat. I agree with that. And a comprehensive managed retreat guidance document, that should have been created decades ago and should be an immediate priority for a team of subject matter experts to put that together. And that main argument that retreat is not feasible because the existence of infrastructure behind those buildings that need relocated while post-fire Lāhainā presents a unique opportunity where those obstacles don't exist. Chair Cook expressed the need to...for a rebuild effort that is resilient to prevent this from happening again. We need to be careful about balancing the rush to build as was and rebuilding with resiliency. Resiliency for future fires but also resiliency to climate impacts, water scarcity, storm water issues, waste water issues, car-centric living, public beach access, the toxicity of the materials that we use in our builds. So there are plenty of examples of regenerative design frameworks that design out those negative impacts on people and the environment that occur from conventional buildings. So I understand the rush to rebuild, but it has to be done with the lens of resiliency and regeneration using incentives and priorities for those who implement resiliency and regeneration into their designs. So I don't believe we have a regulatory issue that limits housing. We just have a lack of regenerative design builds that mitigate all the bad things that come from conventional builds. And the last thing, I'll just say the greenway does seem like a great solution to address traffic issues, provide evacuation routes, and bury the utility lines, perhaps using the \$95 million that Biden promised to provide...to put lines underground. Thank you. That's all I have.

CHAIR COOK: Thank you for your testimony. Any clarifying questions for our testifier? Seeing none. Thank you very much. Staff?

MS. LILLIS: Yes, Chair, so to clarify that Mark was the number ending in 6448, so we currently have no one else signed up to testify. If anyone would like to testify, please select the raise hand feature at the top of your Teams screen or sign up in the Council chamber.

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We will give a brief countdown. Three, two, one. Chair, it appears no wishes to testify.

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

COUNCILMEMBERS: No objections.

. . .CLOSE PUBLIC TESTIMONY (WAI-19) . . .

CHAIR COOK: As a reminder, written testimony will continue to be accepted into the record. Members, I am proposing two rounds of three-minute questions per member. Are there any objections? Thank you, Members. I would now like to open the floor for questions and discussion. I understand Chair Lee has to leave. Would you like to go first?

COUNCILMEMBER LEE: Yes, thank you. I'll make mine very quick. Mr....Mr. Molina, thank you for your presentation. I just...I understand the focus and the need to prioritize in the burn area, but what about housing projects which service the displaced residents that may not be built in the burn area and in other areas nearby? Wouldn't those permits have to be expedited as well?

MR. MOLINA: Thank you, Chair. So there is...under the Housing RSF, we have permanent housing and a temporary housing leads working on that aspect. And for those projects, when they get ready, we...we...basically we anticipate them utilizing the emergency proc to help facilitate them through. So what we're talking about here today is kind of more your individual property owners and not your kind of big developments projects. Thank you.

COUNCILMEMBER LEE: All right. Thank you. Thank you very much.

CHAIR COOK: Thank you. Member Paltin, do you have questions for the Director?

COUNCILMEMBER PALTIN: Thank you. My first clarifying question was, in your opening comments, you said that...was it that repair in the burn zone was limited to only residential and not commercial but that the expedited permitting process is to everyone in the burn zone? Is that what you said?

MR. MOLINA: Yeah, Member Paltin. Currently, what's...it now only applies to residential structures, and so we're proposing to expand that to allow all the properties affected utilize the emergency process, which really is utilizing that modified application. As I mentioned that--and I guess, a point of clarification. What we're talking about today with Bill 21 is really the permit processing procedures. It has nothing to do with the standards to which each agency administers and enforces part of their building permit review. So yeah. So the proposal is to expand the applicability of the emergency permit and mainly the modified application to commercial properties. But at this time, we're not proposing changing those standards to which those properties need to build to. Thank you.

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COUNCILMEMBER PALTIN: And then, so can commercial properties qualify for repair as well as residential structures through this modified process?

MR. MOLINA: That's correct.

COUNCILMEMBER PALTIN: Oh.

MR. MOLINA: So like in the case where you have a commercial structure that's not fully destroyed and they can just repair back to what was, you know, relatively easy, they would probably get through without any sort of major new standards being imposed on them because, right now, there's a 50 percent threshold where you trigger the full-on road improvements as part of your repairs to your building or reconstruction of your buildings.

COUNCILMEMBER PALTIN: And then the indemnification at the end of the bill, is that a standard or is that a new thing?

MR. MOLINA: That's...that's in there currently, and the reason for that is when we have these auto-approvals and you didn't...and the applicant doesn't get all of their comments resolved, they're taking the risk of starting to build without that clarity. And so come final inspections, we find something that's not compliant, and we got to stop you from moving into your home to resolve it; we want you to be aware that you took that risk by engaging in the auto-approval of trying to build before you got your review completed.

COUNCILMEMBER PALTIN: And then, I know that anyone can apply for this expedited permitting process. Is it that some people if there's those layers of other agencies, SMA permit, whatever, do they need to get the SMA permit first? But they can still put in the application, but until they get the SMA permit, they won't be granted the building permit application...their building permit application won't be given a permit?

MR. MOLINA: Yeah, so that's correct. Generally, right now if you have a requirement, the Planning Department through their building permit review, will withhold their approval . . . *(timer sounds)* . . . until the SMA is resolved. We...we're still discussing about whether we would take in your application for the building permit or wait until you get your SMA resolved. So we're still trying to figure out kind of the best strategy for that, whether it's better to have you sitting and waiting in the permit process or keep you outside until you're actually ready to go.

COUNCILMEMBER PALTIN: And...and not knowing the answer to that doesn't affect us passing this bill today?

MR. MOLINA: No, I don't believe so.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR COOK: Thank you, Members. It's almost...it's 10:23. Chair would like to take a pause, five-minute pause for the cause. Is there agreement? Thank you.

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COUNCILMEMBERS: No objections.

CHAIR COOK: The time is now 10:23. We will return at 10:28. . .*(gavel)*. . .

RECESS: 10:23 a.m.

RECONVENE: 10:32 a.m.

CHAIR COOK: . . .*(gavel)*. . .Will the Water and Infrastructure Committee reconvene. It is now 10:32, and Members we were having questions for the Director, and the last...we just finished with Member Paltin. Is Member...Member U'u-Hodgins, do you have questions?

COUNCILMEMBER U'U-HODGINS: I do. Thank you, Chair. Okay. So the last time we were talking about this, I was asking about if we've adjusted who can file for E&P permits, for electrical and plumbing permits. Have we changed to allow the landowner to file for electrical and plumbing permits?

MR. MOLINA: Yeah. So, of course, we're still working through the details, but yeah. We do anticipate being able to allow the applicant or the owner apply, and then once we're ready to issue permits, they'll just need to identify who their contractors are for those areas.

COUNCILMEMBER U'U-HODGINS: Sure. Okay. That makes sense. Would DSA, for the people who are allowed to rebuild their structure, if it's that, like, resubmit version of your permitting process, would DSA be able to give the land owner a copy of their existing approved plans that we have in our system, assuming that they may have lost a hard copy or everybody's going to be asking the same architect for the copy of their plans?

MR. MOLINA: Yeah, so for the recent stuff, I think up through, gosh, the 90's, late 90's, we have those records --

COUNCILMEMBER U'U-HODGINS: Yeah.

MR. MOLINA: -- and they're available online.

COUNCILMEMBER U'U-HODGINS: So we can give the people their plans?

MR. MOLINA: Yeah. And they, you know, anybody can go on...online right now to the County website, look up their parcel, find their plans without, you know--it's publicly available.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: Before that, though, I don't believe we have those records on file, so all the older stuff is going to have some challenges.

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COUNCILMEMBER U'U-HODGINS: Assuming so. Okay. And then what's this EO process going to look like? Are we going to hire more inspectors to go out there and physically inspect?

MR. MOLINA: Yeah, so part of the consultant team we're hiring to manage this emergency permit office will have that inspection component.

COUNCILMEMBER KAMA: Good.

MR. MOLINA: And that's going to be critical as we get out of...as more people start their construction, we're going to have a massive work zone that we've got to manage, and so that's part of the...what we anticipate being prepared for to handle.

COUNCILMEMBER U'U-HODGINS: Okay. And only through this process...and this EO process includes, you know, planning, fire, water. All of those people are going to have more inspectors or just Public Works?

MR. MOLINA: The --

COUNCILMEMBER U'U-HODGINS: Or is Public Works going to do all of the inspections?

MR. MOLINA: Yeah, so we're...Public Works is contracting a vendor, the vendor's being teed up to handle every agency, or at least the County agency's requirements, so their reviews, as well as some other inspections.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: But the details of which we've got to...we're going to work through. Once we hire that consultant, there's going to be kind of this onboarding period of getting everybody sharing what their standards and their requirements are going to be, where they're comfortable handing off or delegating that to the consultant and not for each of those agencies.

COUNCILMEMBER U'U-HODGINS: Okay. What other documents will be needed for people to resubmit? So are we going to still do the...the grading form and the architectural, you know, that sign-off that they have to do for all the professionals that have to sign and staff, the plans? We're still going to require that of the people?

MR. MOLINA: That's correct. The same submittals apply at this time.

COUNCILMEMBER U'U-HODGINS: Okay. Speaking of, so are we going to be doing outreach to help everyone navigate through the process and at least have them pre-prepare for what they might need so that we're not being...or you folks are not being inundated at once?

MR. MOLINA: Yeah, so we're...they're working...each of the agencies have been tasked to try and prepare those, that information. . . .*(timer sounds)*. . . And in addition, one of the

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large scope items for the consultant is this outreach component, because we do know that, I mean, obviously Lāhainā is so old that a lot of people have never either built a home before or had to deal with this, both commercial and residential included.

COUNCILMEMBER U'U-HODGINS: Exactly.

MR. MOLINA: So yeah.

COUNCILMEMBER U'U-HODGINS: And on the MAPPS system.

MR. MOLINA: So we did emphasize a need that outreach effort as part of that scope of services.

COUNCILMEMBER U'U-HODGINS: Okay. Thank you. I'll have more questions on the next round. Thanks, Chair.

CHAIR COOK: Okay. Member Kama, questions for the Director?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Director, for being here again. And thank you for your opening comments. That was a lot to consider and a lot to...to bear. So my question is, you know, with the expedited or accelerated permits for victims of the Maui fires, that means that those people that put in permits who have no relationship to the fire are going to be put on hold? Or at least, maybe not on hold, maybe put it in the back? I mean, how do you intend to get to those or are you going to work on those simultaneously?

MR. MOLINA: Yeah, so we're going to work on those concurrently.

COUNCILMEMBER KAMA: Okay.

MR. MOLINA: I have this third-party consultant that I mentioned, they're going to --

COUNCILMEMBER KAMA: Okay. . . .*(inaudible)*. . .

MR. MOLINA: -- work on the fire one, so that's the way we're going to get the extra capacity --

COUNCILMEMBER KAMA: Okay . . .*(inaudible)*. . .

MR. MOLINA: -- to keep them going, and fortunately, through this process, we've been able to gain some exposure to how these third-party review companies are structured, what kind of services they provide. So we are looking at extending that for the normal permits as well.

COUNCILMEMBER KAMA: Okay, so...so you've had to go hire a third-party review, or consultants, or whatever you want to call them. Have you done that already, or are you going to do that?

MR. MOLINA: We...the RFP went out and we've got the proposals and we've done interviews,

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and so now we're in the final selection process and then we'll start the contracting. So, tentatively, we are shooting to have the consultant onboard and operational by April.

COUNCILMEMBER KAMA: And they'll be onboard for how long?

MR. MOLINA: Right now it's for three years.

COUNCILMEMBER KAMA: And do you anticipate that three years may be sufficient to be able to expedite all the permits that you think you're going to go through or you think just three years and see what happens after the third year?

MR. MOLINA: Yeah. A little of both. So we anticipate that the first two years, we'll see the biggest surge in the permits from those people that, you know, had enough insurance, are ready to rebuild.

COUNCILMEMBER KAMA: Um-hum.

MR. MOLINA: After year three, we anticipate it to kind of, you know, slow down and get to a point where we think we can manage it with our existing team. And it's kind of that...that permit flow slows down, so there won't be a...once we get to kind of that...that tailing end of the rebuild, or the permit surge, then we don't think we'll need the consultant full-time at that point.

COUNCILMEMBER KAMA: So the backlog of permits that, you know, we've all been talking about, I mean, do you guys have a big backlog of permits, outstanding permits?

MR. MOLINA: Yeah, I believe we still have...we're in the range of three to six months backlog at this point.

COUNCILMEMBER KAMA: Three to six months. So do you understand...so okay, my understanding . . . *(timer sounds)*. . . then is that with the consultant going on board, they are going to be able to help to do the expedition so that we can still continue to...to tend to those permits that are still in the...in the waiting. Is that right?

MR. MOLINA: That's correct.

COUNCILMEMBER KAMA: Okay. Okay. Thank you, Chair. Thank you, Mr. Molina.

CHAIR COOK: Member Rawlins-Fernandez, do you have questions for the Director?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yes, I...I have a couple of questions. Okay. So in the permit fee Subsection (E), it says that residential or commercial structures using previously approved construction plans may be assessed at 50 percent of the permit fee. And that's on page three. And then I went to Appendix B, rates and fees to look at like what some of the permitting fees are. So like is an example a plumbing permit for residential is \$23, so it would be half of that?

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MR. MOLINA: Yeah, Member Rawlins, that's...that's correct. And the reason for the fee is because we don't anticipate needing to expend much effort doing those reviews because the plan is just to reissue them. So, for that reason, we thought it was appropriate to not charge the full fee rate for those reissued permits.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. That's great. I fully support that. I just wanted to get an idea of what the different permit...necessary permits and the associated fees with it. And, like, how much it would end up costing.

MR. MOLINA: Yeah. So I guess just I...I don't have an awareness right now as far as...I think Fire has their own fee that gets collected separately, but for under Public Works, it would be your electrical, plumbing, your building permit, and then potentially your driveway and your grading permit as well all have fees associated with them.

COUNCILMEMBER RAWLINS-FERNANDEZ: So I noticed that there's a...a fee for...for each building sewer to cesspool. Is that still something...a permit that you issue, like, going to cesspool?

MR. MOLINA: I apologize. I have to look at that one. That sounds like a leftover from a previous era.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Yeah. It's \$18. Our budget's coming up. We can remove that and strike that since I don't think we're doing that anymore, yeah? That's on page 43 in Appendix B, rates and fees. And so I did have another question regarding cesspools. If...if the property had a cesspool and not a septic, what would be the requirements for that? Because I heard you say to Member Paltin that you weren't going to change the standards. Is that one of the standards that's not going to be changed or is that different?

MR. MOLINA: Yeah, so cesspools are regulated by Department of Health and so, particularly Wahikuli Terrace, there's 231 homes that are on cesspool. And so we've been in discussions about how to facilitate those properties and their situation. So one of the...it's going to take a little bit, so I apologize, but it's complicated. So one of...a couple things going on with that. There is an effort and there has been plans for a long time to try to bring sewer to that neighborhood. Now, what happens once the sewer is there, our law forces the property owners to connect. . . .(timer sounds). . .Okay? Right now, the best timeline for that sewer project is in the five- to six-year window. Those property owners' cleanup is anticipated to be done by the end of the year, and so they're going to be ready within a year or two to try and rebuild. So they're going to be stuck in this...this situation between either upgrading to a septic system more or less temporarily until the sewer system comes online. And so, you know, roughly, I'm saying \$50,000 to do a septic system in Wahikuli. Because of the rock, the excavation's going to be more expensive. So you have this situation where the rules are forcing these people to buy these \$50,000 septic systems sort of temporarily, should the sewer system come online. And so what we've...the strategy we've put together to help with that right now is, we've been working with DOH to see if they would allow the rebuilds like for like to continue utilizing their cesspool in this interim period. Then we also are going to ask the State if

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they're willing to support subsidizing the cost of those septic systems as a kind of a second mitigation to offer because once you exceed your existing capacity...so like in the case of, if you had one home and you wanted to put the 'ohana now, your cesspool is only going to support the home, so now you need a septic for the 'ohana. And so we...we're asking the State to see if they'll support kind of offering that subsidy for those septic systems, and then, in addition, of course, the sewer system effort is underway. So that's in a nutshell the whole situation with cesspools that we're trying to put to...put in place to help those property owners.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Director Molina. Yeah, that's pretty complicated. I...I hope the Department of Health is receptive to the ideas that you're proposing.

MR. MOLINA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Please let us know if we can help with that.

MR. MOLINA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Mahalo, Chair.

CHAIR COOK: Thank you. Any questions for the Director?

COUNCILMEMBER JOHNSON: Thank you, Chair. I first want to say I appreciate your efforts for Wahikuli. It means a lot. So I guess my question is in regards to the consulting team that you...you...you were hiring or is...tell me the process. Is it a RFP, is it bid out? Have you decided?

MR. MOLINA: Yeah, correct. So we put out an RFP. We got, I think, five proposals back, so we scored them all. We had interviews with the top three firms. And so right now, we're working through making the final selections and then starting the contracting.

COUNCILMEMBER JOHNSON: And the contract's for three years was...is what I heard?

MR. MOLINA: Correct. That's the current timeline.

COUNCILMEMBER JOHNSON: So, you know, it's so hard to compare this to, you know, maybe the Camp Fires or the Paradise Fires, all these...it's such a long list of disasters we've been experiencing. It's just very tragic. Hurricane Katrina was in 2005; that's almost 20 years ago, and FEMA just now is leaving. So I wonder if that...that contract of three years would be sufficient. You...do you think that after three years are we...are we going to be making headway? You know, that's my concern because it seems that this is just monumental tasks that we're asking. Are these guys going to be able to do it in three years?

MR. MOLINA: Well, you know, a lot of it depends on the property owners and what their situation's going to be. I'm...we're working to try and start gathering that insight as to

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what...kind of what different scenarios are out there with rebuild. I'm sure you guys have heard some people have left already.

COUNCILMEMBER JOHNSON: Yeah.

MR. MOLINA: A lot of people probably underinsured.

COUNCILMEMBER JOHNSON: Yeah.

MR. MOLINA: Second homeowners that may not have an urgency. As far as primary homeowners, they probably want to get back ASAP. So, you know, there's definitely going to be a range of rebuilds, and with that range comes different timing on when those permit surges are anticipated. Generally speaking, the anticipation is that those guys that are ready, had enough insurance, want to come back will hit within that first one to two years, and that's going to be kind of your big surge --

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: -- that we got to plan to handle. Afterwards, it's kind of going to be this trickling in, come and go, in surges. And at that point, we're just going to have to kind of assess as far as if we think we still need that consultant team to some extent supporting us --

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: -- or if we feel like we can manage based on how much permit flow is coming through --

COUNCILMEMBER JOHNSON: Yeah.

MR. MOLINA: -- at the time.

COUNCILMEMBER JOHNSON: It just seems so monumental of a task, but I understand where you are coming from. I...I want to get into the bill real quick here. So in regards to Section B, the modified permit applications, it says modified applications for residential structures may consolidate the electric, plumbing, driveway, grading, and other permits that are associated with the work and issued by the Department of Public Works. That's on page 2 of the bill. I...now this kind of...my question is, is that an individual-based residents can decide that they're going to modify their application to put in the electrical, plumbing, driveway, grading...

MR. MOLINA: No. That would be the application we're providing --

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: -- to consolidate all those.

COUNCILMEMBER JOHNSON: Okay.

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MR. MOLINA: Yeah.

COUNCILMEMBER JOHNSON: Because I...I...I would...it didn't make sense to me that, like, my neighbor doesn't do it, but I do it? That doesn't make sense to me.

MR. MOLINA: Yeah, no, it --

COUNCILMEMBER JOHNSON: Everybody has to do it.

MR. MOLINA: Yeah. That's the intent, so they're making one application --

COUNCILMEMBER JOHNSON: Great.

MR. MOLINA: -- as opposed to five separate applications.

COUNCILMEMBER JOHNSON: Great. Thank you for that.

MR. MOLINA: Yeah.

COUNCILMEMBER JOHNSON: Thank you, Chair. No further questions.

CHAIR COOK: Thank you. Member Sinenci, do you have questions for the Director?

COUNCILMEMBER SINENCI: Thank you, Chair, and mahalo, Director Molina. You mentioned that the consultant would not be online until April. Are you starting to receive permits or are you anticipate receiving permits prior to that?

MR. MOLINA: There are a few permits that have been received already. And so we are, you now, I'm directing my Staff, and we're also flagging the review agency to make an effort to give those priority, in light of what has happened. So yes. Yes, some are trickling in. However, we are advising people, if they are able to, to wait for this expedited process. Otherwise, they're essentially going to have to either maintain in the regular track or they're going to have to resubmit under the expedited process.

COUNCILMEMBER SINENCI: Got it. And then you...you mentioned that you're going to include commercial properties as part of this process. Are they exempt from some of the reviews or some of the State reviews?

MR. MOLINA: No, they will not be.

COUNCILMEMBER SINENCI: Okay, so commercial properties would still...are we as the County allowed to exempt State review for the...for the residents?

MR. MOLINA: Yeah, so we are working with SHPD to organize a program for the residential property so that we can more streamline their review, so it's going to be sort of a...a...yeah, a County or a District-wide consultation with SHPD to put a program

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together to help expedite their review. DOH is going to be separate for the cesspool issue, and those would be our two main State agencies we'd have to coordinate with.

COUNCILMEMBER SINENCI: Okay, so for those DH...DOH permits in Wahikuli, if the residents are building back there, they could still put in the sewer infrastructure in their rebuild and then later on hook up. Is that the plan?

MR. MOLINA: Yeah, good question. We haven't gotten to that level of detail as far as whether...and I guess it's kind of...right now it's on the property owner to make that decision --

COUNCILMEMBER SINENCI: Right.

MR. MOLINA: -- about whether they, you know stub...stub-in the future connection or they wait until the time that the sewer system's online to do it. But yeah, thank you for that --

COUNCILMEMBER SINENCI: Okay, and then you --

MR. MOLINA: -- that question.

COUNCILMEMBER SINENCI: Yeah. And then you mentioned that some owners, particularly those recent homebuilders in the last five years, if they haven't gotten the full insurance, are they able to build back, you know, part of the original footprint and then later on...or do they have to, you know--if they don't have enough money to...to build out the entire footprint, can they do it in sections?

MR. MOLINA: Yeah, I mean, it's just an individual applicant situation and how they want to allocate their funding into what kind of structure. But I know one example where I believe it was a two-story home, and after he got the estimates, he had to basically strip out everything from the lower floor, and it's just kind of an open space now, and later he'll fill in, you know, the...the rooms and all the finishing and whatnot, but he couldn't...he wasn't going to be able to afford it for the initial rebuild of the structure. So, yeah, each property owner is going to have to kind of assess where they're at and what...what's within their capability to pursue on their rebuild.

COUNCILMEMBER SINENCI: Okay. And then, just for clarification, this is for...for all homeowners, not...not just original owners. I mean, you mentioned second homeowners, those--you want to basically streamline the entire rebuild, not...not for the original...

MR. MOLINA: Correct. We haven't got to that level, as far as if we need to kind of pick and choose who should be allowed or not allowed in this process. We just took it as that whole area has a need and we're going to try to treat that whole area as one...one effort.

COUNCILMEMBER SINENCI: Got it. Okay. Thank you, Director. Thank you, Chair.

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CHAIR COOK: Member U'u-Hodgins, second round.

COUNCILMEMBER U'U-HODGINS: Yeah. Thank you, Chair. I'm glad Member Rawlins-Fernandez, I'm sorry, asked about the IWS systems because that's going to be I think a huge problem in the future, or not a problem but maybe an issue we all have to deal with, but I'm wondering if you could tell me about demanding issuance. I mean, can you elaborate on what that means? So after the 15 days, they can say, I want my permit and I want it now. They can...what...what do they have to do to do that?

MR. MOLINA: Just call us and say, give it to me. And basically --

COUNCILMEMBER U'U-HODGINS: What?

MR. MOLINA: -- if there's nothing left that we...we have flagged them on --

COUNCILMEMBER U'U-HODGINS: Um-hum.

MR. MOLINA: -- as far as needing additional review, then we're going to be prepared to give them their permits. And again, just that they...they take that risk, right, as far as if anything wasn't caught in the review. But hopefully that in those situations where auto-approval is happening, we've already done our diligence to know that it's relatively safe for them to proceed, and we've kind of pre-cleared those lots, which is kind of the effort we've been doing with water, and fire and wastewater is to kind of, yeah, look at these areas and know like, hey, yeah, if they're putting back the first and second dwelling, there's really no...no concern.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: I think it's going to be the land use one that's a little...a little stickier.

COUNCILMEMBER U'U-HODGINS: Okay. And this might be kind of manini-ish, but you know, when you're going to be reissuing people's permits in those five years, or redoing or allowing people to redo their permits, do all those like automatic boxes that have to be filled out by the engineers, are those going to be updated? Like, I want to say there's 16.16B or something.

MR. MOLINA: Yeah, so we're...if it's...if the design team needs to change--because generally, the architects have to certify those plans and approve them.

COUNCILMEMBER U'U-HODGINS: Right, but if we're going to be reissuing something --

MR. MOLINA: They're reissues, so they're probably just going to have to confirm if...if the same information is still valid from the previous submission and, if not, update those appropriate areas. But the intent is to just take the old one and call it good again.

COUNCILMEMBER U'U-HODGINS: I love it. After years of doing building permit processing, this is blowing my mind.

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MR. MOLINA: It's uncharted waters for us, as well.

COUNCILMEMBER U'U-HODGINS: . . .*(laughs)*. . .Thank you.

CHAIR COOK: Member Kama, second round questions?

COUNCILMEMBER KAMA: Thank...yeah. Thank you, Chair. Just one last question. Oh, Director Molina, after hearing all of the questions and the answers that you have been giving us, I feel really at ease, I think is the word, you know. But do you anticipate ever having all the permits that you ever had off your plate, and you have no backlog, and you're just waiting for somebody to walk into your office and give you a new permit?

MR. MOLINA: Gosh. I...I don't foresee it, barring any sort of catastrophic economic conditions that come out of this that, you know, totally just dry up that...that industry and you know, building on Maui. Yeah, it would be nice. I think that the challenge, though, as the...the administrator for the Department would then become, it's like, all these people that we have now, and whether we got to start trimming staff if we don't have that work. So I wouldn't be looking forward to that part of that scenario. But yes, it would be nice to have a more manageable permit flow through the office for the staff.

COUNCILMEMBER KAMA: Okay. That's a good goal. That's a lofty goal. Let's help you do that. Thank you, Chair. Thank you, Mr. Molina.

CHAIR COOK: Councilmember Rawlins-Fernandez, second round questions for the Director?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. No additional questions at the moment. Mahalo to everyone for the additional follow-up questions. Those were good...good questions. Mahalo.

CHAIR COOK: Member Johnson, second round questions?

COUNCILMEMBER JOHNSON: Thank you, Chair. All of my questions have been answered.

CHAIR COOK: Member Paltin, second round questions?

COUNCILMEMBER PALTIN: Thank you, Chair. I wanted to try and follow up on Member Sinenci's questions. You know, if folks don't have the money to rebuild what they had originally right away, could they get the building permit to do exactly what they had? How long would it be applicable? Could...would it last indefinitely?

MR. MOLINA: Yeah, so the permit is built at the time but if they...so and it would have to reflect what is being built. So if they have future expansion plans, those would require separate permits at the time. We haven't talked about whether though...like, in that case let's say they built their, you know, the first couple bedrooms that they could afford in the first two years, and then maybe year four or five, they come around for the next extension. We haven't ventured into that scenario yet, as far as do we keep the

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emergency process open for that scenario? You know, how long do we give people to kind of work through their rebuilds piece-by-piece? That is definitely still kind of out there to be discussed. But generally, right now, the way the...the ordinance is structured, there is a time period of four years is the default. And based on...based on...of course, based on the specific disaster and the circumstances, it may warrant either a longer duration or shorter duration. But yeah, we haven't kind of gotten into that next level of detail as far as, like, yeah, incremental rebuilds and how long we keep emergency permits open for that situation.

COUNCILMEMBER PALTIN: Because I imagine, you know, I mean, probably not all commercial opportunities, but a lot of folks in the commercial have access to money easier than just an owner-occupant because of, you know, the potential commercial revenue. But a lot of folks that were owner-occupant without any kind of insurance. So there's no way to put in the whole permit and then, like, build a living space, occupy that while you're building the rest? You...your certificate of occupancy is one crack. Then...then if you want to build the rest, you got to get a new separate permit?

MR. MOLINA: That would be correct. The only, I guess, other scenario that could work is they just build what they can and kind of...you know, as they get more, they try and build more under one permit. But they're going to run into there is a limitation of how long the permit is valid for, which is that five-year window. And so if they don't complete, you know, that incremental rebuild within that five years, then the permit is going to be expired and they'll have to re-get a new permit for, you now, to continue that process. So it would be generally, I think we would advise that they . . .*(timer sounds)*. . . you know, just define what they can build under the permit so that that permit can be closed cleanly and then just come back for that new permit when they're ready for the next phase of building.

COUNCILMEMBER PALTIN: Like build a cottage first and then build the main house or something?

MR. MOLINA: That's correct. Or build the main house that's just kind of a shell in certain areas and then you come in and do the finishings and, you know, the interior kind of work as a separate phase, like I mentioned is that one example in Kula where that...that lower floor got stripped down to kind of its...just the walls basically for this initial permit.

COUNCILMEMBER PALTIN: Thank you. I heard the bell, Chair. I just have one comment that's not a question, if possible.

CHAIR COOK: Proceed.

COUNCILMEMBER PALTIN: Thank you. I just hope you know...I understand the four years and like that, and commercial, and I just hope that, you know, the owner-occupied properties that got burned down, if it's still the owner, we can give them a little bit grace if it's the same owner because the reason why they wouldn't be rebuilding within that four years would likely be financial constraints. So commercial and non-owner occupied and like that is...is a different story than the original owner-occupant trying to get

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rebuilt within four years. There may be financial things and I...I wonder if the Administration has reached out to Hawai'i Community Foundation, as the County directed all the folks that wanted to donate money to that organization. Maybe they can help with those owner-occupant permit fees, even if they're reduced, because I thought that they were collecting money for the survivors, and the owner-occupants are just trying to get back to their land, stretch as much insurance or no insurance money that they have. It seems like that would be a good pot to go to, HCF, to help with owner-occupant rebuild permitting fees.

MR. MOLINA: Yeah, so I haven't directly...I mean, other than what I mentioned with trying to set up something for the Wahikuli septic situation, I haven't been directly involved in sort of those support programs to help people rebuild. I...I believe that's part of the purview of our...our Housing RSF, and I know there's like CDBG-DR money that would apply to kind of your low-income areas as far as helping them rebuild, but I don't have any kind of awareness as far as what those various programs to help the individual property owners with their rebuilds are at this time. That's, yeah, somebody else's lane.

COUNCILMEMBER PALTIN: Thank you. Thank you for the leniency.

CHAIR COOK: Member Sinenci, your second round of questions?

COUNCILMEMBER SINENCI: Thank you, Chair. Just a couple more. Director Molina, will residents have to rebuild to new building standards?

MR. MOLINA: Yes. All the current building codes must be met unless you're in that window of reissue in the last five years.

COUNCILMEMBER SINENCI: And oh, okay. And then we did hear from Administrator Hart yesterday that the SMA rules have not been signed off on. So are we...are we building to the old SMA rules for now?

MR. MOLINA: There is a whole effort on Planning's side to tackle the various land use regulations that exist in Lāhainā and, you know, mainly below the highway. So that...that goes into kind of the standards discussion that I mentioned, which is part of but separate from this administrative permit processing process. So I...I do anticipate or I know Administrator Hart mentioned yesterday that there's legislation they're routing through the Planning Commissions that'll come to Council. And so I do anticipate you guys will be in discussion for what those land use standards may or may not be for Lāhainā. Thank you.

COUNCILMEMBER SINENCI: If not, we could just exempt some of these projects in the SMA or...

MR. MOLINA: Yeah. So the SMA does accommodate an exemption, so like your single-family home up to a certain square footage is an exempt action for the SMA. So like those kind of rebuilds would be able to get processed more expeditiously than anybody trying to do a non-exempt activity in the SMA.

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COUNCILMEMBER SINENCI: Okay. Looking forward to hearing from Corporation Counsel and the...and this new amendments. Thank you. Thank you, Chair.

CHAIR COOK: Okay, Members. I believe everyone's had two rounds. Has anybody been left out? No. Okay. Chair has a couple of questions for Director Molina. This first question's a little long, but it's...hopefully I'm trying to get some clarity. In Section 105.2.2B, it states commercial structures may not be consolidated into a modified application unless authorized by the building official. And in Section 105.2.2C, it states the building official must obtain comments and concurrence from appropriate reviewing departments for any modified application that involves a commercial structure. Putting aside permit applications for reconstruction of recently built commercial structures, under Section 105.2.2D, given the language in subsections (B) and (C), my questions are a, what is the criteria a building official will use to decide whether an expedited permit for rebuilding commercial structure will be authorized?

MR. MOLINA: Thank you, Chair, and thank you for pointing that out. I overlooked that one. Yeah, so because of the complexity of the commercial structures, we didn't want those...or we wanted that separate review for electrical and plumbing for health, you know, public health and safety reasons. Right now, the intent is that any commercial permit would be routed the same way we route a typical permit at this time. And where the efficiencies may happen is the fact that it's a rebuild. So if they stay within their previous demands for water, sewer, are consistent with their previous land use, then it should be easier for them to get their approvals to rebuild in that regard. The land use side, SMA, if they're in historic, all that stuff is still kind of out there as far as how the Planning Department will be trying to streamline that...those processes and then how they relate to kind of the effort to put a rebuild master plan together to kind of guide what this rebuild looks like. But yeah, so the commercial, beyond just getting into the special lane with their application that goes through our consultant for review, the agency reviews will all be the same for commercial properties.

CHAIR COOK: The second part of that: When is an agency review necessary for an expedited commercial permit application? You just sort of answered it, but if you could answer it again. I'll repeat it. When is an agency review necessary for expedited commercial permit applications?

MR. MOLINA: The agency review is necessary for all commercial permit applications.

CHAIR COOK: Jordan Hart provided a flowchart visualizing the modified application process, which includes building permits. Are the building permits consolidated with electrical, plumbing, driveway, grading permits as part of the modified application, and should that be clear in subsection (B) of the bill?

MR. MOLINA: Yeah, so as you pointed out, for the residential structures, those applications do get consolidated but for the commercial, because of the complexity of those structures, we felt it was more appropriate to keep those reviews separate. Thank you.

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CHAIR COOK: Thank you. . . .*(timer sounds)*. . . Seeing that that's my time, and I only have one round of questions, seeing there's no further discussion, we'll move on to decision-making. Once we have the main motion, I'll ask to take up my proposed amendment summary form. Now the Chair would like to entertain a motion to recommend passage of Bill 21 (2024) on first reading.

MR. MITCHELL: Excuse me, Chair.

COUNCILMEMBER KAMA: So moved.

COUNCILMEMBER U'U-HODGINS: So moved.

CHAIR COOK: So moved by Member Kama and seconded by Member U'u-Hodgins.

MR. MITCHELL: Chair, if I...if I may momentarily interrupt. Just to clarify on subsection (B) I think the response was the building permit was separated from the modified application for commercial structures. Does that also include residential structures? And the need to clarify that is to make sure that subsection (B) itemizes building permit for residential structures, if that was the intent.

CHAIR COOK: Director?

MR. MOLINA: When we...when we do building code review, the structure's organized according to occupancy. So if it's a residential occupancy, which generally is guided by the residential code on how those structures are built, in that situation, we can allow that consolidated application and review for electrical and plumbing. But commercial...of course, the...what we're proposing is kind of that discretionary ability to, if it's a small structure, then maybe it's...it's...it's okay to consolidate, but if it's a more complex structure, then we would have them submit separately for those additional permits.

MR. MITCHELL: So Chair, so in the last sentence of Subsection (B), it says modified applications for residential structures may consolidate the electrical, plumbing, driveway, grading, and other permits that are associated with the work, and it continues. Should the word building permit also be included in that itemization for a building?

MR. MOLINA: No, because we are in the building code that's already talking about the building permit.

CHAIR COOK: Any further discussion? Motion made by Councilmember Kama and seconded by Councilmember U'u-Hodgins to recommend passage of Bill 21 (2024) on first reading, and I also have proposed ASF to amend Bill 21. Members, any discussion before I move on to substitute? Seeing none.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair. Chair.

CHAIR COOK: Member...Member Rawlins-Fernandez.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Where can I find your ASF? Is it in my email?

MS. LILLIS: It's in Granicus.

COUNCILMEMBER RAWLINS-FERNANDEZ: Um...oh, item 3?

MS. LILLIS: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, thank you.

CHAIR COOK: So any discussion before I move to substitute?

MR. PASCUAL: Chair, to further clarify, we'll be doing the motion to substitute on the now signed version that we received from Corp. Counsel. So just wanted to clarify that. This is under Granicus item number 5.

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

COUNCILMEMBER PALTIN: I just wanted to clarify, I guess, with Mr. Pascual. The substitute version is exactly the...or the signed version is exactly the same as the substituted version? It just has a signature?

MR. PASCUAL: That's correct, Member Paltin. Yes. So the only thing that changed is it's now signed off by Corp. Counsel.

COUNCILMEMBER PALTIN: Okay. Great. Thank you. I...I didn't know if I needed to read a new one or what.

CHAIR COOK: Okay. Members, Chair would like to entertain a motion to substitute Bill 21 with the proposed signed CD1 version transmitted from the Department of Corporation Counsel.

COUNCILMEMBER U'U-HODGINS: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR COOK: So moved by Member U'u-Hodgins and seconded by Member Kama. Members, the proposed CD1 version amends Bill 21 by amending the bill's title, inserting that driveway and grading permits may be consolidated under a modified application, inserting a new Section (L), indemnification, expanding the building official's ability to withhold issue of a modified application permit if pending public infrastructure improvements adjacent to the property are necessary and incorporating non-substantive revisions. Members, the amendment provides a clear title for the bill. Additionally, we wanted to clarify that driveway and grading permits were also consolidated in the modified permit application process as seen in the expedited process

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flowchart that was provided by Jordan Hart from last week's meeting. Further, the ASF would expand the building official's power under Section (J) to withhold the...to withhold the permit if public infrastructure improvements, such as road expansions or improvements, haven't been completed near adjacent properties. We also created a new Section (L) on the indemnification for better organization and clarity. As I mentioned earlier, the CD1 version is now approved by Corporation Counsel. Is there any discussion? Member Sinenci and then Member Paltin.

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of order.

CHAIR COOK: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. You read your motion and said you were going to entertain it, but I don't think you recognized anyone to make the motion and a second for...for the ASF, for the substitution. I could be wrong, if Staff had that noted.

MR. MITCHELL: So Chair, you should seek to obtain a member to substitute with the signed ASF and second.

COUNCILMEMBER U'U-HODGINS: So moved.

COUNCILMEMBER SINENCI: So moved.

COUNCILMEMBER KAMA: So moved. Second.

CHAIR COOK: Okay.

MR. MITCHELL: Now call for the vote, Chair.

CHAIR COOK: So moved by Member. . .

COUNCILMEMBER SINENCI: But --

CHAIR COOK: Staff, clarify where we're at.

MR. PASCUAL: Chair, I believe Member U'u-Hodgins made the motion, seconded by Member Kama. So now you are on the motion to substitute.

CHAIR COOK: Any discussion on the movement to substitute?

COUNCILMEMBER SINENCI: Chair?

CHAIR COOK: Member Sinenci.

COUNCILMEMBER SINENCI: Yeah. I was just wanting clarification from Director Molina on the changes.

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MR. MOLINA: Thank you. I've been consulted previously and no objections. Thank you.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR COOK: So can we hold the vote on the substitution? All in favor raise your hand and say aye. Staff?

MR. PASCUAL: Chair, you have seven ayes, zero noes, two excused, Members Lee and Sugimura. Motion passes. So now you are back to the main motion as amended.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Sugimura and Councilmember Lee.

MOTION CARRIED.

ACTION:APPROVED AMENDMENT

CHAIR COOK: Do we have a...do we vote on that?

MS. PASCUAL: Yes, Chair.

CHAIR COOK: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And you can ask for discussion. It looks like you...there's discussion, Chair.

CHAIR COOK: Okay, for discussion Member Paltin has her hand up.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to express my gratitude to the Administration and the Department and the Director for their work on this bill. I know it doesn't always come across because I'm always asking for more things, but it's not mutually exclusive that I'm not grateful and asking for more things. So I just wanted to make sure and clarify that I'm very grateful for all the hard work on this expedited process. And for my discussion, I just wanted to reiterate, or say, that I'm...I'm glad that it also applies to commercial structures and undeveloped...previously undeveloped areas within the burn zone, but reiterate that our original owner-occupants of these

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properties, maybe if there is any way that we can give them some leeway if they have financial constraints within the four-year time period. If we can kind of, you know, as Member U'u-Hodgins said before, hold their hands through the process a little bit extra because, you know, it's...it's just residents living in their own house that aren't familiar with these types of things most times, especially in Lāhainā, where, you know, we have these multigenerational homes from the...from long, long time ago. And if anyone from HCF is listening to this, I would fully support any kind of help for these original owner-occupants of these homes because they're...they make up the fabric of our community. You know, a lot of them are our firefighters, or our police officers, or even our doctors and nurses, our teachers, and things like that, not to discount the folks that were previously renters as well. I'm not sure how we can rebuild the non-owner occupants that had rentals...long-term rentals in them without asking for significantly more rent because I guess part of the thing that was keeping the rents low was...was the age of the structures. And now, with new I don't know if you call non-owner-occupied investment properties or whatever and all new buildings, I just hope that our workforce will be able to continue to rent in those homes because we...we really need them, and not everyone is a property owner or--in some cases, I've heard where the owners have offered to sell to the previous tenants. I...I really support that as well, just because, you know, we can't...we can't just be...we can't serve tourists, we can't serve our community without that workforce. It's...it's an integral part of the community and it's...I'd...I'd love for us to get creative and find ways that we can ensure that our...our workforce that existed and provided critical needs to our community prior to August 8th is welcome back with open arms. Thank you.

CHAIR COOK: Any other discussion before the vote? I would...I would also like to acknowledge the work that the departments have done, their responsiveness to our Committee through the last few weeks and months, and the...the level of commitment that all of the...all of the people that work for the County, working for the Government, have shown is admirable. And I'm hoping that the public understands that they might not see or feel all of the effort immediately, but I truly believe that we as a community are moving forward for the best interest of everybody, and I just wanted to express my gratitude. Member Rawlins-Fernandez, did...were you going to put your hand up?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I was trying not to interrupt you. I'm sorry. But I wanted to echo your sentiments, as well as Member Paltin's, in expressing, you know, our gratitude to the Administration and to all the working groups that are, you know, spending countless hours trying to figure this out on behalf of the community and...and I just wanted to...to clarify and to mahalo...well, to clarify what Member Paltin said in...in her asking for things. It's on behalf of the community in which she lives. And so, mahalo, Member Paltin, for always being a voice and pushing all of us to ensure to...to really address the concerns at the ground level so, you know, keeping the community voice in the center of our discussions and deliberations and decision-making. So mahalo, Member Paltin, and mahalo, Director Molina and Chair Cook for bringing this up so expeditiously. Mahalo nui loa.

CHAIR COOK: Thank you. Is everybody ready for the vote? Okay, all in favor say aye.

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MR. PASCUAL: Chair, seven ayes, zero noes, two excused, Members Lee and Sugimura.
Motion passes.

VOTE: AYES: Chair Cook, and Councilmembers Johnson, Kama, Paltin, Rawlins-Fernandez, Sinenci, and U‘u-Hodgins.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Sugimura and Councilmember Lee.

MOTION CARRIED.

ACTION:Recommending **FIRST READING** of Bill 21, CD1 (2024), by C.R.

CHAIR COOK: Members, this concludes today’s Water and Infrastructure Committee meeting. Thank you everyone for being here and for a great meeting. The time is now 11:27 a.m., and this meeting is now adjourned. . . .*(gavel)*. . .

ADJOURN: 11:27 a.m.

APPROVED:



TOM COOK, Chair
Water and Infrastructure Committee

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CERTIFICATION

I, Charlotte Hunter, hereby certify that pages 1 through 43 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 17th day of February 2024, in Wailuku, Hawaii



Charlotte Hunter