

ENVIRONMENTAL, AGRICULTURAL, AND CULTURAL PRESERVATION COMMITTEE

Council of the County of Maui

MINUTES

October 20, 2020

Online Only Via BlueJeans

CONVENE: 1:30 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Shane M. Sinenci, Chair
Councilmember Tasha Kama, Vice-Chair
Councilmember Kelly Takaya King
Councilmember Alice L. Lee
Councilmember Michael J. Molina
Councilmember Tamara Paltin
Councilmember Yuki Lei K. Sugimura

STAFF:

Kasie Apo Takayama, Legislative Analyst
Nicole Siegel, Legislative Analyst
Wilton Leauanae, Legislative Analyst
James Forrest, Legislative Attorney
Richard E. Mitchell, Legislative Attorney
Clarita Balala, Committee Secretary
Lenora Dineen, Council Services Assistant Clerk

Gina Young, Executive Assistant to Councilmember Shane M. Sinenci
Evan Dust, Executive Assistant to Councilmember Tasha Kama
Kate Griffiths, Executive Assistant to Councilmember Kelly Takaya King
Trinette Furtado, Executive Assistant to Councilmember Keani
Rawlins-Fernandez
Sarah Pajimola, Executive Assistant to Councilmember Keani
Rawlins-Fernandez

ADMIN.:

Stephanie Chen, Deputy Corporation Counsel, Department of the
Corporation Counsel
Dr. Janet Six, Archaeologist for the County of Maui

OTHERS:

Noelani Ahia (EACP-37)
Ke'eaumoku Kapu (EACP-37)
Vicky Kaluna Palafox (EACP-37)
Linda Magalianes (EACP-37)
Kahiki Niles (EACP-37)
Consuelo Apolo-Gonsalves (EACP-37)
Kaneali'i Williams (EACP-37)
Rose Reilly (EACP-37)
Fay McFarlane (EACP-37)

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Foster Ampong (EACP-37)
Christopher Fishkin (EACP-45)
Sam Small (EACP-37)
Carol Lee Kamekona (EACP-45, EACP-37)
Jordan Hocker (EACP-37)
Kaniloa Kamaunu (EACP-45, EACP-17(9), EACP-37)
Faith Chase (EACP-45, EACP-17(9), EACP-37)

Hökūao Pellegrino, Noho'ana Farms
Lynn Araki-Regan, Deputy Director, State Department of Transportation
(7) additional attendees

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

CHAIR SINENCI: . . .*(gavel)*. . . Aloha auinala kākou and welcome to the Environmental, Agricultural, and Cultural Preservation Committee meeting of Tuesday, October 20, 2020, and can we please come to order. It is 1:30 p.m. I'm Shane Sinenci, Chair of the Committee. Before we begin, may I please ask that we silence all cell phones and noisemaking devices. With us today we have our Committee Vice-Chair, Ms. Tasha Kama. Aloha auinala.

VICE-CHAIR KAMA: Aloha auinala, Chair.

CHAIR SINENCI: Thanks for joining us. I don't see Member Sugimura, but I'm sure she'll be joining us very shortly. Next we have Councilmember Tamara Paltin. Aloha auinala.

COUNCILMEMBER PALTIN: Aloha auinala. Old Lahaina Center.

CHAIR SINENCI: Mahalo, thanks for joining us. Next we have Councilmember Kelly King. Aloha auinala.

COUNCILMEMBER KING: Wow, there's some noise in the background there. Aloha auinala, Chair.

CHAIR SINENCI: Aloha, thanks for joining us this afternoon. From Upcountry, we have Councilmember Mike Molina. Aloha, Mr. Molina.

COUNCILMEMBER MOLINA: Aloha auinala and buenos dias, Mr. Chairman, to you and all of my colleagues and everyone else tuning in from under the virtual bridge in Makawao.

CHAIR SINENCI: Muy bien. Thanks for being here. And finally, we have Council Chair, Ms. Alice Lee. Aloha, Chair Lee.

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COUNCILMEMBER LEE: Chair, all the way from Mongolia. Good afternoon, we say udriin mend. Udriin mend.

CHAIR SINENCI: Udriin mend. Thank you, Chair. And of course, Members, our Non-Voting Committee Members today is Mr. Riki Hokama and Ms. Keani Rawlins-Fernandez. Of course, they're always welcome to join us at any time. From the Administration...oh, before I go to Administration, we see Member Sugimura. Aloha auinala.

COUNCILMEMBER SUGIMURA: Good afternoon, everybody.

CHAIR SINENCI: Thanks for being here. From our Administration, we have Dr. Janet Six, Archaeologist for the County of Maui. Aloha, Dr. Six.

MS. SIX: Oh, I didn't have my camera on. Mingalaba. That's from Myanmar, it means have an auspicious day.

CHAIR SINENCI: Oh, okay. Mingalaba. Next we have Ms. Stephanie Chen from our Corporation Counsel representative today. Aloha, Ms. Chen.

MS. CHEN: Aloha, Chair. Aloha, Members.

CHAIR SINENCI: Thanks for being here. Members, our other resource people today joining us, we have Mr. Hōkūao Pellegrino of Noho'ana Farms. And later this afternoon, we're expecting Ms. Lynn Araki-Regan, Deputy Director of the State Department of Transportation. Oh, I did see Mr. Pellegrino, aloha. Thanks for joining us today. For Staff members today, we have Ms. Kasie Apo Takayama, Ms. Clarita Balala, Mr. James Forrest, Ms. Nicole Siegel, and Ms. Lei Dineen. So mahalo for working on the meeting today. Our agenda items today, Members, we have three items scheduled for today's meeting. EACP-45, the Effects of the Coronavirus Pandemic and Related Issues Under the Environmental, Agricultural, and Cultural Preservation Committee's Authority. Second, we have EACP-17(9), Water for Agriculture. And finally, EACP-37, Protection of Historic Properties. So let's begin with public testimony. Oral testimony via phone or teleconference will be accepted. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link at BlueJeans.com/840546502 as noted on today's agenda. Testifiers wanting to provide audio testimony should have participated via phone conference by dialing 1-408-915-6290 and entering meeting code 840546502, also noted on today's agenda. Written testimony is highly encouraged through the eComment link listed for today's agenda on mauicounty.us/agendas. And instructions on how to submit testimony via eComment can also be found at mauicounty.us/ecomment. So Members, moving on to oral testimony, oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will kindly ask that you complete your testimony. When testifying, please state your name. If you are testifying on behalf of any organization, or a paid lobbyist, please inform the Committee. Please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. If you are here to provide testimony, please be courteous to others by

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turning off your video and muting your microphone while waiting for your turn to testify. Participants who wish to view the meeting only without providing testimony, please view a live cablecast on *Akakū* channel 53, or visit mauicounty.us/agendas to access live and archived meeting videos. Just like to remind Committee Members, Administration, and the public to please be patient if you run into any technological issues. So with that, Members, I'd like to proceed with oral testimony. The Staff has been monitoring people joining today's meeting by phone and by video, and so we will do our best to take each person up in an orderly fashion. So with that...looks like...

MR. FISHKIN: How do they know we're here?

CHAIR SINENCI: Our first testifier is Ms. Noelani Ahia. Ms. Ahia.

MR. FISHKIN: Nobody's gotten our name.

CHAIR SINENCI: And provide your testimony. If you want to go ahead and testify today, please let us know in the chat section. Thank you.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. AHIA: Okay, can you hear me?

CHAIR SINENCI: Yes, we can.

MS. AHIA: Okay, great. Aloha mai kākou. I'm Noelani Ahia. I'm coming to you today from the 'āina of Kaua'ūla Valley. We are here on the 'āina to protect iwi kupuna. So I wanted to first thank you, Councilmember Sinenci and your entire staff, for all the forward thinking work you've been doing to protect iwi kupuna, from drafting the position of County Archaeologist, to looking into the cultural overlay that we're going to hear about today, as well as the cultural protection ordinance that you folks are working on in your office. So I...I just want to emphatically state my support for that. I think it's long past due. You know, I understand there was something like this written back in 1998, and it never got passed. And I feel like if it would've been passed in 1998, we wouldn't have had to suffer through all the desecration that we've had to in the last 20-plus years. It's time now to do this for our kupuna. So, you know, I mean, a lot of you know that I've been advocating for the burials in the sand dunes for some time now. And, you know, we're still having trouble because the State doesn't always do their job and there's loopholes in the law and we end up with blatant desecration and disregard of our iwi kupuna. And out here in Kaua'ūla this week, as some of you know...thank you, Tamara Paltin, Member Tamara Paltin, thank you, Member Keani Rawlins-Fernandez, and, of course, Member Shane Sinenci, for reaching out to us and trying to help us get information so we can sort out what is wrong in Kaua'ūla right now. Because we have a situation where there is a grading and grubbing exemption that allows developers to trench to put in utility lines, and as long as they cover it right back up, it does not trigger a permit. And so if a permit is

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not triggered, if a permit is not necessary, it does not trigger State historic preservation review process. And so these developers started trenching to put in their water line--this is West Maui Land, by the way, this is Peter Martin and subsidiaries--they began trenching with no archaeological oversight, no AIS. And unfortunately, they go right through a cemetery, Pioneer Mill Cemetery. There are other cemeteries in the area that you'll hear about from some of the other testifiers, but this is a very sensitive cultural area, and it was completely, completely insane that they were allowed to do this without a permit. And there isn't even a process to go through, from what I've been told by the County, to file for an exemption. They just go ahead and do it. So they're trenching in some places four, five, six feet in areas with known burials. And it's absolutely unacceptable. So I'm here to support this ordinance. I'm here to support the cultural overlay. I think the only way that we can protect is to know what's there. Not that this is information that's going to be made totally public, but so that the folks who are giving out permits know exactly where the sensitive areas are, and where the areas that are safer for development are. We're not trying to say you can't build any houses anywhere, but you just can't build them in a burial ground. It's enough already. Our people have suffered enough, 127 years of suffering. This desecration of burials is part of cultural genocide. It's part of the disconnection of our people to our 'aina. It's part of the forced assimilation, and it's part of the removal of us from our land. And, you know, our people are rising up. Our people are going back to the 'aina. We're claiming our Kuleana lands, which is our birthright. Those titles are allodial, and they pass to that original person's heirs forever in undivided interest. And so that's what we're dealing with here out in Kaua'ula. . . .(timer sounds). . . Please pule for us, it's been very, very stressful and very emotional. But this community out here is strong, and we will protect our iwi kupuna at all costs. Mahalo nui and aloha. Okay, thank you.

CHAIR SINENCI: Mahalo, Ms. Ahia, for your testimony. Members, any questions for Ms. Ahia? Seeing none, mahalo.

MS. AHIA: Okay.

CHAIR SINENCI: Next on our testifier list we have Mr. Ke'eaumoku Kapu.

MR. KAPU: Hi, aloha, Councilmembers, Ke'eaumoku Kapu, Lahaina, Kaua'ula. First of all, I'd like to mahalo also for the Council to taking up this very important item on the cultural overlay. And I've been in historic preservations for a long time, past 20 years. I was in the Cultural Resources Commission for four years, served in the Burial Council for eight years, four of those years as the Chair, and also served in the Native Hawaiian Historic Preservation Council and the Advisory to the Board of Trustees of the Office of Hawaiian Affairs. I've been a strong advocate to assuring that our historic properties are well protected, and really understand the lay of the land when it comes to Lahaina, that Lahaina is also registered in the National Historic Register, but only to an extent up to Pi'ilani Highway--some areas across the highway. But it's sad to see that the capital of the Kingdom of Hawaii and the history that is foretold in this town, it only extend to a certain limit and it doesn't go mauka. So I think it's really

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important that this cultural overlay will identify even more historic properties mauka of Pi'ilani Highway. And it's really important for us to start identifying those things because the Land Commission Award that stretches out throughout Lahaina town is also related to the National Historic Register of Moku'ula, and a lot of the historic properties within the shorelines of Lahaina. I am very, very upset at this point because one of those women that were arrested on Tuesday was my wife. And all because they really feel how important it was for them to step up and really make a stand because there is no support, any type of support that was coming from either the County or as well as the State Historic Preservations Division to even comment on how important these areas are, which triggered this ihi within my wife, take a stand and be even more proactive as to the reasons why she needed to do what she needed to do because we are not getting the support and help that we really need to in identifying this important place. So she took the lead. And from that, also three grandmothers, as well as a makua, a mother, also decided to get arrested. And we're not doing this just because, you know, we feel compelled to just do things just because. We do this because we are very afraid of the outcome of what may occur when they start hitting these historic properties. It just so happens is that what it actually took to really have the County . . .(timer sounds). . . as well as the State realize the importance of this is my title to these properties. So because of that, I think the County not only needs to look at the importance of why these areas needs to be...have a cultural overlay, but I think a lot of work needs to be done in the Public Works and Planning Department on whether or not these properties are also the sole owner to these land companies, which I have proven that they don't own 100 percent of these properties. And that's the reason why we stopped the project. Thank you. Mahalo.

CHAIR SINENCI: Mr. Kapu, we have a question from Member Paltin.

MR. KAPU: Sure. Aloha.

COUNCILMEMBER PALTIN: Aloha, thank you, Chair. Thank you, Mr. Kapu, for your testimony. I just was...my question is, my understanding is it's a civil matter, and so was it a mistake of a citizen arrest? Is that still on or is...was a apology made and it was removed?

MR. KAPU: So it's still pending. The arrest is still pending, and I think what's going to happen is they have a court date set for November 16th. And it was an arrest. It was kind of a joint arrest literally, and it was on behalf of the private land company, West Maui Construction. Mr. Josh Dean was the one that did a citizen's arrest in support of the Maui Police Department where these five women were incarcerated and taken to the Police Department. So citizen's arrest, end up being arrested by the Maui Police Department. So for me, I look at that as illegal. Illegal to a point as to where, you know, these women wasn't incarcerated, they were kidnapped. So because of that...and I also tried to get the documents down to the area where the women decided to hold their grounds, and until I got down there, the CEO or the arresting officer left, so he didn't look at anything and everything went forward as pertaining to the booking. So we're at that so-called moment of pertaining to whether or not it was

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justified. And so Tuesday they got arrested, Wednesday I went down there, served the police, they said it was a civil matter, and the Police Department left and the construction company also abandoned the work area. But they worked other areas. So because of that, you know, everything is collateral damage to me, and whichever route this is going to go, you know, we going to hope for the best. We're going to hope for the best. So mahalo for that question. Thank you.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. Mr. Kapu, I had a couple questions. Are you aware if there was any finds that were disturbed during the construction up to this date?

MR. KAPU: You know, and I think that's the whole problem when there's no oversight and no inspection. Because once they do what they doing, they dig a trench, they lay the line, and they cover it up. So my whole issue about that is, you know, pertaining to fines and all these kinds of things, they're...they're exempt. They're totally exempt. There's other areas that we're hoping that, you know, they need to comply to some kind of permitting, and because of that area they claim is private property, because they're private property and they're exempt, it doesn't trigger anything from the State Historic Preservation Division. So the fines is...like, they're exempt from everything and I really want to know why they're exempt. And I've been pushing the Board for months and months and months trying to gain clarity, and I've gotten nothing. So...

CHAIR SINENCI: Mahalo. Then my second question was, this is within the area of Kaua'ula by Puamana, and I know that there is an old cemetery there. Is this within that vicinity of the old --

MR. KAPU: Yes, that is.

CHAIR SINENCI: -- cemetery?

MR. KAPU: Yes, it's Puehuhuiki Cemetery it's right alongside Honoapiilani Highway as you enter into Lahaina Town. Once you pass Kaua'ula bridge, you probably would go about another 300 yards, then you hit Puehuhuiki Cemetery. So we shared our concerns with the construction company and the archaeologist. But what had happen was they decided to take a right turn and another left turn in the cane field, and found themselves going across an old cemetery known as the Pioneer Mill Cemetery, which is on the 1884 map, which drew even more concerns. Then there was a burial that was found in 2008 by Cultural Service Hawai'i, and I was the Burial Council Chair back then, and I did the site visit on the location of that burial. And as they extend even further down to where the mill...the area where used to be Lahaina Pump, there's another cemetery over there known as the Jacobson Cemetery. But because you have these three cemeteries and a burial, and other burials was identified from the Cultural Resources Commission meeting back in 2008, there's an admittance that there's more burials in that area. Why was this company exempt to even go through these areas is

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the reasons as to why I think my wife and my ohana had a valid reason to jump in that hole and stop the development at all cost. Mahalo. Thank you.

CHAIR SINENCI: Mahalo, Mr. Kapu, for your testimony today.

MR. KAPU: Thank you.

CHAIR SINENCI: Oh, we had a question from...one more question from Mr. Molina.

MR. KAPU: Okay.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman, if you deem my question inappropriate or it doesn't quite tie to the subject matter, which I assume is EACP-37, let me know. Good afternoon, Mr. Kapu. Just as it relates to the matter at hand out in West Maui, was there any outside agencies or private...or someone from the community that was there to help monitor what was going on?

MR. KAPU: Yes, we have observers. We also have medics on site because of...yeah, well before, when everything started, we didn't have that. But now that we're going forward in addressing the situation, we have legal monitors and medics to help with the situation. It's really hot over here, so trying to keep everybody comfortable. But we're holding it down over here, and we got to do what we got to do in order for the agencies to take into some seriousness of pertaining to these matters really, really needs to be addressed. And mahalo for this cultural overlay because I think this will help us really identify the cultural layers in certain areas. I think it's time to extend the historic area, the National Historic area, across into the mauka areas of Lahaina town.

COUNCILMEMBER MOLINA: All right.

MR. KAPU: Mahalo.

COUNCILMEMBER MOLINA: Thank you, Mr. Kapu. Mahalo. Thank you, Chair.

CHAIR SINENCI: Mahalo, Mr. Molina. And mahalo, Mr. Kapu. Next testifier, we have Ms. Vicky Kaluna Palafox.

MS. PALAFOX: Aloha, Chair. Aloha, Councilmembers. Mahalo for your time. I support your effort in this endeavor. I feel that finally we're going to have someone to listen to us and our concern. I was one of the aunties that was arrested in that puka. And my reasoning for doing that was all the actions that was occurring on the outside between the Maui Police Department and Josh Dean. When the Police Department first arrived, he came out of his car, the lieutenant, he went straight to Josh Dean and gave him knuckles. That kind of already put me on the defense mode. Wow. Brothers? Cousins? Family? The other situation was that...the too much kuka kuka with Josh that they were having between each other made me feel that that's what it led into an

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arrest. My standing as a kupuna and as ohana and family unto this 'aina of Moku'ula stems from time past. My kupuna is here. And I'd like to remind everyone that the purpose of our kupunas not being labeled and not being shown where they are is a protection that has been in place for many generations. We do not allow anyone to know where our kupunas are buried because of the mana that they carry within their bones. The bones are the ones that still lay within these grounds. I'm very spiritual. I help to protect the spiritual aspect of our group, and I try to keep things in place. But when my eyes see the physical and listen to the things that are not pono and even the cries from our kupunas and our families to the Mayor to at least answer our call, give us some kind of a clue. Are you really listening to us? Do you have the time for us? When it was voting time, we gave you time. Our time. Our precious time. All we ask the Mayor is to give us a minute or so to allow us to share our mana'o. We will stand here on this land. We will protect our kupunas in whatever it may be. I will lay my body down to save them because I understand the past, because I am the present and my great-grandchildren will be the future that will continue this battle that we do, and that will share this until forever. We are against the TMK. The TMK was based already on the Land Commission Awards. We need to understand and learn of that. But without the Land Commission Award, there will be no tax map key. . . .(timer sounds). . . Tax map key doesn't show any ownership, it only shows a fee that needs to be paid to an entity...entity. I thank you for your time, and I mahalo and support you in every way. Mahalo nui, Councilmember and Chair.

CHAIR SINENCI: Mahalo nui. Thank you for your testimony today. Members, any questions? Seeing none. Thank you for joining us today. The next testifier we have Ms. Linda Magalianes.

MS. MAGALIANES: Aloha mai kākou. My name is Linda Nahina Magalianes. I was one of the grandmas, mom, that was arrested that jumped in the hole. I felt like I had to protect our iwi kupuna. My walk of life today is protecting iwi kupuna, and that day that happened, I felt comfortable in that hole doing what I did, you know. But with how this passing of exempt...I no can understand why. So I support the overlay, and I thank you folks for even giving us this opportunity to speak. And please, we need protection on that. We need protection on all our kupunas that is buried out here, like Auntie Vicky said. You know, we don't tell everybody where people are buried. But we as families, we know where they're buried. It doesn't have to show in anywhere or area, shape, or form, but our families down the line know where everybody's buried. And that's why I felt the need of being in that hole, to protect our kupunas. And I will do it again if I have to because that's my walk of life today. Thank you very much.

CHAIR SINENCI: Mahalo Ms. Magalianes. We have a question from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Magalianes, for your testimony. My question is, you know, I'm aware that it's not like to be shared where family members and like that are buried. Do you come across folks that don't believe you when you say that's where they're buried?

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MS. MAGALIANES: Yeah, and those are the ones that don't know. I'll use Olowalu, for example. You know, we did a...there was, I believe...when they did on the ocean side, just as they were building right by Camp Pecusa, those shacks, they wanted to put in, I think, a sewer and they came across two iwi kupuna still intact. But they took it out of the hole, so we felt we needed to put them back. And with Ke'eaumoku, Ui, myself, the Nahooikaikas, because they are from Olowalu, so am I, I am a Nahoikaika as well, we did that, what do they call that, internment back into the same area. So yes, I come across people who don't know. And majority of them are malahinis anyway. Not our own people, but the ones...if they're our own people, they're actually not the ones raised in Hawai'i. But yeah, I know plenty areas where people don't know that has grave, but that's from my kupunas of the past that talked the story about that.

COUNCILMEMBER PALTIN: So if the folks don't believe what you're saying, is there any recourse that you know of to try and help them see --

MS. MAGALIANES: I don't...

COUNCILMEMBER PALTIN: --other than digging?

MS. MAGALIANES: I never tried to help them see, but just explain the story. And this is just my personal life as the only girl in my family. My dad was strict, so I always had to follow my parents everywhere they went and I was always around elders. Back then, you can never speak, but you just got to sit there and listen. So that's how I know a lot of stuff in Olowalu and in Lahaina because I'm born and raised here in Lahaina. Back then, you never had that many people in Lahaina. You knew everybody in Lahaina. Today, no matter which way you turn, you don't know nobody, but I know I'll never -- just stories of what I was told by my kupunas of where, who, what, and how.

COUNCILMEMBER PALTIN: Thank you.

MS. MAGALIANES: Thank you.

COUNCILMEMBER PALTIN: Thank you, Chair.

CHAIR SINENCI: Mahalo, Ms. Nahina Magalanes for your testimony today.

MS. MAGALIANES: Thank you --

CHAIR SINENCI: Our next...

MS. MAGALIANES: -- Chair. Thank you, Councilmembers. Mahalo.

CHAIR SINENCI: Mahalo nui. Next, Members, we have Kahiki Niles.

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MS. NILES: Aloha, everyone. Mahalo for your time today and your energy, you know, and your understanding and, you know, thank you for trying to find solutions, you know, to our problems. Today I wrote my testimony down because I didn't want to, like, lose sight of what I was trying to say. But aloha, my name is Kahiki Lani Niles. I was one of the five women that was arrested. So I just going to go ahead and read my testimony. If you have questions, I definitely can answer. So...I'm sorry. Okay, so these water lines are a huge disgrace and disservice to what was once laid down to rest before us. I do understand...I don't understand why the County and the State continue to give these private entities special privileges like exemptions. When private entities are allowed these exemptions, they not only rush, but they also desecrate. From September 21st, 2020, West Maui Construction has been digging their trenches and laying their huge water pipes, knowing that there are known cemeteries such as Pioneer Mill Cemetery, as well as the Jacobson Cemetery, in their path. Being that this area of 'aina is all 'aina kuleana with allodial titles, they're also private ohana burials that are in danger of desecration. When West Maui Construction first started their water line project, they had no archaeological monitors, nor was there a archaeological inventory survey done by West Maui Construction. I feel that no one, especially in Lahaina, should be given any exemptions whatsoever. Lahaina has a colorful and sacred history, which should be recognized and never forgotten. We are people of culture and spiritual beliefs that follow a strict protocol and everything. For West Maui Construction to have employees that show so much disrespect and manipulation towards living humans, imagine the kind of disrespect they have towards our iwi kupuna. So please cease and desist the waterline project and all other developments until these issues like iwi kupuna and land title are resolved. So mahalo.

CHAIR SINENCI: Mahalo, Ms. Niles, for your testimony, okay, and for being here today and sharing your testimony with us. Mahalo.

MS. NILES: Mahalo.

CHAIR SINENCI: Next, Members, we have Consuelo Apolo-Gonsalves. Pronouncing that correctly?

MS. APOLO-GONSALVES: Aloha --

CHAIR SINENCI: Correct me. Hi.

MS. APOLO-GONSALVES: -- Councilmembers.

CHAIR SINENCI: Aloha, can you restate your name please?

MS. APOLO-GONSALVES: My name is Consuelo Apolo-Gonsalves.

CHAIR SINENCI: Mahalo.

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MS. APOLO-GONSALVES: Aloha, Councilmembers. Mahalo for taking this time to listen to us. I was one of the grandmas, mothers, that got arrested. And I just want to say, you know, enough of this desecration. I support what you guys are doing because we need it. You know, when we put our kupuna down, we put them to rest. They shouldn't be bothered. They should be left alone. I support this bill that you guys are doing. But I feel that we need a stop work order. We need it. We need it now. And just to protect, you know, our iwi kupunas because if...I lived here all my life. And as the years went on, I see what this construction people do, you know. And they have no consideration, you know. No respect for our cultural history of this 'aina. I really appreciate you guys coming up with this bill because we really need it. We really need to protect our burial grounds. I also have kupuna up in Upcountry in Honopou, and we do have a burial site over there as well. But we need to protect our 'aina already. Enough of this desecration. Enough. And you know, when they talk about affordable, what is affordable? What is affordable? I cannot afford \$500,000. That's not affordable to me. But yeah, we need a stop work order. We need to cease and desist what they're doing. And we need to do more research on what they're doing, you know. But mahalo, thank you for this time, Councils.

CHAIR SINENCI: Mahalo, Ms. Gonsalves, for your testimony today. Appreciate your courage. Aloha nui.

MS. APOLO-GONSALVES: Mahalo.

CHAIR SINENCI: Next, Members, we have Kaneali'i Williams. Kaneali'i Williams. Please state your name.

MR. WILLIAMS: Aloha, my name is Terrell James Kaneali'i Keikioka'aina Williams. I first want to start by saying that I want to echo the six previous speakers and what they have shared. The first thing I want to ask for this Council is to issue a stop work order immediately until this issue is settled in court. It's not fair for our ohana to have to put forth our own resources during this economic recession. Meanwhile, the construction still continues, and there's no restrictions that are allowing for our iwi kupuna to be protected. On the day of the arrest, I saw wahine of this ohana or descendants of those kupuna that are buried had to put their lives on the line right in front of construction work. I'm a six...seventh generation descendant of Noa Kaumeheiwa. The kuleana lands are not in Kaua'ula they're in Wainee, which is not that far from here. In fact, those lands are immediately mauka of the aquatic pool center and mauka of those lands is the Jacobson cemetery. And right mauka of that is West Maui Land Company Construction...is their home base where they're currently digging. And one of the concerns that I have is because they do not need any permits to first of all start construction and go through private lands, and on top of that, there's no process that requires them to do any additional permits if they want to reroute their pipelines. They can easily go right through the Jacobson Cemetery. They can easily go through the Kahelekai lands in order to complete this project. And like the wahine here, who put their lives on the line to end the construction, to protect their iwi kupuna, the same should be expected that those iwi will also be protected.

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So again, I want to ask for, you know, ordinances and the cultural layers to, you know, be put into effect for the stop work order to be done immediately. And, you know, one of the other issues that is the fact that they're...this company is able to take water from one ahupua'a, trench it through another ahupua'a, dig through iwi kupuna. In the days of our kupuna of old, these things would have been not allowed under any circumstance. To be able to take water out of one ahupua'a to put it into another, to dig up iwi kupuna, there needs to be a protocol and a structure in place that absolutely protects our iwi, and that puts our iwi before development, that puts it before profits, that puts it before in construction. You know, Queen Liliuokalani said that the voice of the people is the voice of God, and these are the people. And mahalo for listening.

CHAIR SINENCI: Mahalo, Mr. Williams. I had a question. You know, the current owner of the property, had he acquired this property from the sugar plantation, or the...was there anything from those deeds that was...for properties that was acquired that there were these known cemeteries from the sugar plantation? And I don't know if you can answer that. It might be a question for maybe a historian of the area.

MR. WILLIAMS: The owner...you know, the title's in question...but the kuleana landowners are the owners in perpetuity. And, you know, another thing I want to add real quick is as far as any land mapping burials of our iwi kupuna, again, as has been stated before, our kupuna did not necessarily make it very obvious to find the kupuna, these iwi because, again, the mana was to be protected of these ancestors, so the fact that our kupuna resided on that 'aina should be enough to understand that there's iwi there. It was a practice to wherever your hale was, and you lived there for generations, you would bury your kupuna right outside. And so no matter where you're going, there's going to be iwi. And those iwi should always be protected. And the kuleana families need to be protected. And their iwi kupuna are there.

CHAIR SINENCI: Mahalo, Mr. Williams, for your testimony today, for being here.

MR. WILLIAMS: Mahalo.

CHAIR SINENCI: Okay, Members, moving right along. Next we have Ms. Rose Reilly. She'll be also testifying on EACP-37.

MS. REILLY: Aloha, mahalo, Chair Member Sinenci for bringing this forward. I would like to say that, you know, it has been really intense. I'm from Kauai and, like, the impacts of kupunas being arrested is just so hewa. Like, it's just so against all of my cellular memory of how life is and exists. So we been doing a lot, you know, like, and then talking with the guys yesterday, you know, this cultural monitor guy, his...archaeological monitor--my bad, sorry--is going, you know, he didn't know what a skimming well was. He then is giving us information that's outdated, and admitting that it is, and knowing that it's a lot less water than he's trying to tell us, and then still swearing and saying that's a lot of water. You know? And so he doesn't understand how water systems work. He doesn't understand, like, how the ahupua'as

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work. He doesn't understand how the culture worked. Like, so, who is this guy? Why are we talking to this guy? Why is he here? You know? So this is the kind of guys that they're bringing out to like help, you know. So like, basically if I go over to someone else's house and I decide that I'm going to do something, there's a lot of things that I might know...hey, you know, I might not know, you know. So for them to be going around and just making any kind in places they know on the maps are culturally sensitive, it says these things. And then, what they've got, like these identifications for the certain time period, and that's all the information. So it is, it's so good that you guys want to put something together that will express the cultural overlay, but are they getting it, you know. Are they getting what the culture is? Do they understand what it means to be in the sustainability of the Kanaka Ma'oli that set this place up to be paradise because they invested in it, they worked on it, they knew how the systems work, and they respected it. These guys, they don't respect. They don't know. They, you know, they should not be put in charge of things. You...it's people who know and have the real knowledge for generations are the ones that should be in charge of this. And it just hurts to see that they would be allowed to be in charge of anything or that, you know, they would be the ones determining the archaeological pono in a situation. So, like, you know, it's one thing to make the overlay, but a lot of things need to change as far as who's doing what, where, and how, and why. . . .(timer sounds). . .

CHAIR SINENCI: Mahalo, Ms. Reilly, for your testimony today. Members, any questions for the testifier? Seeing none. Thank you for joining us today, Ms. Reilly.

MR. REILLY: Mahalo.

CHAIR SINENCI: Next, Members, we have Fay McFarlane. McFarlane?

MS. MCFARLANE: Sorry, am I muted? Am I muted?

CHAIR SINENCI: No, we can hear you.

MS. MCFARLANE: Okay, I'm so sorry.

COUNCILMEMBER PALTIN: Your video is muted, if you want to unmute your video. And it...

MS. MCFARLANE: Oh, my gosh. Sorry. I think I'm...I don't think my battery can sustain video. I'm sorry, is that all right?

COUNCILMEMBER PALTIN: Okay.

CHAIR SINENCI: Yeah.

MS. MCFARLANE: It's plugged in, but it's...I can see it going red so I'm just...let me try to get this in three minutes before it dies.

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CHAIR SINENCI: Okay.

MS. MCFARLANE: I'm trying to submit testimony on EACP-37, Protection of Cultural Resources. And I wanted to mahalo all of the previous speakers for sharing their mana'o and their ike about this situation. I'm a local of Lahaina. I live in Launiupoko and I'm a rate payer with Launiupoko Irrigation Company and Launiupoko Water Company, and obviously, a Maui taxpayer. So I wanted to bring a little different perspective than the perspective you've already heard because...I guess this kind of relates too, to EACP-17(9) with Water for Agriculture but, you know, we hear about these pipelines trenching to bring water from one ahupua'a to another. And, you know, we got water problems up here. We would like to have water. But the neighbors that I know and that I'm in daily conversation with, people are absolutely disgusted with the idea of trenching through or near or adjacent to five plus cemeteries plus numerous apana or LCA ohana burials, yeah. Because even if your kupuna wasn't buried in...within the technical confines of the historical cemetery, very oftentimes, people are buried outside, yeah. And I just wanted to point that out that when a developer says, oh, but I'm not digging in the national, you know, historic landmark district, I'm digging five feet from that edge, you know. It's not...that's not okay to narrowly miss Jacobson. And so we want water, but we don't want water at the expense of desecration. And that's another thing too, that just the conversations that I'm hearing in my neighborhood is that taxpayers are freaking really upset at the misuse and the abuse of County resources, like first responders, police, whatever, right, being used in service of a private corporation. When the Chief has already taken the position for months now, right, that in a civil matter, civil court will resolve these disputes. I mean, is Josh Dean reimbursing, right? And then another point that I wanted to make about water and about protection of cultural resources is that the behavior of the kia'i has been so pono so far. You know, they've got tons of people that are volunteering to lay down, get arrested, do whatever for the cause, right? But they want to be so upright in putting the heirs first, right? Getting permission of Opunui ohana, right, to represent interest on that apana. And I just wanted to point out that none of us, you know, nobody that's present at any of these incidents ever put their hands on West Maui Construction, right, ever approached the police in an aggressive way. And the only thing that I saw or, you know, that we have video of anything is that Josh Dean put his hands on me. Not in an aggressive way, right. But they need to know that they cannot do that, right? . . . *(timer sounds)*. . . All right. Mahalo for your time.

CHAIR SINENCI: Ms. McFarlane, we have a question from Member Paltin.

COUNCILMEMBER PALTIN: Aloha --

MS. MCFARLANE: Aloha.

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COUNCILMEMBER PALTIN: -- Mrs. McFarlane. Mahalo for your testimony. Thank you. I had a question as a Launiupoko Irrigation Company customer. Were you informed that this is the process that would be going on to get you agricultural water?

MS. MCFARLANE: Absolutely not. And actually, I believe that the HOA just days ago filed to become an intervener in a PUC motion. I think the water company wants to increase rates by like 125 percent or something. And so on the basis of that, the HOA has filed to become an intervener. I don't know whether or not that motion has been granted yet, that application has been granted yet, but they want to provide testimony in that. I don't know whether or not the water company has looked at expanding the...like, broadening the scope of their original certificate, you know, for convenience. And, you know, that's something that we should look at. But as far as I know, I'm not even 100 percent sure that that pipeline aims to serve us in terms of my particular development. It may be that the developer would like to sell more ag parcels, you know, adjacent with like Makila Ranch or adjacent to that, and that this will interrupt his revenue streams, right, hurt his ability to unload these parcels if he doesn't trench through all these burials.

COUNCILMEMBER PALTIN: Thank you. And then I recall that you were at some of the CPAC meetings around the Launiupoko area. This never did come up as a project that was going to be moving forward in your recollection, did it?

MS. MCFARLANE: That's correct. I tried to attend all of the CPAC meetings when this area and the potential for growth or rezoning, anything like that, came up. And no, we did not receive any notice of that. We definitely, as a neighborhood, would have had people testify against such an action if we had any kind of inkling that that was going on.

COUNCILMEMBER PALTIN: Thank you. Thank you, Mrs. McFarlane. Thank you, Chair.

CHAIR SINENCI: Mahalo, Ms. Paltin. Mahalo, Ms. McFarlane, for your testimony today.

MS. MCFARLANE: Mahalo, Chair.

CHAIR SINENCI: Okay. Moving right along, Members, we've got about ten more testifiers. Next on the list, testifying to EACP-37, is Mr. Foster Ampong. Mr. Ampong, go ahead and unmute yourself.

MR. AMPONG: Hi, Chair. Actually, I didn't sign up to testify.

CHAIR SINENCI: Okay.

MR. AMPONG: Yeah, I'm just here watching. I understand the concern and the need for the cultural overlay. Fundamentally I support that. But I...how it's actually written up and how it's actually implemented, I do have some reservations. But I think, you

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know, in the course of constructing and creating that, I think I'd like to wait before I add any further comment to that.

CHAIR SINENCI: Okay, mahalo, Mr. Ampong. Just to be clear, we don't have anything agendized, we're just getting an update from Dr. Six today.

MR. AMPONG: Understood.

CHAIR SINENCI: Okay.

MR. AMPONG: Understood. Okay.

CHAIR SINENCI: Mahalo for joining us today. Member Paltin, you had a question.

COUNCILMEMBER PALTIN: Yeah, thank you. Thank you, Mr. Ampong. I just wanted to clarify, you did not want to share your reservations with us at this time?

MR. AMPONG: No, not at this time. I don't have enough facts, enough information. A lot of the concerns that were articulated, I share. But again, I'd like to gather more facts about this issue.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. AMPONG: Thank you.

CHAIR SINENCI: Okay, mahalo for joining us. Next, Members, we have Mr. Dane Maxwell. Maxwell, go ahead and unmute yourself.

MS. APO TAKAYAMA: Chair, Dane Maxwell has dropped off the call.

CHAIR SINENCI: Okay. Okay, next, Members, we have Mr. Christopher Fishkin, testifying on EACP-45. Mr. Fishkin.

MR. FISHKIN: Yes, can you hear me, Chair?

CHAIR SINENCI: Yes, we can hear you.

MR. FISHKIN: Yes, can you hold. I'm trying to just get to my...okay, very good. Hello, Councilmembers, I am testifying on...I believe it's 645 [sic], the COVID agenda item.

CHAIR SINENCI: Yes.

MR. FISHKIN: I am representing a group of...a diverse group of highly educated residents and citizens seeking Councilmembers' support for a letter to a Mayor that we have sent out in a petition that's supported by Hale Hawai'i, hawaiiicovid.org, Maui Citizens for Quarantine Enforcement, Maui Causes, and Maui Real News. The letter sets forth

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what we believe to be four critical strategies necessary to keep our people safe and the economy open. Otherwise, we're pretty sure we're going to be forced to shut down again, and the Mayor's going to have to opt out, which is unnecessary if we responsibly mitigate community spread. This Mayor and his Administration, and so far the Council, is not doing enough that's necessary to stay open and to stay safe. We have spoken directly with Dr. Pang, who supports these strategies and principles in the letter, believes that testing and tracing must go together to be effective. We have three times as many travelers as anticipated that have arrived. The State's estimate of one out of every 1,000 being infected with COVID is actually expected to be three out of every 1,000. Similar reopenings for tourism has occurred in Alaska and Tahiti, Councilmembers, with the same approach being taken by this Mayor, and the resultant outcome was significant community spread. We have a protest in support of the letter at the airport on Saturday. We're asking you to support these four points: A rapid response COVID-19 task force, which does not exist in the County at this time; the implementation of the locally-produced Perseus app, which would be voluntary; secondary mandatory tests; and an education campaign regarding masks and social distancing directed to the public. Councilmembers, less is not more in this situation, more is more where mitigation and eradication efforts are concerned. And you have some incredibly educated people in like, Hale Hawai'i and Hawai'i COVID-19 that are not being accessed. It's really awful. They have a tremendous amount of information and research, and they're not being accessed by this Administration for their skills and their knowledge base, and we're missing out. And it's going to be a short time...Dr. Pang is doing sample testing right now. And by the time he finds out by testing on departure where we're at, it could be too late to stop the community spread that's also already occurred in places like Alaska and Tahiti. So we're really requesting that you support the letter to the Mayor. It's been included in the comments, and it'll be given to the Mayor on Monday, but at a press conference held Saturday after the airport protest, which is going to be held responsibly and lawfully and all that. We want to bring attention to this, to these mitigation strategies. Thank you, Councilmembers.

CHAIR SINENCI: Mahalo, Mr. Fishkin. Members, any questions? We have a question for you from Member King.

MR. FISHKIN: Thank you.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Mr. Fishkin. Can...did you...is the letter the same thing that you're calling the petition?

MR. FISHKIN: Yeah, Ms. King, the letter is part of the petition, or it's in the petition. The airport protest, you know, which may or may not be supported by different Councilmembers is fine. It's the letter that we're looking for the support for. The protest is just to bring attention to the letter. The petition is to sign the letter for the community residents. I am personally reaching out to each and every one of you Councilmembers to sign and support this letter to the Mayor. It's all been approved by the groups that we are talking about, you know, the leadership councils of these

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groups and their member...the people in charge of their leadership. And we feel it's the most responsible way to approach this. We happen to know the Mayor's Office is in disarray. It's fairly dysfunctional right now with regards to mitigation and eradication techniques. I've met with Sandy Baz personally, they're simply deferring...they're abdicating all their responsibilities to the State apparently, so they can just blame it on the State later. But we don't really care about blame, we just want to keep the economy open, and we want to keep the residents safe. And Dr. Pang is in support of all the principles outlined in this letter, and he's certainly our hero on the island when it comes to this right now. So we're looking for you to really support this letter wholeheartedly so we can get this Administration...and if the Administration doesn't want to do a task force, we're asking that this Council set up the task force with this highly educated base of groups to bring info to the table.

COUNCILMEMBER KING: So thank you for that response. So do you...can you briefly, or maybe...I don't know if it's briefly, but Dr. Pang, I thought, was one of the Mayor's advisors. So did he give any indication why none of this is happening if this is his advice?

MR. FISHKIN: Yeah, I mean, essentially...and I can't represent, obviously, Dr. Pang, and he's in a politically...I mean, he's our Dr. Fauci and the Mayor's our, I guess, Mr. Trump, I don't know. You know, he's in a very political, you know, situation. He's a scientist, he wants to do his best job. And what he's doing is, right now, doing sample testing so he can get the numbers together. Unfortunately, the numbers, by the time we get them through those test...that testing, we could already have significant community spread like that's occurred in other places. And so in the meantime, you know, we're trying to avoid opting out. We're trying to keep the economy open and keep us all safe. If the numbers go up, then obviously the Mayor's going to be forced to opt out. So yeah, if he's saying why they're not following all of his suggestions, well, you know, the Mayor gets to do what he wants, right? Sandy...and they don't want to support the Perseus app, for instance, for no real good reasons other than the...you know, Sandy said that the State has one. Sandy didn't even know how the apps work, to be honest with you. The State does not have a functional app up presently. The Perseus app doesn't give any information to the State, but it does mitigate the spread, especially with testing going on. If a person finds out...if they're sick when they travel to the island, and they go get tested themselves, the Perseus app, if they downloaded it on their phone, will allow all those exposed to them to find out immediately that this individual they were exposed to has infected anonymously --

COUNCILMEMBER KING: I understand...

MR. FISHKIN: -- and therefore, that person can take responsibility and go quarantine responsibly.

COUNCILMEMBER KING: I understand about the Perseus app. We actually had a presentation and we did...the Council did support it with a majority vote. So --

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MR. FISHKIN: Yes.

COUNCILMEMBER KING: -- I do, I support that app as well. But I really appreciate you being here. I don't see your letter on the chat, but I think you sent it probably by email --

MR. FISHKIN: No.

COUNCILMEMBER KING: -- to all Councilmembers.

MR. FISHKIN: No, no, the letter is in the comments to this agenda. It's published on your website at --

COUNCILMEMBER KING: Oh, okay.

MR. FISHKIN: -- one of the public comments.

COUNCILMEMBER KING: Okay, I thought you were saying you put it in the chat. Okay. Thank you so much for being here. I appreciate your concern, and we'll take a look at it.

MR. FISHKIN: Thank you, Member King.

CHAIR SINENCI: Mahalo, Member King. Mahalo, Mr. Fishkin, for your testimony today.

MR. FISHKIN: Mahalo.

CHAIR SINENCI: Next, Members, we have Mr. Sam Small, and he's testifying on EACP-45 and EACP-37. Mr. Small, go ahead and unmute. Kasie, is he unmuted on our end?

MS. APO TAKAYAMA: Yes, Chair. He's unmuted on our end, we just can't hear him. And it looks like he's unmuted on his end as well.

CHAIR SINENCI: Sam, we can't hear you.

MR. SMALL: If...perhaps that is better? Hello, hello.

CHAIR SINENCI: Yeah. Go ahead.

MR. SMALL: Oh, okay, great. Thank you. Sorry about that. With reference to the cultural protections, you know, it would...Jeff Hunt, some of you may remember the name. I believe he was a Public Works Director several years ago. He characterized Maui, and the development on Maui, the process around it, as having a culture of leniency. He said that on his way out the door...because as a professional, he was not comfortable with the leniency that was afforded to developers here in Maui County. West Maui Land was one of those abusers. The property at Olowalu, their development there is

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brought back...ten years later, they were brought back to remediate environmental protections that they never bothered to install. And it wasn't the County that brought them back, that only happened because citizens stepped forward. We have a citizen-driven protection process where the County itself does not adequately protect our cultural and environmental resources, it's up to the citizens. And that's why, you know, those women, you know, put themselves in a place where someone thought it was appropriate to have them arrested. This is a developer that has abused the system. If you go back to Olowalu today, the fire breaks that they were cited for several years ago for not installing have still not been installed. So how is it that a developer like that gets preferred treatment through the Administration? Preferred treatment extends beyond just the permitting process because there's an email that Corporation Counsel distributed it to the County Administration, so that becomes...this is from Moana Lutey, who offers...here's some talking points, and I quote, "the work being done by West Maui Land is on private property owned by West Maui Land according to the documentation received from West Maui Land. Number two, the work does not require any permits from the County. And number three, the County is requesting that the parties mediate this matter. Thanks, Moana Lutey, Corporation Counsel." Now, I just wonder why it is that Corporation Counsel is issuing talking points and making...one of those talking points says, you know, definitively, the work does not require any permits from the County. You know, it's not appropriate. That becomes...as far as I can tell, that becomes a misstatement that's a public record for those talking points to come from Corporation Counsel. They are not necessary. . . .(timer sounds). . . And if that's the case, then they are a misrepresentation of government records, and I think worthy of something that this Council should investigate. If there's money involved, then it's a misuse of public documents with intent to defraud. And that's a criminal offense.

CHAIR SINENCI: Mahalo, Mr. Small.

MR. SMALL: So those points and prejudices and those kinds of...I'll wrap it up...those kinds of prejudices are the culture of leniency. That's why we had the three lot or less deferral agreements. That's why we had the Upcountry water bill two lot exemptions, that was removed. That's the culture of leniency that is expressing itself to continue to do so to the abuse of our citizens here in Maui County.

CHAIR SINENCI: Mahalo. Members, any questions for Mr. Small? Seeing none. Sam, you want to go ahead on to EACP-45?

MR. SMALL: Yeah. And I can...I had...give me just a second. Ms. King, you were asking about the letter, I can quickly read that. Dear Mr. Mayor, in your words, we still need to unite and work together in Maui County. He said that in March and it really still hasn't happened. We believe that the October 15th reopening of tourism, Maui County is at a critical point to being able to effectively manage the impacts of COVID-19 on our resident population and our economy. We all agree that as we need to keep our resident population safe and keep our economy open. However, it is also apparent that not all the elements necessary for success are being implemented. Not to

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diminish any of the many good things that your office has already accomplished, we the undersigned call on you to immediately adopt the following policies and procedures. In this way, we can work together to manage existing resources in ways that will immediately enhance the County's mitigation of the COVID-19 threat. Number one is to establish a rapid response COVID task force with the authority to plan and execute emergency responses to the inevitable hotspots and other unforeseen events in collaboration with the Maui State Health Department. The task force can be headed by Sandy Baz, the Managing Director, with the participation of at least two Councilmembers--you guys--a State House Rep, Dr. Lorrin Pang, who's already agreed to be on it, Dr. Stephanie Yan, and three community members who have professional expertise and are qualified to assist in the cause. Number two, the implementation of the Perseus app that you guys know about, you already approved it for anonymous contact tracing. The app can be...have successful mitigation results, even with just participation of just ten percent, and it has, as I said, already been approved by this Council. Number three, upgrade the secondary test we are currently offering visitors from voluntary to mandatory. And this has already been permitted by Governor Ige. Our current kama'aina card, which the Mayor thoughtfully created, can be used instead as an incentive for use of the Perseus app. And then fourth is to launch a public education media campaign to promote our existing rules on gatherings, social distancing and mask wearing for all. Everyone adhering to these rules is essential for our success, and that's not happening. The tourists are coming here and they are not wearing masks. The Administration's...the public officials say that the public is being told to wear masks, but the public is coming away saying, nobody told us. We don't know. So that's got to be fixed, and that's...you know, there's something very fishy and very wrong there. The State estimates that one of every 1,000 visitors coming to Maui will be infected with COVID-19. The experience in Alaska is three times that amount. Three in every 1,000 visitors is what Alaska received. On Maui, that's 35 to 56 people who are arriving to Maui every week. Just one of those persons being a super spreader will have a devastating impact on our community. We need to be better prepared in order to avoid further shutdown. Dr. Fauci stated unequivocally that Hawai'i's success in reopening is only as good as the mitigation strategies that are implemented locally and efficiently, and we are not maximizing our response here. Thank you for trusting and believing in our community enough to implement these above strategies to ensure Maui's success in reopening. Let us together malama Maui, what we love, we protect.

CHAIR SINENCI: Mahalo for that.

MR. SMALL: And that's a petition that's online. It's currently got 105 signatures. It's only been there a day. We have support from several different organizations. Like I said, Dr. Pang is already expressed his willingness to be on a task force. Joe Ritter has...an expert in aerosols has expressed a willingness to be on such a task force if it's empowered. And that's part of...you know, that's a big part of this, to be empowered to get around, you know, the heel dragging of the Administration. They're obviously not taking this as seriously as we, many, many citizens would like them to. And we

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are...you know, by all measures, it looks like we're headed to a shutdown that does not have to happen.

CHAIR SINENCI: Mahalo, Sam, for your testimony today. Members, questions? We have one question from Member King. Go ahead and...

COUNCILMEMBER KING: All right. Yeah, sorry about that, this cursor is giving me a hard time. Thanks for your testimony, Sam.

MR. SMALL: Sure.

COUNCILMEMBER KING: The last comment you made about being headed for a shutdown, you're talking about if we don't do these things. You're not talking about you folks shutting down the airport, are you?

MR. SMALL: Oh, gosh, no. No.

COUNCILMEMBER KING: Okay.

MR. SMALL: This is, you know, a positive civil action within the guidelines. We will not be stopping traffic at the airport. Nobody's...you know, we're telling people, no flags. It's not a political event, rally, by any means.

COUNCILMEMBER KING: Okay.

MR. SMALL: We're just asking people to drive through the airport at a normal speed and honk their horns and just make a lot of noise. They can decorate their cars, you know, safe tourism to avoid shutdown. That's a rallying cry, safe tourism to avoid shutdown. And, you know, if...I don't know if anybody saw the Mayor's press conference on Friday where he came on to set...this is how little I, my perception, how little respect there is to mask wearing in our Mayoral Administration. He walked onto the set, realized that he didn't have a mask on and didn't have the mask in his hands. He turned and walked back out of frame, returned seconds later holding the mask, and as he approached the podium, he put the mask up to his mouth and then pretended to remove the mask that he had not been wearing. And then immediately gives a wet cough into the room.

CHAIR SINENCI: . . .*(inaudible)*. . .

MR. SMALL: So this is the...that's in Friday's press conference. After Sandy Baz spoke, the Mayor was obviously standing in the room, he's got a cough, he's standing in the room not wearing his mask, and pretended on camera to remove a mask that he was never wearing.

CHAIR SINENCI: Okay.

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MR. SMALL: So this is the environment that we find ourselves in. We have a County that is not even advertising our own rules to tourists. If you call the County offices, no one in the Mayor's Staff can give you any details. They have not been briefed. There have been no meetings, and they have no details to offer tourists who are coming here with no understanding of what's expected of them and how they can help us protect our community. And so there is growing resentment that's taking place. You know, Mayor Caldwell was talking about it over on Oahu. The community is beginning to resent the tourists. We've got, what, 15,000 tourists on Maui today that were not here on Thursday. And many of them are not wearing masks. That --

CHAIR SINENCI: Mahalo.

MR. SMALL: -- you know, let's start a doomsday clock of...that we'll take wagers on how soon Maui County is going to get shut down because of COVID because we're not doing enough.

CHAIR SINENCI: Mahalo, Sam, for your testimony today.

MR. SMALL: Thank you all very much.

COUNCILMEMBER KING: Thank you.

CHAIR SINENCI: Thank you for being here. So Members...

MR. SMALL: We would hope that you sign the petition. Sign the petition. Mr. Fishkin has a hard copy of the petition for you to sign. We would like you to sign that so we can show your name in social media in support of this County doing everything that is at our disposal that we are not currently doing to protect this community from a financial meltdown of a shutdown. Thank you.

CHAIR SINENCI: Mahalo, Sam. Members, we've got about six, seven more testifiers and then maybe we'll look to a break. So moving right along, we have our next testifier, the last four digits 9385. Please go ahead and unmute yourself.

MS. KAMEKONA: Aloha no, e Chair --

CHAIR SINENCI: Aloha. Can you please...

MS. KAMEKONA: -- and Members of the EACP Committee.

CHAIR SINENCI: We can hear you. Can you state your name for the record, please?

MS. KAMEKONA: Hi. My name is Carol Lee Kamekona, and I would like to testify on Item EACP-45. With the opening of Maui to Transpacific travelers, I believe there's much that has not been thought of. As was stated by family members--and Chair, you would know this very well--the road to Hāna is a long road. There are not very many

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facilities along that road, and the facilities that there are seem to be closed or locked. Members have said, family members have said that there is no way for tourists to utilize facilities along the road. So I believe the environmental impact on that would be extreme, and I would like to know what it is the County can do to open facilities for not only visitors, but for our residents as well. With regards to EACP-37, I highly support the cultural overlay that is to be done by Dr. Janet Six. I am terribly appalled by the pointing of fingers that the County and the State are doing. They are accepting no responsibility for that road between two County parks called Mill Street. There is an 1884 map that specifically shows three cemeteries that have been mentioned by previous testifiers. What I don't understand is the process for a citizen's arrest. How does that work? Maui Police Department represents all of Maui's residents and citizens. So why is Maui Police Department being utilized to arrest citizens based on another citizen when the arrest is based on a TMK? A TMK is a tax map key that is filed with the Bureau of Conveyance. Does that not only show what kinds of taxes are to be paid? What holds more merit with regards to title? Ownership. The allodial title of the LCA, the Land Commission Award. So I don't understand why MPD was utilized on behalf of Josh Dean and the private entity to kidnap, arrest, take away, whatever you want to call the action that was done to our mana wahine. I believe that there should be no exemption allowed at all for any type of digging that is to be done without some kind of survey, report, testing. Even if it's going for two feet, there should be some kind of process that allows that testing to be approved. As has been said by several testifiers already, our culture, the culture of indigenous people, we don't have this concept of a cemetery where you go . . . *(timer sounds)* . . . for certain amount of people and be buried. Ours were always buried outside of our houses. So any kind of digging that's done in 'aina that belonged to Polynesians or any type of Kanaka Ma'oli, anything like that, the cultural overlay is really going to help. So as was also mentioned by previous testifiers, a lot of burials were known to family and not documented. I'm not going to discredit what Auntie Vicky or Linda said, but I will just share my own personal experience. As ohana, I...

CHAIR SINENCI: Ms. Kamekona --

MS. KAMEKONA: Yes? Yes?

CHAIR SINENCI: -- we have a question from Member Paltin.

MS. KAMEKONA: Okay. Did I stop?

CHAIR SINENCI: Yeah, that was the time. Go ahead.

MS. KAMEKONA: Oh, I didn't hear. Go ahead.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Kamekona. I just wanted to clarify. When you were talking about Mill Street, you're referencing the old Government road portion that the County, up until recently, claimed that they owned?

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MS. KAMEKONA: Correct. My understanding is that street goes between two County parks, and the County wasn't claiming ownership, and neither was the State. But that's what I didn't understand.

COUNCILMEMBER PALTIN: Oh, okay. Maybe it still belongs to the Kingdom then.

MS. KAMEKONA: I would tend to agree, according to the 1884 map.

CHAIR SINENCI: Mahalo, Ms. Kamekona, for being here today and providing us with your testimony.

MS. KAMEKONA: Mahalo, Chair. Ke akua pu.

CHAIR SINENCI: A o'oe. Members, next we have Mr. Jordan Hocker, he'll be testifying on EACP-37...oh, excuse me, Ms. Jordan Hocker.

MS. HOCKER: Good morning.

CHAIR SINENCI: Go ahead --

MS. HOCKER: Thank you, Council --

CHAIR SINENCI: -- and provide your testimony.

MS. HOCKER: -- Members. Yeah, I'm testifying in support of EACP-37. I was an observer of what went down on October the 12th, and I'd like to mirror that I'm also appalled for many reasons, but one of those was the use of the police force as private...essentially a corporation's private police force. I'm not really happy about my tax dollars going to that, and that's really just sort of a small issue with that. So I hope that those kia'i who were protected get that justice along with, you know, the reason I support this cultural overlay is because it's not like there's a lack of information here, right? We know iwi kupuna are there. Their heirs know that they're there. You have the information. The State Historic Society has the information. The Planning Development Committees have it there. Heirs are literally saying, listen to us because we know what's going on. And I think that in...I appreciate the Council because for the first time, I really feel like y'all are working for us. And so what I would really urge you to do is in extending this cultural overlay, let those voices be heard first and the loudest. A developer is never going to have the impetus to want to do the right thing when it comes to burials. Another thing that I saw when I was there was that when we walked up for these mana wahine to engage in direct action to protect their ancestors, the archaeologist was not even physically present in a way where he could have seen what that excavator was doing. And so when we allow the developer to pick their archaeologist, who may or may not be qualified for the job, there's a conflict of interest there. And when the County does not get involved, which is the County and the State's job, as far as I'm concerned. The State is on top of the Kingdom, which we know. And so if the State is going to do anything that's not perpetuating the violence

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that is well documented in the past, then the chance to do the right thing now, to listen to heirs now, is now. I mean, and you're dealing with educated people. You're dealing with people who know what they're talking about, who really...and I don't think any Councilmember is in opposition here, but no one should have to argue as to why their ancestors deserve to rest where they were put to rest. Like, it's happening all over the islands. It's not just happening in Maui, it's happening everywhere. And there's a normalization of it happening as if that's a thing that's okay to have happen. And it really, when it comes to the heart of things, is not. And I think that government bodies can be soulless and vacant . . . *(timer sounds)*. . . and run heirs around until they have no choice but to put themselves directly in harm's way and get arrested, or a government body can recognize that it's made up of people for people, and we can start listening to the voices that deserve to be listened to and that have consistently been silenced. So I really thank the Council. I really support this cultural overlay and really would urge you to just...they know where not to develop. We already know. Thank you.

CHAIR SINENCI: Mahalo, Ms. Hocker, for your testimony today. Members, any questions? Seeing none...oh, we have one question from Member Paltin.

MS. HOCKER: Yes?

CHAIR SINENCI: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Hocker, for your testimony, and I just wanted to clarify. This information is what they presently know, and it's not to the exclusion of new information as well. Is that your understanding?

MS. HOCKER: Yes. And if the new information is obtained by dredging up...by laying pipeline, that's a huge issue. It's a huge area of oversight that doesn't need to happen, and I think that a lot of us living here know what unfettered development looks like because it's been happening unchallenged. And so maybe this is an opportunity for Maui to stand up for...stand up to developers. I mean, I know they have money, and I know that they threaten to leave us in the lurch if we don't do what they want us to do, but we really...we need something new. We need something different. And I think the heirs are calling for that, and they should be listened to.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. And mahalo, Ms. Hocker, for being here. Next, Members, we have Napualani. Napualani, could you please unmute yourself, and state your last name, and which items did you want to testify on? Napualani. Okay, moving right along, next we have Mr. Kaniloa Kamaunu. He'll be testifying on all three items today. Mr. Kamaunu.

MR. KAMAUNU: Aloha, Chair and Councilmembers.

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CHAIR SINENCI: Aloha.

MR. KAMAUNU: So on the agricultural...I mean, the COVID-19 one, it's kind of...I don't know, I don't understand what it's saying. But if you dealing with what's going on as from what I've gathered at this time, you know, it's very concerning that our Governor would put us at risk the way that they do and very, you know, I mean, you know, there's a 14-day quarantine. So from what I gather to other things that happened with this, a 14-day quarantine is because they cannot get it for 14 days. There's an incubation period of at least 14 days or seven days. And with the 72 hours that they allow people to take the test to be able to travel and they come here, you know, and we're not even sure that if that even works. You know what I mean? I just don't see...I just don't understand the whole realm of everything because, you know, the way the outlook of all this is so political, that it's so convoluted that, you know, you don't know if you going, you know, if you going up or down. You have...there's no, you know, they don't know when the vaccine is going to be ready. They don't know when this is going to happen. But they want to get back to being normal. But how are you going to be normal when you don't even know what normal is? I mean, they don't even know about, I mean, just doesn't make sense to do these things when it's still a shot in the dark. You know? And then what is the recourse for, you know, people like us, if we get sick, how...you know what I mean. It's...you know, I'm in my 50s, I have my health issues. My wife is older than I am, she has her health issues. And, you know, I didn't understand why we couldn't open just our community first. You know, to make sure our community is not the ones that actually can, you know, get us in trouble, and then move on. But we're like, we're locked down, we're restricted to certain things, and then we're flying people from other places we know that are highly contagious, and yet, we allow them to enter our area, and we're still at a quandary of where we actually stand. And I don't understand the reasoning, except that, you know, of course, people have monetary obligations. But, you know, it's the governmental entities that put us into this situation. It's the governmental entities that need to take care of their people and not jeopardize them because . . . (timer sounds). . . you know, so anyway, that's my take on that. As far as going to EACP-17, again, as I mentioned previously in my other testimony, there are other entities that need to be in consultation. I know Hōkūao is, you know, with the Na Wai 'Eha and they are out there. But there are others like myself that, you know, still need to be in the game. And, you know, I mean, I wouldn't mind making a presentation but, you know, when it comes to agriculture from what I can see, you know, it's still commercial. It's a commercial venture. And I cannot see things here out in Waihee as I go down what used to be called Pine Stretch, and I see these companies in those areas where all the plantation was, you know, I see construction machinery there. I see warehouses coming up in that area. You know, I see Mr. Varel starting a little, I don't know, of food area and all...and he has three different entrances onto the main highway for the three different entities that he has renting his place, that's the animal shelter and couple other places. And, you know, I mean, so these things are very, you know, we talk about the water use. And, you know, to me it's backwards. It should be for me the people first, and then the businesses, they rank themselves as it comes down the line. But, you know, it's really...for us kanaka, we're always on the bottom

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of that list when it comes to importance of the water use. We're always just kind of at the bottom. And that's wrong because we are the ones with the rights. We are the ones who have a connection to the water, you know, through our vested rights. And yet, our concerns are always put to the bottom. We're always at the last, everybody else is above us. And so, you know, I mean, those things need to be changed and to be looked at and, you know. So with as far as agriculture, I'm very concerned about agriculture use of water. Still a lot of that is commercialism and, you know, so I would like to, you know, have the opportunity to make as Aha Moku and kuleana a presentation also to the County of how I believe, or we believe, that the water usage should be done. So that is my concern with that area. And then the last, of course, is of course EACP-37. A lot of our people have talked about the illegal use of the Police Department. Well, I should say questionable use of the Police Department and their interaction on that day that took place in Lahaina. It was very, very...when you have the public have to educate your officers on their duties, and their parameters, and the legalities, something's wrong with that. And, you know, as far as the status of our lands, it comes back to our political status, which is recognized by the Department of Interior in 2014, when they came to make that discussion, why you have in the discussion on recognizing people. And if you were to read their summary of their proposal as far as recognition, which I'm not for, they already get 151 statutes, statutes that recognize Hawaiians and kanakas and their rights, you know. So they already recognized us. It's the thing is the State and the County is not recognizing us, but the Federal Government as such acts as the past law is as a Federal Act, you get, you know, your own article, Article 12, Section 7, in your 1976 Constitution recognize who we are and our rights. You have the Haleakala Trail . . . *(timer sounds)*. . . that took place couple years ago, and they used Kingdom Law to defend that. And then you also have HRS 7-1. I still got more, right, for the...

CHAIR SINENCI: That's your time. And Mr. Kamaunu, we can talk about...we received your written testimony, so we can talk about having you come and present onto the Committee under wai like you had suggested. So...but we can keep you...get your information so that we can have you on our next subsequent meetings.

MR. KAMAUNU: Chair? Can I do the last one, Chair? The 37?

CHAIR SINENCI: Oh.

MR. KAMAUNU: Is that possible?

CHAIR SINENCI: Okay, you have just a...okay, go ahead.

MR. KAMAUNU: Sorry. Didn't know I passed. But you know, I mean, as I was saying, you know, HRS 7-1, you have HRS 172-11, which is...and these are taken from our Kingdom Law. HRS 7-1 refers back to the 1859 Kuleana Act. HRS 172-11 takes it back to the 1872 Kingdom Law. You also have the discussion on the OHA Real Property Tax that I came for in August 4, 2009 and reminded the Council then that they did not have the power to tax us, to lay a land tax because all taxes that were

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attached to the titles were already paid for in the Kingdom. And I came forward, that's why Maui was the only island that received the zero exemption for that Kuleana tax from OHA was because of the old law. And if you go back and you read the minutes on that, my testimony, at that time it was Bill Medeiros was for Hāna, and he asked Corp. Counsel, is what Mr. Kamaunu saying correct? Corp. Counsel replied, it's an old law. So the Council at that time acted upon the old law and gave us a zero exemption. And of course, you know, other things such as the 1898 Kū'e Petition solidifies our political status of wanting to be sovereign, which was upheld in the 56th Congress congressional debate of 1900, which was also once again reiterated in 1993 by a Public Law 103150, whereas 28, that we never relinquish our sovereignty. And you know, there's more and more. And for me, the biggest one that they don't look at is our iwi kupuna have a law that protects them, and it's the 1860...the civil...oh, this is the 1860 Act of the Kingdom, which gives them the right to stay where they buried, and questions the authority of the person that moves them. And so that Act needs to be looked at. It is there for the purpose to protect...what we are trying to do in this overlay was already given to our kupuna. And because our kupuna will never make a naturalized as a United States citizens, this Act still, as the other acts that are related to...from the Kingdom still applies. And the last comment for me, archaeological monitors are not archaeologists. They don't have the credentials. The primary investigator is the company's representation of an archaeologist. That is under the State, when they apply for their permits, they have to qualify. They have to have a master's degree, such as Janet Six. Anything below a master's degree is not considered credible to be considered an archaeologist. So I take into great concern the word, the loosely used archaeological monitors. They are not archaeological monitors because all the paperwork is done by the archaeologist, who is the PI or principal investigator. Mahalo. Thank you.

CHAIR SINENCI: Mr. Kamaunu. And, yeah, we can go ahead and have a more in-depth discussion at a later date, so --

MR. KAMAUNU: Thank you.

CHAIR SINENCI: -- I appreciate the emails. Mahalo.

MR. KAMAUNU: Mahalo.

CHAIR SINENCI: Members, we've passed...it's 3:12, and I just wanted to get a reading. We've got three more testifiers that jumped on. Are you...do you want to continue with the three, or take that ten-minute break.

COUNCILMEMBER MOLINA: Take the three.

COUNCILMEMBER KING: Take the three.

CHAIR SINENCI: Okay, we'll power through. Okay, thank you for your patience. Next, Members, we have Mr. Dane Maxwell. Mr. Maxwell, go ahead and unmute yourself

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and provide us your testimony, please. Okay, we can come back to Mr. Maxwell, Kasie. Next we have Grace Shigetani. Shigetani, can you go ahead and unmute yourself, provide us with testimony. Okay, then finally, we have Ms. Faith Chase. Ms. Chase, are you on board to provide us your testimony?

MS. CHASE: Yes, thank you. Aloha, Chair. Aloha, Councilmembers. I know it's been a long day. I'm going to rattle through on my three items as fast as I can. I would like to comment on EACP-45 relating to the effects of the coronavirus pandemic as it relates to the Department of Transportation's efforts to reopen for tourism. I would strongly encourage that the Maui County Visitor Management awardee be included in any planning conversations moving forward. The language in the grant as it relates to the visitor education along the Hāna Highway focuses on many collective community concerns that have not been returned to. I am in dismay to learn that some County monies may have been allocated to a slow to show secondary applicant, somehow thwarting the original grantee applicant. Be it known that the well-thought planning and methodology outlined in the visitor management grant application included over a year of volunteer data collection, and was ahead of the COVID curve in terms of preparedness. Please put this grantee in touch with the DOT officials to ensure proper approach for East Maui. I quickly want to mention that I am pleased to see EACP-17(9) Water for Agriculture on the agenda and seeing, as the Board of Water Supply, Maui County Council, Department of Housing and Human Concerns, Department of Land and Natural Resources seem to be at a loss at accepting the recent CWRM Commission on Water Resources Management 20-year water use development plan. I have just learned that a contested case hearing on Moloka'i was also filed in steps to protect the riparian rights to serve 175 DHHL waitlisters on an ag homestead project. I am pleased to see Hōkūao Pellegrino on the agenda, and I look forward to seeing other relative regional presentations from other regional Konahiki Water stakeholders and stewards. I am ready to express support for EACP-37, the protection of historic properties. I need to pause and just say, if there's any of the wahine, the mana wahine that are on the call or on the meeting still yet, while the video was very far away, you need to know there was hundreds if not thousands of us supporting you and crying. That was very emotional, and I am so appreciative and I applaud you. I echo Jordan Hocker in that I am, for the first time, extremely proud of this Council and the diligence you have all taken to take action on items that your citizens bring forward to you. And I further agree with her that this is the chance to listen to the heirs. In closing, I strongly suggest that perhaps since Councilmember Tamara Paltin--don't mean to put you on the spot--but since you were the author on that massive piece of clarifying correspondence to the Mayor and Chief of Police Tivoli Fauumu in regards to title disputes, maybe you might introduce an agenda item for the Ethics and Governance Committee [sic] to address these items, which ultimately concern Kingdom Bureau of Conveyance issues of literally grave concerns. There is a body of work to be done here, and it is a prerequisite to the transitioning of any government in the future. I insist this because I've inquired to MPD, Maui Police Department, on this correspondence, and I have asked about de-escalation tactics, about escalation merit training that may be in place now that this correspondence is public, and I have failed to receive a response. I have all the faith in this Council, and

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those who may take the lead after this approaching election. This Council has proved to be extremely forward thinking, and you have set yourself apart from others. Thank you for your time today.

CHAIR SINENCI: Mahalo, Ms. Chase. Members, any questions for Ms. Chase? Seeing none. Mahalo for being here, and staying on to the end. Members, seeing there are no more...is there any more individuals out there that want to testify? Okay, without objections, I will now close oral testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: And if there are any objections to receiving written testimony into the record?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Thank you, Members. So I will now close public testimony.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR SINENCI: With that, Members, mahalo for hanging in there with us. It's 3:18. We'll go ahead and take our mid-meeting break, and we'll come back at 3:30. With that, this EACP meeting of Tuesday, October 20th, is now in recess. . . .(gavel). . .

RECESS: 3:18 p.m.

RECONVENE: 3:30 p.m.

CHAIR SINENCI: . . .(gavel). . . The EACP meeting of Tuesday, October 20th, please come back to order. It is 3:30 p.m. Thank you, Members, for your promptness. So before we begin, Members, I'd like to ask your consideration of taking the items of the agenda out of order for today's meeting. We have with us Mr. Hōkūao Pellegrino, who was available during the first half of our meeting, to pick up where he left off with his presentation on the history...importance of water for agriculture. We also have Dr. Janet Six, our County Archeologist. She's here to discuss the cultural overlay for the protection of historic properties. And so she's willing to stay on at the end. And then we have scheduled at around 4:00 p.m., Ms. Araki-Regan with the State Department of Transportation, and so we kind of have her jumping on between meetings. So Members, if you are amenable to the plan, there are no objections, I'd like to take the Items...first EAP-17(9) [sic], then EACP-45, and then EACP-37 if there are no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Okay. Thank you, Members.

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EACP-17(9): WATER FOR AGRICULTURE

CHAIR SINENCI: With that, EACP-17(9), pursuant to Rule 7(B) of the Rules of the Council, the Committee intends to receive presentation relating to water for agriculture. The Committee received a presentation from Mr. Hōkūao Pellegrino at our last meeting. We invited him back to finish his presentation. Both a land education specialist and a researcher, his research covered the original place names and boundaries of Native Hawaiian land divisions, and also strengthening his dedication to protecting traditional water resources, including a portion of streamflow being restored to each of the four streams in the Na Wai 'Eha ahupua'a. So with that, Members, if there are no objections, I would like to designate Mr. Pellegrino as a resource person pursuant to 18(A) of the Rules of the Council.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Mahalo nui. Okay Mr. --

MR. PELLEGRINO: Aloha mai kākou.

CHAIR SINENCI: -- Pellegrino.

MR. PELLEGRINO: Oh. Aloha mai kākou.

CHAIR SINENCI: Aloha.

MR. PELLEGRINO: Mahalo, Chair and Councilmembers for the opportunity to come back and share with you. Chair, to be quite honest I'm not exactly sure where we ended off in my last presentation. Look, I was going through the slides and I was like, okay, I don't remember where we ended. I'm not sure where you want to begin, if you want me to continue on, or you want to ask questions. I'm...

CHAIR SINENCI: We want to give the Members some questions at the end of round. So if you can just do a 10- to 15-minute opening, and then we'll open it up for the Members to ask questions.

MR. PELLEGRINO: Okay.

CHAIR SINENCI: But I think your presentation was very informative, so if you could share those.

MR. PELLEGRINO: Sure. I'm just trying to remember where I was. Sorry, because I...but I'll kind of go through and chime in if you think that I talked already about that particular slide or not. But let me...hold on, let me share my screen.

VICE-CHAIR KAMA: Just go. Just go --

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MR. PELLEGRINO: Sorry.

VICE-CHAIR KAMA: -- Hōkūao. Just go.

MR. PELLEGRINO: Pick it up.

VICE-CHAIR KAMA: Yeah.

MR. PELLEGRINO: Okay, are you guys able to see my screen at this point?

VICE-CHAIR KAMA: 'Ae.

MR. PELLEGRINO: Okay. When we were talking about our last...in our last meeting, were we talking about kind of the legal ramifications, or at this particular slide. I feel like this is kind of where we ended up. You know, I did this same presentation recently for the Maui County Board of Water Supply, so I might get a little confused as to where I was or am. But I can't necessarily recall.

VICE-CHAIR KAMA: No worry, we still with you.

MR. PELLEGRINO: Okay, you know, I'll just start from here, this particular slide. Because it relates to agriculture, because it relates to, you know, the importance of traditional agriculture that took place, you know, specifically...not just in Na Wai 'Eha, but you know, throughout Maui in the multitude of ahupua'a. And so this particular slide speaks to the importance of Kuleana lands and agricultural lands and why...and where this term comes from. You know, today you hear a lot of people, you know, a lot of kanaka talking about the protection of Kuleana lands in association with the specific royal patents or Land Commission Awards. Now, this was an act that took place in 1850, otherwise known as the Kuleana Act, as part of the overall Great Mahele or mahele process in which lands, for the first time, became privatized. And so, you know, I will start off, you know, in this respect because these particular lands that, you know, now we call...like I said, now that they're called Kuleana lands, were some of, if not the most, fertile lands in which our kupuna, you know, sought and developed, you know, especially around the expansion period between 1300 and 1600 A.D. And the reason for that in which kupuna had, you know, moved into the interior valleys of the ahupua'a is one not only because of the vast water resources that may have, you know, took place that, you know, whether it's Kahului or river or punawai or spring or just the mere fact that there might have been sufficient rainfall for their crops, but was especially, for West Maui in particular, not...you know, that includes both the moku of Wailuku, Kaanapali, and Lahaina, are the importance of understanding the geographic and geological features in relationship to alluvial, you know, alluvial plains and alluvial fans that come out of the valleys. And those lands...you know, as these interior valleys were carved, you know, the hundreds of thousands of years ago, that soil, that sedimentation that came forth from this wai became that important resource for those kupuna, knowing that that lepo, that soil

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was momona and ono and really would benefit to cultivate food crops there. And again, I apologize if I had shared this last time but, you know, I can't reiterate enough about the importance of why kalo was the staple food in Hawaii. When you look at this general yield calculation that our hui, you know, put together as part of our case early on with...in conjunction with Office of Hawaiian Affairs...not really as part of our case, just a study that we did about Na Wai 'Eha, we know that Na Wai 'Eha conservatively was between 3,000 and 5,000 acres in wetland kalo cultivation from Waikapu to Waihee, but what we've done is kind of divided that number up in half to about 3,000 acres, knowing that it was likely that all 5 to 6,000 acres were not in cultivation at the exact same time. Obviously because they practiced...you know, they practiced regenerative farming methods. They practiced fallowing. They practiced, you know, different forms of composting and, you know, just ki pulu ai and just a ho'o momona to keep that soil conditioned, fertile. And so it said even today that you can plant about 10,000, you know, huli or kalo on roughly an acre of land. And if you take that yield calculation of three pounds per kalo, which, you know, again, this is a very conservative number because we know that probably at the time of our kupuna, they were harvesting a lot bigger kalo than three pounds. But we just take this number, you know, at face value and multiply that, that means that roughly our kupuna were able to harvest about 30,000 pounds of kalo per acre. And if you times that by just half the amount of acres that was in cultivation in Na Wai 'Eha alone, that means that this particular region on Maui, which is just one of many kalo-producing regions, could produce upwards of 90 million pounds of kalo a year. And today, you know, we have...from Kauai to Hawai'i island, we have less than 400 acres in total in wetland and dryland cultivation of kalo, and producing less than one million pounds of kalo. So you can see that, you know, 90 million pounds, you know, just in Na Wai 'Eha and other places, which is why we talk about kalo being the staple food, it really was. It was...you know, it was on the table three squares and in just a...you know, one of our most important food crops. I think again, we talked about this, but again, just kind of charting new waters and what occurred in terms of how these traditional agricultural systems changed, transitioned or, you know, modified into more larger-scale commercial agriculture, thus plantation and kind of where we are today. And a lot of it had to do with, you know, foreign pressure for owning land. And so the great Mahele and even the Kuleana Act of 1850 didn't only include Native Hawaiians as part of, you know, acquiring or...you know, acquiring lands fee simple. But there were a lot of foreigners...oh, and I guess, you know, Kingdom residents who were of foreign descent were able to acquire land as well. And so in that process, you know, we see this transition from, like I think I mentioned last time, kind of smaller scale sugar plantation setups whereby, you know, small parcels of, you know, different Kuleana lands were used for cultivating sugar to the point where, you know, we see larger, you know, plantations being established because of those legal ramifications. And I think I talked about the Bailey versus Peck case, excuse me, the Peck versus Bailey case the last time, and how that really leveraged the ability for plantations to take water out from one ahupua'a or from one watershed into areas that didn't typically have water. So, you know, here you see just in a matter of 15 years in Wailuku where all these different mills come up. Brown Adams, you know, this plantation existed on the north side of Wailuku River now where Wailuku Country Estates is. The Lewers Plantation

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was that mill that you can...I don't know if you can see my cursor, but this is the old road going down to the golf course in Waiehu, and just along the high...well, now, Honoapi'ilani Highway in that area is the where the mill was located. This was the first Wailuku sugar mill that was located...actually, sorry, excuse me. Yeah, this was the first mill that was located in Wailuku, and this is the road going down to Happy Valley. This would be Mill Street coming down. And what I love...and this is, you know, part of Puuohala Camp and now Wailuku Country Estates. And what I love about this picture is again, kind of the juxtaposition to see, or the contrast to see both plantation as well as lo'i kalo cultivation together. So what you...what's hard to see in this picture maybe is these fields right here. These fields here and below on this bank, these are all wetland lo'i. And what's hard to see is there's a beautiful lo'i wall right there, which would be...this building right across from this wall would be Molina's Bar. Oh, now it's...sorry, I refer to all these old-time names. It's Kings Barbecue now. And then Wailuku Sugar, you know, of course, began to grow and started to acquire these smaller mills like Waikapu Plantation, Lewers Plantation, Brown Adams, the Bailey and Sons Mill. And then behind Saint Anthony, which is now the "Millyard," this is the second iteration of the Wailuku Sugar Company Mill that was there. And so we see the transition, right, from these smaller, you know, smaller companies being acquired by Wailuku Sugar Company, eventually becoming Wailuku Agribusiness, and now currently Wailuku Water Company. And you can see just, you know, just some of the changes that have occurred. And the same thing goes for Hawaiian Commercial Sugar Company. So Hawaiian Commercial Sugar Company acquired a lot of smaller independent sugar companies, such as Ha'ikū Sugar, A&B Sugar Company, Pā'ia Plantation. There was a Kihei Sugar Company for a short period of time, as well as smaller mills in Pūlehu, Kailua, Makawao, and Kalialinui. And eventually became, you know, consolidated as HC&S and now Mahi Pono. And so I don't think, again, we have to go over all the impacts. I think it's pretty straightforward about, you know, what has occurred in terms of, you know, the transition between traditional agriculture and commercial sugar. We talked about this slide, I believe, as we talked about, like, Peck versus Bailey and that important case. And, you know, there is just a plethora of articles that speak to the changes and the eha, the, you know, the pain and the, you know, the changes that were affecting them as mainly Native Hawaiians. But not only Native Hawaiians, but also on account of even foreigners or, you know, non-native Hawaiian residents living in Hawai'i at that time were seeing the changes. And here, you know, Ka Leo o ka Malihini, is this kind of concerned visitors, this is in 1863. Again, not that long after the Wailuku Sugar Company was established, you know, and this particular person says if the question was left to a jury of hungry natives from Wailuku to Kaupo to decide, it would not be difficult to imagine the verdict. A bundle of 25 pounds of paikalo was 25 cents, Shade of Kamehameha the Great, defend us. And you can see, you know, Waikapu to Waihe'e is being encroached upon by the energy of the, you know, foreign developing cane powers. I mean, this just goes on. I mean, I could just do a whole presentation on just the articles alone because there was probably over 200 articles that I found over the last 15 years that talk about this. And so that's kind of why we were established. I don't think we need to go into our organizational structure and whatnot. But that's, you know, why we wanted to get started, is to preserve what was remaining of traditional

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ag, and finding ways that it could balance with commercial and diversified agriculture. And when I show you these figures soon, I think you guys will be able to understand a little bit. And you know, I spent a lot of time with the Water Department on this particular slide last time, and I won't with you folks, but I wanted to share because, you know, the County seat is in Wailuku. And I may have shared this in other presentations or testimonies or whatnot, but the importance of the County seat being in Wailuku and the significance of Wailuku and why, you know, our organization and community members and different advocates within the community have really pushed to find a balance is because, you know, Wailuku, Na Wai 'Eha really, the identity of this place is because of the waters that that flow forth, you know, from our valleys. And so...which is, you know, why we spent a lot of time, you know, and continue to spend a lot of time, you know, doing what we do and working with...especially with the County as part of our case. And so how these instream values work with agriculture and conserve agriculture is that all need water. And from a traditional agricultural point of view, in relationship to water, is that all of these, you know, these core values have a pilina, have a symbiotic relationship with each other. And when just one of these areas are out of whack or out of balance, it affects the other. And you might be looking at this first slide and you might be well, how does protecting native aquatic species and habitat play into the role of agriculture. I wish in another life I was a scientist of soil because what we've been spending a lot of time thinking about in terms of how and why traditional agricultural systems thrived in Hawai'i and how they did that for, you know, not just for a couple hundred years, but for over 1,000 years, how did they maintain the soil health without all of these imported inputs, you know, like fertilizer and, you know, biochar, and all this kind stuff. How did they maintain soil? And one of the things that we know from some research is that these native aquatic species, but especially oopu that live within our lo'i kalo systems, played an important role for maintaining soil health. And same goes for the opai and hihiwai. And obviously, you know, we're not going to discuss excrement here as part of our presentation, but all of that, and all of the nutrients and minerals and stuff that come down the stream, you know, fed these systems, and those helped to maintain the soil, you know, health of these agricultural systems. And so when we lose these native species, like opai and hihiwai and opu, and replace them with other...or just don't have native, you know, aquatic species present in our streams, then we lose, again, one of those important connections, and really symbiotic relationships that water has with agriculture. Our drinking water, the same goes for our drinking water. You know, there's always a lot of discussion about how both lo'i kalo systems, as well as plantation system holding, you know, reservoirs and lo'i kalo play both an important role in maintaining aquifer recharge and...or just, you know, recharging the aquifers. And so both definitely have a role, but more importantly than anything, obviously, is having, you know, water flowing within our streams that allow for natural, you know, recharge. And the traditional agricultural component, like, you know, don't have to talk much about that either being that that lo'i kalo do play an important role in maintaining both soil, you know, quality as well as water quality. Because some of these systems, you know, and the irrigation systems and auwai poowai systems help to elevate sedimentation runoff from going out into our nearshore fisheries and impacting our kai regions. And that's what these are also for, you know,

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our native, you know, ecosystems, our wetlands, you know, Kealia, Kapoho in Waihee. You know, there's not a picture here, but there's Mau'oni and Kanaha in Wailuku. And as well as the...as well as Kaehu O Ka Moi, which is this wetland here. And Peeloko or Pailoko in Waihee. All of these play very important roles in helping to filtrate...you know, to filter out sedimentation running into our oceans. And I think last but not least is the supporting aesthetic values and education, you know, because water is a public trust, you know, it...the access for these particular...for this particular resource, we need to ensure that everybody has access, you know. And not just a certain few, or not a certain entity, but that we, the people of this island, of this mokupuni, all have access to fresh, clean, running water. And so this is the slide I really wanted to get to because when we talk about diverse...you know, large-scale diverse of agriculture that we're seeing with Mahi Pono and that we're talking about, you know, the increase now in, you know, native Hawaiians and non-Hawaiians returning or going, you know, to restoring traditional agricultural lands, that free flowing water, that mauka to makai streamflow, is integral to that. And so you can kind of see here, you know, the different iterations of time that we've gone through to get where we are today in regards to Na Wai 'Eha. And so you can see here, this is the number. So a lot of people, you know, there's, you know, just normal misconceptions out there that, you know, they want to put all the water back in the stream and, you know, take it away from, you know, large scale farmers and off stream use. But you can see here that, you know, right now, only 54 percent, well, I should say should be in the stream, and I can talk a little bit about some current events that we had in the last couple days that I think, you know, would be good for you guys to be aware of. But it's really about 50 percent of the actual streamflow that is occurring. And you can see, you know, pre-restoration of the lower reaches of Wailuku River, and this is what it would look like, you know, on a higher flow day, but when the stream has restored. And this is what you folks will acquire as the County, eventually, when...if the County does...and the State, you know, collaboration do acquire the water distribution system of Wailuku Water Company. And this is, you know, a schematic map that we are well-versed with, and it somewhat changes over time as different users change, but nonetheless, this is how the water distribution is. And I'm happy to share...and I'm sorry if it's a little bit blurry. I'm happy to share this map in high, you know, high quality so that you can see, you know, who all the users are, what type of rights each particular user has, what their source of water is per stream. This is a great schematic map that we, you know, worked on with the Commission on Water Resource Management. And...sorry about this slide. This is all stuff that I did for the Board of Water Supply because it was...they asked me specifically to present on the acquisition by the County for the Wailuku Water Company system, and wanted to understand kind of the current state. And they wanted to kind of go stream by stream. So we don't have to go over this if you don't want to, it's perfectly fine, but you can see how what we've done is broken down, every diversion, every use, ownership, and capacity for each of the four streams in Na Wai 'Eha. Really good information. And I think I saw in the email for my presence back today that you folks might have wanted to talk a little bit about the stipulation agreement with Mahi Pono, and absolutely happy to discuss that. So I can stop, you know, if you want. Or you...I can just keep clicking and going through the slides. I...it's totally up to you guys.

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CHAIR SINENCI: Mahalo, Mr. Pellegrino. And I'm not sure how much we can go discuss, Kasie, of what we've agendized today. But it sounds like we're going to have to invite you back on again. Only because...I mean, this is such great information, and with the upcoming Water Use Development Plan and looking at the Wailuku water, just some...it looks like, I mean, this is really pertinent information. But I did want to ask the Members if they had any questions for Mr. Pellegrino. Okay, I see a question from Member Paltin. Go ahead.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Pellegrino. I just was wondering, you know, with your experience in water for ag and IIFS standards and designation areas. Part of the situation that we're seeing right now in Lahaina is because of the new IIFS standards for like Launiupoko, where they used to get the water out of Kaua'ula and now to get, I guess, to subsidize that water they're no longer receiving out of the stream, they're trenching through to the Pioneer Mill skimming wells. And I just was wondering your take on the...maybe the pros and cons of having that designation that Wailuku has that West Maui doesn't have right now.

MR. PELLEGRINO: Yeah, that's a great question. I feel like I got that, I got asked that question too, during the Board of Water Supply meeting about ground water and surface management areas of which Wailuku, Na Wai 'Eha has the only place in all of Hawai'i that has that because our streams are considered blue ribbon streams. Not saying that they're more important than any other streams. But, you know, we did that at a very...you know, what...if I could give just a brief background, the reason why our hui really pushed for that designation was a lot of it had to do with those four core values. But one in particular was really important because the science and the data was showing very clearly that our largest and most important aquifer on Maui, which is the Iao Aquifer, was basically in complete disrepair. And the lack of instream flow standards for, you know, just even monitoring well development and well protection had to be the County's highest priority. So when we went for that designation, the County was hand in hand with us on that because they were concerned also, obviously because the County is a major stakeholder in this, in Na Wai 'Eha, that not only do they utilize surface water, but a good portion of the water that's used for Wailuku, Kahului, parts of Paia, South Maui, all derive from Wailuku. And so the utmost protection had to be instituted in the Wailuku area. You know, as Lahaina has grown over the years, as you know and everybody else has known, you know, that brings up, you know, similar questions and discussions about whether what we did in Na Wai 'Eha would have the same ramifications. And I can tell you because I did...now thinking about this, I did answer this question the same way with the Board of Water Supply, there are pros and cons and I'll be, you know, as frank as I can about that. Right now, any type of well development in the Wailuku Ahupua'a, not the other three, you know, the groundwater and surface water management area doesn't mean that people can't utilize the water or drill wells, it just means that there's a added layer of processes to get to that point. What we found after this designation occurred is that nobody wants to touch Wailuku anymore, right? Because Wailuku is, you know, "tapped out in terms of its groundwater," you know, sustainable yield. So

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what we're finding is now everybody's going to Waiehu, everyone's going to Waihee, and everyone's going to Waikapu. And what the science is beginning to...what the studies are starting to come out now is that because Wailuku was only...and I apologize, I think I made a mistake in saying this, only Wailuku area has a ground water management area. The whole Na Wai 'Eha is a surface management area. So the ground water issues only protect Wailuku. So what we're finding, though, with science and data, is a lot of questions about whether these four ahupua'a, these four watersheds actually are interconnected underneath. So if we're protecting Wailuku, but we're over pumping Waikapu, or over pumping Waihee, we might find that we may still be impacting the Wailuku overall aquifer's health. We just don't know enough. We don't know enough, which is why I don't want to speak anymore on the science of that because I'm not a USGS scientist. But we're finding that there may be connections here. So when we talk about Lahaina, that too is a concern. And we know that the IIFS has been implemented, or at least has been...there's a process for Kanaha, Kahoma, Launiupoko, Olowalu, Ukumehame, all of those streams there. And if you were to look at designation, and the County was to, you know, partake in that, are you looking at it from a moku standpoint? Are you looking at it from a particular region within? I mean, those are the kind of questions you have to ask. But I think right now, the concern is things might be getting out of control because knowing that there is a designation, everybody wants to go and develop their wells, knowing that this looming idea might be on the horizon. And that's concern...that concerns me because it just means that it's a kind of a free for all. I mean, it's not that anybody can put a hole in the ground and pump, but what it can do is it can get you to a point...because what happens if you became groundwater or surface water or groundwater designated, all those people that already have wells would be grandfathered in. It's not like you can go back and say oh, well, that's not right, and you would...you know, you have to take out that. And so which is why I think there's this mad rush to start developing wells. I know, I mean, the County has to look at well development for Kanaha area because of the IIFS. But the question is, does that, does well development in those areas because, you know, the geological features might be a little bit different than this site. How do groundwater and surface water intertwine? I think people...I think we still haven't figured that out yet, which is, you know, brings a whole 'nother layer of concerns. So I apologize. That's the response.

COUNCILMEMBER PALTIN: And then just to follow up, when you were saying that Iao is, and Wailuku is getting pumped to capacity and getting sent to Paia and these other areas or close to capacity --

MR. PELLEGRINO: Close to, yeah.

COUNCILMEMBER PALTIN: -- then is it...would you then support, like, diversification of source like, I guess, one of the Water Use Development Plan was to drill wells in Haiku --

MR. PELLEGRINO: Yeah.

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COUNCILMEMBER PALTIN: -- and that would then alleviate the Iao capacity issues? Or, I mean, what do you...how...

MR. PELLEGRINO: I...I mean, I don't know. I wish I could answer that. I mean, I don't know the Haiku community very well, and I wouldn't want to put a statement out there, especially being from an area that I'm not, you know, saying that yeah, we want to protect Wailuku, so go find water somewhere else. I think with the, you know, hopefully what the Water Use Development Plan is looking at is just really looking at the whole, you know, the collective versus like, okay, we're going to fix this by doing that, but looking at how all these systems are interconnected. Yeah, there's a lot of water in East Maui, but if you look at the trends of especially, you know, climate change and, you know, the impact that...right now...I was on the phone with, you know, USGS yesterday. We are in one of the worst droughts Maui has seen in more than 50 years. Wailuku River, I can tell you, the data that we got yesterday is extremely scary. Yesterday the stream is flowing a little bit less than 10 million gallons a day. That's less than the actual IIFS. And so the question that we're having with the State, you know, and USGS and just all the partners is, okay, well, now that, you know, the actual river is flowing less than the overall IIFS, what is the amount that should be allowed to divert, and what is the amount? I mean, there is a number there, but we're having challenges with that number not being met. And...but we're in a dire...you know, we're in dire straits right now. And I think if this is the trend that we're going for, our farmers are going to hurt, whether they're from Upcountry or, I mean, Na Wai 'Eha. I mean, everybody, I think is going to hurt. And so, you know, working on this water, making this Water Use Development Plan, like, you know, as perfect as can be, you know, out the get go I think is going to be really critical for to County to move forward in ensuring that we're protecting our ag from large users to small users.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR SINENCI: Okay, mahalo, Members. We have...I know that I need to apologize, Mr. Pellegrino --

MR. PELLEGRINO: Okay.

CHAIR SINENCI: -- and we'll probably reach out to you because as you know, the Water Use Development Plan was returned both to my Committee, as well as Member Sugimura's Committee. So she might be also reaching out to you to provide some information for the Water Use Development Plan. Was that what you were going to ask, Member Sugimura?

COUNCILMEMBER SUGIMURA: You know, that's what I was going to...exactly.

CHAIR SINENCI: Okay.

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COUNCILMEMBER SUGIMURA: So we have the date set for the meeting, and I'll connect with Hōkūao later.

CHAIR SINENCI: Yeah.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR SINENCI: So we'll definitely have you come back, and then we'll have Members 'cause it's definitely pertinent information. So again, mahalo. And Members, this was just posted for no legislative action. So we just wanted to mahalo Mr. Pellegrino.

MR. PELLEGRINO: Yeah, thank you --

CHAIR SINENCI: Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

MR. PELLEGRINO: -- thank all of you. I appreciate it. And sorry, you know, if I went off on some tangents there. You know, again, I'm not an expert in the entire agricultural endeavors on Maui, you know, just in our particular area I tend to focus my time on. But, you know, always happy to share whatever information I have or...

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR SINENCI: 'A'ole pilikia. Mahalo for joining us.

**EACP-45: EFFECTS OF THE CORONAVIRUS PANDEMIC AND RELATED ISSUES
UNDER THE ENVIRONMENTAL, AGRICULTURAL, AND CULTURAL
PRESERVATION COMMITTEE'S AUTHORITY (CC 20-211)**

CHAIR SINENCI: Real quick, Members. So we have Ms. Araki-Regan that just joined us. She's got a small window. With that, EACP-45, Effects of the Coronavirus Pandemic Related to Issues of the Environmental, Agricultural, and Cultural Preservation Committee. So we're in receipt of Communication 20-211 from Council Chair Alice Lee, and so the Committee will receive a quick update from Ms. Lynn Araki-Regan. So with that, Members, if there are no objections, I would like to designate Ms. Araki-Regan as a resource based on Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Thank you.

MS. ARAKI-REGAN: Aloha.

COUNCILMEMBER SUGIMURA: Good to see you.

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MS. ARAKI-REGAN: Thank you, Chair, and good afternoon, Members. I emailed a PowerPoint presentation, I think it was in pdf form. I'm not sure if you all have access to it. But anyway, just wanted to thank you for inviting the Department of Transportation to present our efforts to prepare for the State's reopening of tourism, and to discuss the potential impacts of the temporary suspension of the Ohana by Hawaiian passenger flights and cargo services between our islands beginning November 1st. First of all, besides our state roads and highways in Maui County, the slide titled State Harbors and Airports list the Maui County facilities managed by HDOT. There are, within Maui County, three harbors and six airports that we manage. All other harbors within Maui County are managed by the State DLNR. You know, while we've had...while we've had to do a lot in response to the pandemic, in terms of what we've done to prepare for the reopening of tourism, as you probably know, you know, our biggest project involved acquiring thermal screeners, thermal screening equipment specifically. Phase 2 was completed in August, and included the installation of thermal screening cameras at Kahului Airport to detect people with a temperature of 100.4 degrees or higher. This helps to streamline the screening process of arrivals, and reduces the amount of time people congregate at the gates. Our State Airport Firefighters were also trained on procedures should a monitor alert due to, you know, elevated temperature. Our Department also continues to support the coordinated efforts to provide a pre-travel testing alternative to the 14-day quarantine for incoming passengers. And we work closely with the County of Maui to, you know, coordinate...help support their efforts to do additional screening, specifically the interisland screening and the voluntary testing that they've expressed interest in doing. Besides that, at the airport, you know, the next slide shows that we've received over \$235 million in funds, the breakdown of which is noted on the slide --

COUNCILMEMBER KING: Chair?

MS. ARAKI-REGAN: -- as you can see.

COUNCILMEMBER KING: Chair?

MS. ARAKI-REGAN: Oh, yes?

COUNCILMEMBER KING: Are we supposed to be looking at a slideshow right now? Because we're not seeing it.

MS. ARAKI-REGAN: Oh, okay. What I did was I emailed, per Kasie's request, the pdf. And I thought that was already circulated.

COUNCILMEMBER LEE: Yeah, it's on Granicus.

COUNCILMEMBER SUGIMURA: It's in eComment also.

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COUNCILMEMBER KING: So you're not going to go through it slide by slide, but you're referring to slides that are not in front of us right now.

MS. ARAKI-REGAN: I mean, is there a way that your system could show those slides? Or do I have to share it on my screen?

COUNCILMEMBER KING: I think it's better if...

CHAIR SINENCI: If you could share it on your screen, Lynn.

MS. ARAKI-REGAN: Okay. Let me get access to it. Sorry.

COUNCILMEMBER KING: Sorry, didn't realize until you started saying the next slide that you were referring to your slide show, and none of us were seeing it.

CHAIR SINENCI: It's in the chat and on Granicus.

COUNCILMEMBER LEE: Yeah, it's on Granicus.

COUNCILMEMBER KING: Mine's not working right now, so...

COUNCILMEMBER SUGIMURA: It's in eComment also.

CHAIR SINENCI: Kasie, can you share yours?

MS. APO TAKAYAMA: I can try and share my screen. You just need to let me know when to flip through the pages.

CHAIR SINENCI: Okay. Kasie will share hers, Lynn.

MS. ARAKI-REGAN: Okay.

CHAIR SINENCI: I believe she was on slide number --

COUNCILMEMBER LEE: Six.

CHAIR SINENCI: -- six.

MS. ARAKI-REGAN: Okay, so the screen...the one with the CARES Act funding. Do you see that?

COUNCILMEMBER LEE: Yes.

MS. ARAKI-REGAN: That's the breakdown of Federal funds as it relates to funds that have been provided to our Department. So the first line item, which is 133.3 million, is for airport improvements that will allow our airports to keep airports open by keeping

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weights and charges stable for tenants; 1.86 million is for operational support and some capital costs for Maui County Department of Transportation. So how the State Department of Transportation is involved is we're sort of like a pass-through between the Federal agency and the County, so 7.86 million was earmarked specifically for Maui County Department of Transportation. The 8.9 million is split between Hawaii and Kauai counties, so that line item is not for Maui County. And then the difference, which is 85 million, or the last line item, is to fund airport screening and health security. So that includes thermal screening cameras, facial imaging tracking system, HOPE form verification rooms. We planned on having medical trailers. We have thermal control, or thermal camera control rooms. That also includes funding of the screeners at our five commercial airports. It includes professional services and equipment for swab testing. So that's basically the breakdown for that last line item. The next slide relates to cruise lines. So besides welcoming visitors via air, you know, we also, as a Department, need to plan on returning our cruise lines to our islands safely. So towards the end of this month, we plan on scheduling a meeting with the County of Maui, along with the other counties, our Department, HIEMA, probably someone at the Governor's Office as well, to discuss the plans on bringing the cruise lines back to our islands next year. As noted on that slide that you have, there are no scheduled cruise bookings in Hawai'i for the rest of 2020. But in 2021, you know, after, you know, all of us review the safety protocol plans that the cruise industry has provided us, along with pre-boarding screening and enhanced sanitation in line with CDC requirements, you know, we plan on continuing the discussions with the cruise line industry to align State and County of requirements for a safe restart of the cruise operations to Hawai'i. Any questions regarding those slides that I made reference to? Okay, if not, I'll move on. You know, another issue that, you know, we're having to deal with is the suspension of Ohana by Hawaiian between Honolulu, Molokai, and Lāna'i. As you know, on October 9th, Hawaiian Airlines did announce the temporary suspension of Ohana by Hawaiian passenger and cargo services between Honolulu, Molokai, and Lāna'i, as well as cargo only service within the Hawaiian islands effective November 1st. As you may know, service between Honolulu and Kapalua in West Maui was suspended in March earlier this year. You know, according to our data, as recent as in September last month, Ohana by Hawaiian flights averaged five passengers per flight on two to three flights to each island. Hawaiian Airlines says that it tried to maintain the service, but low passenger demand, coupled with quarantine requirements imposed by the State, forced the airline to temporarily suspend the flights. Apparently through my research, the restrictions triggered a labor provision in Hawaiian's pilot contract, affecting the carrier's ability to provide Ohana by Hawaiian service. The provision prevents the airline from operating the turbo prop service when interisland flights by the main Hawaiian carrier are severely reduced. So it's my understanding that Mokulele routes between Honolulu and Molokai and Lāna'i continue, and the carrier has increased flights, and that in talking with the Airports Division, you know, our Department will continue to monitor the demand, and will communicate with our partners should adjustments be needed. So just wanted to add to that.

CHAIR SINENCI: Is that the last slide, Lynn?

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MS. ARAKI-REGAN: Yes, that is my last slide.

CHAIR SINENCI: Okay.

MS. ARAKI-REGAN: Also what I could do, Council Chair, or Chair...Committee Chair, is I could send you some additional data, you know, sharing the breakdown of visitors to Maui via Kahului Airport. You can see the purpose of the travelers, you know, visiting Maui, as well as total probable visitors. So I can forward that to you. That way you can get a better gauge of visitors in the pure tourism sense.

CHAIR SINENCI: Okay, mahalo for that. We have a question for you from Chair Lee. And then, Kasie, you can stop sharing. Thank you. Chair Lee.

COUNCILMEMBER LEE: Oh. Good to see you again, Lynn. Regarding the arrivals, now, why is it that we have four or five major arrivals at the same time, which adds to the traffic, human traffic congestion at the airport, and exacerbates health conditions by crowding everybody together in the terminals? So are...is your Department doing something about that? Or the --

MS. ARAKI-REGAN: The...

COUNCILMEMBER LEE: -- or is it the Airports Division does that? Who does that?

MS. ARAKI-REGAN: Yes, so the Airports Division is currently addressing that. We're deeply concerned with the simultaneous flight arrivals causing people to not be able to physically distance themselves in compliance with the six feet requirements. That is definitely a concern, and we've addressed it. And the carriers have expressed interest in readjusting their flight times so that we don't...we can avoid simultaneous flights as much as possible. So we were...we've addressed it, and we're hoping that flight times and arrivals can be adjusted.

COUNCILMEMBER LEE: So that's the mainland flights. Is that also for interisland flights? There's coordination for interisland flights?

MS. ARAKI-REGAN: Yeah, so we're addressing that whole issue with both Transpacific as well as interisland carriers.

COUNCILMEMBER LEE: Thank you. Thank you, Mr. Chair.

CHAIR SINENCI: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Araki-Regan, for your presentation. I was wondering, do you guys have, like, a knowledge in advance about how many visitor arrivals we can expect? Like the first five days, we're getting about 10,000 visitors a day to the whole entire State, and the first day we had like 1,200 to

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Maui. Do you guys have access to the passenger lists to give the counties and the State an idea of how many visitors we can expect coming in and going out? Or is that a confidential information? Can it be public information? Somebody had said possibly after the first five days, it drops down to the hundreds?

MS. ARAKI-REGAN: You know, in terms of the actual, you know, expected number of passengers, I can ask that. I know there have been increase as to the number of flights that are expected to arrive at any given day, which we are privy to. In terms of the number of passengers, or expected number of passengers, you know, I'm not sure if we're...if we have access to that in advance so that we can kind of plan accordingly. I can see, and then I can get back to you one way or the other. But I can definitely get you the number of expected flights, both cargo as well as like passenger flights.

COUNCILMEMBER PALTIN: And I guess just to follow up, is there a reason to not request incoming travelers download a voluntary tracing app?

MS. ARAKI-REGAN: An involuntary tracing app?

COUNCILMEMBER PALTIN: Voluntary, not involuntary. Voluntary.

MS. ARAKI-REGAN: You know, I believe at least one County discussed that. I'm not sure if that was implemented. I can look into that. I'm not sure if we've made that as, you know, something that we would even suggest voluntarily. Let me look into that, and I can get back to you. I know Kauai County was looking into that, but I'm not sure if they actually implemented it.

COUNCILMEMBER PALTIN: Thank you. Thank you so much for looking into those questions for me. I really appreciate it. Thank you for your presentation.

CHAIR SINENCI: Mahalo, Member Paltin. Okay. Oh, we have a couple more. I know, Ms. Araki-Regan, are you on a timeline? Can you take a couple more questions?

MS. ARAKI-REGAN: Yes --

CHAIR SINENCI: We have a question from Member Sugimura.

MS. ARAKI-REGAN: -- I actually postponed my 4:30 meeting.

CHAIR SINENCI: Okay. Thank you for doing that. We have a question from Member Sugimura and Member Molina.

COUNCILMEMBER SUGIMURA: I actually just wanted to give my best to Lynn, so nice to see her. And I think right before the pandemic hit, we were all supposed to get together at Nisei Veterans and do a project together. So nice seeing you online, and best to your family. Thank you for allowing me to do that.

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MS. ARAKI-REGAN: Nice to see you.

COUNCILMEMBER SUGIMURA: Nice to see you.

MS. ARAKI-REGAN: Thank you.

CHAIR SINENCI: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. Now, I too just wanted to say hello and it's great to see you again and please give my regards to your husband, our former Managing Director, as well. Just dovetailing off of a question that was asked of you by Council Chair Lee, and suggesting that a lot of these major carriers see if they can space out their flights as they arrive to Maui. I was...again, I heard some information about the opening where arrivals on Maui, there was like long lines and, you know, I guess, people waiting to get processed. One of the places I like to travel to and about a thousand and million other people as well, Las Vegas. Hawaiian Airlines offers that early morning return flight from Vegas at like 1:30 in the morning, and by the time you get here, it's like 8 o'clock in the morning, so which, you know, ends up people avoiding having to come in at the same time with the other carriers, which typically arrive about noon. So when you get back to Maui on the early morning flight, it's like 8 o'clock in the morning, so you'd only be dealing with the interisland flight. So again, that's something worth looking into. And I can see, I can imagine now, we may have a lot more people wanting to use that Hawaiian Airlines flight at 1:30 in the morning to come back to Maui so you can avoid coming in with all of the other major airline carriers. So that's something that, you know, I hope you guys continue to look into, and if it's feasible enough for the airlines to do it, that would be great. And I know they're blocking off a lot of seats on those flights, so you have less people on the airplanes coming in, in anticipation with, you know, less people traveling for the time being. So just wanted to share my support with that as well. Appreciate Chairman Lee bringing that topic up. Thank you.

MS. ARAKI-REGAN: Thank you.

CHAIR SINENCI: Thank you, Member Molina. We have a question from Member King.

COUNCILMEMBER KING: Aloha, Lynn. Good to see you. I don't know what that backing, the background you have behind you, but you've got it positioned so you look like you have a halo or the white letters surround your head. Anyway, I wanted to ask you that...something came up today in testimony earlier about the lack of education for tourists. And I have heard a lot of complaints about tourists not wearing masks, you know, walking around town not wearing masks. So can you talk about what's being done to educate tourists at the airports, you know, either in Honolulu or at the neighbor islands airports when they arrive? We have a...well, now we have a longer window because they're waiting in line to get a message across. But, you know, while they're waiting for their luggage or whatever, and possibly even if there's anything happening on the airlines in the movies that they're showing, are there public service

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messages, you know, just imploring them to pay attention, to help keep the residents here safe. Mask up, social distance. You know, don't...if you're in quarantine, don't go out. But we've seen a lot of violations, and I hear stories almost every week about people running into tourists who are supposed to be in quarantine, and they're supposed to be wearing masks, and they're not.

MS. ARAKI-REGAN: Yeah, thank you for that question. That is a concern. And so from early on, I think like March or April, we had prerecorded messages throughout the day and evening, reminding people to physically distance, wear a mask, we have signage in place at all of our airports. I know we've reached out to the airlines to ensure that, you know, they're messaging takes place even before, you know, they brought the plane from their original location to the final destination. I know efforts have been made by Hawaii Tourism Authority as well to reach out to, you know, their various partners to ensure that the messaging is done. You know, unfortunately, you know, I mean, people, when they travel, you know, they're more than willing to go to the original airport, the departing airport to wait, you know, for a long time. And when they arrive at their final destination, they're anxious to get off the plane and, you know, go to their hotel. It's, yeah, I mean, we have to constantly remind people, even upon arrival that...even before they arrive, I mean, the messaging has to be repeated. And, you know, another effort is to ensure that, you know, the laws are properly enforced as well. So that's another component, to be able to share examples of people being cited for breaking, you know, the rules too, is another important component. I mean, we can, you know, do the reminders repeatedly but, you know, if there's no enforcement, that's another challenge as well. So yeah, I mean, efforts have been made on a statewide basis and beyond, and we just have to constantly repeat ourselves.

COUNCILMEMBER KING: Okay.

MS. ARAKI-REGAN: Thank you.

COUNCILMEMBER KING: Well, I'm glad you're taking advantage of, you know, having...putting messaging in our airports because, you know, I haven't been down there, and I'm not...we're not willing to risk it for my curiosity to go down there and check. So appreciate your response to the question. And also, say hi to your husband, and thank him again for supporting our Charter Amendment for the Managing Director. That was really important, and I really appreciated his support on that. Thank you.

MS. ARAKI-REGAN: Thank you.

ACTION: DEFER PENDING FURTHER DISCUSSION.

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CHAIR SINENCI: Mahalo, Ms. Araki-Regan, and thank you for extending your time with us. I know we just wanted to get you on and thank you for, you know, coming on and just giving us an update. I know Chair Lee wanted to receive an update. And all of the other Members can...I mean, if you're available, we also have this Item on all the Committee's agendas, so we look forward to hearing more information from you. So thank you again for joining us. Members, we have...

MS. ARAKI-REGAN: Thank you very much.

CHAIR SINENCI: Thank you.

EACP-37: PROTECTION OF HISTORIC PROPERTIES (CC 20-62)

CHAIR SINENCI: And Members, I have one more item. I know Dr. Six has been hanging out just to give us an update, and we've got some people that just wanted to hear her update. And I don't want to keep you any longer than another 15, 20 minutes. So if you will indulge me, we'll have Dr. Six on our last item, EACP-37, Protection of Historic Properties. Dr. Six.

MS. SIX: Hello, can you see me? Let's see, turn my camera back on. Hi, okay. So I'll make this as quick as possible. So I started working on a cultural layer. And it is so the beginning of something, so I want people to understand that what you're looking at that I'm going to show you is based only on data that we've got from the State Historic Preservation Division. They were gracious enough to give us our data, including burial data and burial preserve data, which I've turned off on the GIS so it will not be visible when I show you the map. It's an interactive map, and you can ask it questions. So we queried the map, and we asked it to find the intersection of known cultural sites, known burials, known burial preserves, and sand. And it created a layer for us called the cultural fishnet layer, and it's based on 100 meter squares. So you will not see any exact locations of burials, but you will see the areas light up red that have a high statistical probability or do contain burials, and you'll see a layer that's yellow that contains a medium sensitivity. So again, this is only data from SHPD which came from known archaeological surveys or monitoring. There is so much data out there that we're going to need to incorporate. I've been working with Dan Sereno at the County, he's our GIS person in the Management group, and we're going to build, at some point, a hub where community members can upload information. For example, Hōkūao's presentation with the photographs and the history can be linked to a place, so when you go to click on it, you can find that information. So what I'm showing you, I just want to put the caveat that it's very limited data that was provided to us by SHPD, and I will not be showing any burial locations or burial data. Are people okay with me sharing that? Okay. Share screen. Asking me some weird stuff. Oh, there we go. Can you see that?

CHAIR SINENCI: Yes, we can see it.

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MS. SIX: Okay, so this is...I do not have data from Kaho'olawe, so this is the data. And this is the legend. So the blue stars are known archaeological points. This is a historic structure. This is an area where an archaeological survey was conducted. Historic district polygon, you'll see that in Lahaina, preservation area polygons, and then the fishnet, which is red or yellow, so I'm going to try to zoom in. So I want to show you the different kinds of data I can access, and I do not share this because it's not...we haven't signed a MOU, but I do have burial point data, but no attributes. I do have burial polygons. I can also turn on all of the ahupua'as. I can turn on all the mokus. It takes a minute for it to load. But I can ask this map questions. It's an interactive map. So I had Councilmember Paltin reach out to me about Kahoma, I was quickly able to scroll to that area, and it gives me what's known in that area. Again, none of this is burial data. This is all based on this legend here, which is showing the thing. So this is Ka'anapali. This is the Ka'anapali complex. Here's the area that's been under a lot of discussion today. I did want to share one thing, and that is the County did not exempt this project. It never came to the County because there is a code in County Code that exempts this type of work. And I did let Councilmember Sinenci know when I found that out, I do think that this work should not be exempt, and a layer like this could quickly identify that it shouldn't be exempt. It's going right along here, right? It's coming through these areas that are considered medium. And this is Moko'ula, medium to high sensitivity. And so again, this is only...this is all the bypass, work that was done on the bypass. You can see all of these archeological areas. And if they found sites, the sites are then represented by blue. If I scroll in more, I get all the TMKs...it'll take a second to load. I can click on any TMK, and it will tell me, once it loads, who owns it. So that's owned by Coco Palms. So it's a very valuable tool to get quick information about who owns the lot and if there's sites adjacent to it. Now I'm going to zoom back out. So this is Olowalu. There's been some interesting things going on in Olowalu. Again, if you scroll in...and then if I need to for any reason, I can quickly turn on the ahupua'a to see what ahupua'a they might be following it, or what moku, right. And so we have all these different layers that we have at our use. So areas that are high sensitivity, I'm going to share a different image. So this is just a little statement that I wrote to make sure people understand that the areas that are shown are usually areas that have...a lot of development has happened in them, and it had 6E triggers, and that's what we have, this is only SHPD data. So we took the intersection of sand, known cultural sites, known burial or burial preserves, these are known ones, and then we came up with this designation of the cultural zones. So I'll show you a few, so this will help inform the creation of the archaeological district ordinance, right? So you can see here clearly that the sandhills is an area of high cultural sensitivity. I don't think that's a surprise to anyone here at the Council. And again, areas that are empty, this is Dream City. There was no archaeology done in the '60s and '70s here that's recorded. Most of this data comes after 6E regulations, which would be in the '90s, so this is a partial data set. But I'll show you some of the areas, right. I can go scroll over to Hāna, take a look at Councilmember Sinenci's district. Zoom out of it. And you can see...come on, come on. You can see along the road the known archaeological sites. And when you get out to, if I can get it to move, out to Hāna, and you see the Hāna Bay and kind of the Waikoloa area, these are known archaeological sites. So a lot of these don't have sand

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in this area, so they don't light up red. Because this particular map, I wanted to look at the relationship of sand to cultural sites because we want to inform development that's going on in the sandhills or proposed development. So we could query this map and ask for different soil types. We could ask it all kinds of questions, but again, the only data that's displayed is data from the State. And the idea now would be to gather data from community members of known sites they're willing to share. Not necessarily burials, but we are not displaying any burial data or sharing any burial data. But for the first time ever, the County has access to this information in a way that is visually meaningful, and people could help inform decisions. So that's pretty much...I guess people can ask me questions because I don't want to take up a bunch of time.

CHAIR SINENCI: Okay. Thank you, Dr. Six. We have a question from Member Paltin.

MS. SIX: Okay.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Dr. Six. I was wondering, you know, your intersection, can you choose what the parameters are and use different parameters to --

MS. SIX: Yes. Yes.

COUNCILMEMBER PALTIN: -- designate your red and yellow?

MS. SIX: So --

COUNCILMEMBER PALTIN: And then...

MS. SIX: -- I am not a GIS expert, right? So I work with our County GIS person, Dan Sereno, who's very skilled. So in this case, we were looking at proposed development in the sandhills, so we specifically asked for sand, and we know that there is a correlation. But this...in this case because this doesn't have sand, this is Wailea 670, right? Or, you know, I guess it's Honua'ula or whatever they changed their name to, here is Makena, I mean Wailea and Makena. So if you ask it for a different soil type or you ask to just to show you burials, or just to show you archaeological sites in relation to burials, you could look at elevation, you could add...there's endless layers that we have, lidar extent, the mokus, these are all available to us. SHPD provided us this data up here, and it's the first time ever. But because of I think very valid concerns about sharing locations of burials, we chose to make this big squares that...to show that there's either going to have an archaeological site or a burial site, so that's going to make it light up, not just sand. Just sand won't make it light up, okay?

COUNCILMEMBER PALTIN: And then --

MS. SIX: But, yeah, you can. And then the idea would be...go ahead.

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COUNCILMEMBER PALTIN: -- has this been...I know the Lahaina Flood Control project is not yet done, and they might be trying to find the partials to continue the flood control project on. Is this something that could be used to determine the finishing of the Lahaina Flood Control Project? Like which direction and which parcels?

MS. SIX: Yeah, but I'm not a hydrologist. If you, but you can ask Dan Sereno and put in a request for anything. He works for the County, and he has access to hydrological maps, elevations, watershed. He could model that. I am...that is not my expertise. So I would recommend...

COUNCILMEMBER PALTIN: Or, I mean.

MS. SIX: Yeah.

COUNCILMEMBER PALTIN: I wouldn't want the flood control project to go through any sensitive areas either, you know what I mean?

MS. SIX: Yeah, oh, I get it. So in that case, yes, so the idea is...but I guess want to...again, this is such a beginning of something. This is so not representing all areas of cultural sensitivity on Maui or throughout the islands. This is just data based on SHPD data. But, yes, I'm working with...I was working with Michele McLean because they're looking at extracting industry, extractive, you know --

COUNCILMEMBER PALTIN: Extracting sand.

MS. SIX: -- changing that ordinance, so also could be effective in Title 19, grubbing and grating, and it could help stop what's going on. Because there is this exemption for this parcel, this private property, and they're putting trenches back. I personally think it's a ground-altering activity. I worked in Moku'ula, I'm chagrined that they're going and doing this, but the County did not permit it other than through this ordinance that I, you know, you folks could modify. And if we could modify it so that this map could be used, then it would trigger a review because if someone wanted to put something through these areas that are showing cultural sites, we could say from the County level, this exemption won't apply to you. But if you're putting, you know, your little water meter up in your house in Kula, then maybe you would be exempt, you know, in that case. But an area that is known for high cultural sensitivity, and medium, we were thinking how this could help inform County permitting. Can anyone, you can ask me, like, you did ask me to look for sites in Kahoma. You know, you can quickly find them, the Kahoma complex. So I'm working with Gina Flammer out of Councilmember Sinenci's office to create this ordinance, and we're using this map to help inform some of the areas. There was one in 1997 that was proposed, but it's very outdated, and we have a lot more information now. So using this map, we're helping to identify some of the first districts that we would think needed to be...have some protection. I also agree with Ke'eumoku that mauka to makai. So saying that the historic district ends here when we have historic cemeteries here, I mean, what about Jodo Mission, that's not historic? David Malo's house. You know, there's a lot

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of historic things, and these are kind of arbitrary lines that are drawn. It stops at Seamen's Hospital. So looking at expanding that district so that it is more representative of the movement from Moku'ula up into that valley, right, because we know that this whole area was traversed. So that's kind of the vision, and I just wanted to share the very beginnings of that vision, and showing that it's a way that we can perhaps display it in a hopefully culturally sensitive way. And then being able to add people's mana'o because the people that have it in their heads, this could be added through the hub. We'd make a hub where you could be vetted, you know, you get a password or whatever. And then you could, if you feel like you have data or photos, you can upload that, we could add it to the map. Or you have information that this place name that is recorded by Mary Kawena Pukui is inaccurate, like Hōkūao said, that kind of stuff would be great, and we could build this thing. So I'm working with OHA to try to get their Kipuka data, which would then allow us to put the layers of LLCs over...LCAs, excuse me, over the top of this as well, so that if someone was looking for Kuleana lands, they could access Kipuka data, as well as the data that is from the State, SHPD.

CHAIR SINENCI: Well, Dr. Six. Members, any other questions for Dr. Six? I don't see Chair Lee or Committee Vice-Chair Kama. Thank you, Doctor.

COUNCILMEMBER LEE: Mr. Chair, I don't have any questions. Thank you.

CHAIR SINENCI: Thank you, Chair Lee. Dr. Six, thank you. We look forward to expanding on this. And thank you for coming up and providing an update and for some of the...addressing some of the issues that are happening in West Maui. So we appreciate your input and having you on. Mahalo, always happy.

MS. SIX: Thank you. I'll stop sharing my screen here.

CHAIR SINENCI: Thank you. So Members, Dr. Six...the item was just posted for no legislative action. So with that, again, I wanted to thank everybody for hanging out late with us. I guess I owe everybody some dry aku for staying on after the meeting date. So again, Members...

COUNCILMEMBER PALTIN: Plus poi.

CHAIR SINENCI: Huh?

COUNCILMEMBER PALTIN: Plus poi.

CHAIR SINENCI: Plus poi. Okay, pa'iai. With that, Members...

COUNCILMEMBER KING: Chair, I got a quick question.

CHAIR SINENCI: Oh.

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COUNCILMEMBER KING: Can I ask a question really quick?

CHAIR SINENCI: Oh, go ahead, Member King.

COUNCILMEMBER KING: Okay. Thank you. Thank you, Chair. Thanks for being here, Janet. It's really great to see you, and I just feel so gratified that it was a good decision to hire our own archaeologist. I love your enthusiasm. Are you going to be doing...as you go through this and using, like you said, you know, using anecdotal information from the residents and people...there were a lot of people who testified today, are you going to be doing community meetings in various communities to talk about the overlay?

MS. SIX: So ideally, this is a living thing that will go on long after I'm not in this position. So we just need to get it started, and that's what I'm working with Dan. And so yes, absolutely. Because in...you make a different layer. It could be a layer of, you know, oral history, it could be a layer...so we can turn layers off and on, so we can look at the hard scientific data, but you could also overlay the cognitive map that's held in a lot of people's heads, and then is hidden in the place names, like Hōkūao showing those photos. So this...yeah, I would want to put together a team of community consultants, lineal cultural descendants to areas. I would be listening to them and gathering data that way. We could technically do some ethnographies, oral histories and record them. But this all just is...just right now it...this was the first time ever we've been able to get the State's data. So I think it's a powerful thing, a powerful tool to see it visually. But yeah, we could do community outreach like I did at Moku'ula. I'd want input from everybody because I'm literally the vessel or vehicle to make this. I can only take data that's given to me or provided to me. So...and then I work with Dan to make it something that could be a useful tool for anyone that wants to research their Land Commission, wants to decide if they want to build in an area, understand it might be different restrictions on that building if it's in a higher or medium, so that people won't be flying so blind, you know, when they make a decision, and they could see how their TMK or their LCA lines up with some of the other things that have already been discovered. So yeah, absolutely.

COUNCILMEMBER KING: Great. Well we have some real hot spots in South Maui, and one of them I know Member Paltin is trying to get another update on her Committee. But Wailea 670, there's a lot of information that's coming out about sites that weren't originally identified. So really looking forward to --

MS. SIX: Yeah. Very familiar with that.

COUNCILMEMBER KING: -- getting information.

MS. SIX: Very familiar with that site. And so for me it's an educational tool, you know, my primary background is in academics. So I think educating people, planning people in the community and providing a learning tool and something, I think that's the goal of this. And then from that...this creation of this, we're going to draft this ordinance for

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protecting archaeological districts that are identified via this method. So it's all very nested, so to me this is the big rock, starting to build this. And if I get the Kipuka data from OHA, and I keep working with Kai Markell and Zach at OHA to get that data, we just can keep building this robust set that informs all kinds of decisions.

COUNCILMEMBER KING: Yeah, that's great. Thank you so much. And it's great that you've been around for so long too.

MS. SIX: I'm old as dirt. I made a pot of soup while this was going on. I was out getting lemongrass when Shane buzzed me.

COUNCILMEMBER KING: That's okay. I think you and I kind of grew up around the Lahaina Harbor area for a while there. So if you're old, then I'm old too.

MS. SIX: It was funny when I was on site yesterday, doing a site visit getting...Maxwell and myself, we went...SHPD didn't come to the site visit and we wanted to show good faith in the community's concerns, you know, I thought about...I moved here in '78, you know. And Pioneer Mill was running and all that stuff. And so it's interesting to be back now. So I just want to say this, I did look at the trench that was exposed, and I did not see any cultural sites being impacted at that point. But I think the concerns are very valid that future iwi could be impacted because in two different archaeological inventory surveys, one only was a draft, it was for an A&B project that didn't go through, they found a historic burial that was unmarked and a pre-contact burial that was unmarked. And because that was never turned into the SHPD because the project didn't go through, it was never recorded. So that data is not in my data set. So there are at least three iwi that were found outside the known cemeteries in the...relatively proximal to where the pipeline is going. So I thought that was something to be taken into consideration that yes, they're avoiding the intact cemeteries. But as I learned at Moku'ula, Wai'ola Church Cemetery used to extend that much further, and was a dump later. And then when they cleared it, we found broken pieces of tombstone. And then through ground penetrating radar, finally Greg was able to identify subsurface anomalies, rectangular, which is usually an indication of a coffin burial. So we don't always know the exact extent of these cemeteries, so I think that's where Dan's concern came from. But I assured...you know, the County can't do a stop work order because we didn't permit it. It's not an activity. So I posted this big, long Code over here, and I would think that that Code needs to be addressed, and I don't think it was written for this seven-mile long pipeline in mind. You know, that...and it runs literally right outside the...anything that would trigger a review, this pipeline just skirts it, like the right outside the historic district going down Mill Street. And if it had been a few feet over, it would have triggered a review. So I spoke to Director Dagdag-Andaya, and she never laid eyes on this project. It wasn't something County saw and said, yeah, go for it. Because it was not required, it's exempt under this Code, no one at the County "signed off on it." And because there was no permitting, there was no trigger for 6E, and so it's very hard because we are bound by rules and regulations of the State and the County for us to act on, you know, even if we have a belief in things, I can't stop stuff. I can't...personally don't have any power.

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I can recommend things, but the people that were testifying, I really wanted to jump in so many times and say, I feel you but, you know, I'm doing the best I can to raise awareness, and hopefully the cultural layer will where we won't have this kind of stuff going on as easily. It will trigger a review and, you know, especially going through an area that is extremely culturally sensitive with three existing identified historic cemeteries.

CHAIR SINENCI: Okay, and we have one more question from Member Kama.

VICE-CHAIR KAMA: Thank you, Chair. So I just wanted to ask just a couple questions. So Ms. Six, did I hear you say that part of the overlay would include the Land Commission Awards?

MS. SIX: Well, in my fantasy, and it really depends on what people would like me to have. But when I was dealing with OHA and I realized they have this huge data set, it was Kai's idea, Kai Markell, that we work together and create this kind of clearinghouse hub of information because they don't have the SHPD data. I got the SHPD data, the County has it, right --

VICE-CHAIR KAMA: Okay, thank you.

MS. SIX: --and it's on a secured server. And the only two people that have access to it is myself and Sandy Baz at the moment. And we need to figure out how to make it so we can share. But I have shared certain aspects with Planning and Public Works. So we're talking about how to incorporate it.

VICE-CHAIR KAMA: So this...

MS. SIX: Yeah, sorry.

VICE-CHAIR KAMA: So this tool also be available to the public?

MS. SIX: Well, that's the end goal. It would live on the County website and yes, it would be available...not the burial data. That's where the Sunshine Law gets tricky. We have to figure out how we can...could we make a proprietary layer that's...because it's sensitive, because it's really a conflict. Because if I could turn the purple stars on that thing, your head would explode if you saw how many known burials have been impacted in certain areas, right? But that...and coming from Burial Council with very legitimate concerns that we not share specific information of where they are. But...so that's the one trick about sharing it publicly, we might not be able to share the burial data because we have Sunshine Law. So we'd either have to share it with everybody and if Burial Council and lineal cultural descendants don't want that, that's why we came up with this idea of this 100 meter, because that's pretty big. That's 300 feet wide. So --

VICE-CHAIR KAMA: Yeah.

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MS. SIX: -- you're not knowing exactly where anything is.

VICE-CHAIR KAMA: Then would you also include the Kuleana lands too?

MS. SIX: Well, if it's available...anything that's digitized I think we would want to put in, you know, we have, you know, the ahapua'as and the mokus. But we call it palimpsest, it's a fancy word for layers.

VICE-CHAIR KAMA: Yeah.

MS. SIX: And you can just make a layer for anything, and you can turn them off and on depending on what you're looking for.

VICE-CHAIR KAMA: Thank you.

MS. SIX: So I think that it's...like I said, it's a living thing that will constantly be evolving as new data comes forward --

VICE-CHAIR KAMA: Okay.

MS. SIX: -- and new information is shared, and then figuring out how to make it for the public, and like we'll probably not include any burial data.

VICE-CHAIR KAMA: Thank you.

MS. SIX: Which is sad because it really misinforms a lot of...would inform a lot of decisions, but I totally understand the Kanaka Ma'oli perspective of not sharing where iwi are. Yeah.

VICE-CHAIR KAMA: Thank you. Thank you, Chair.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR SINENCI: Mahalo, Member Kama. Again, thank you, Dr. Six, for staying on late with me. I think Members are asking more questions, that I gotta make kalua pig for them. With that said, Members, mahalo, and also mahalo for the questioning. I mean very pertinent, and we'll definitely have Dr. Six on again, so mahalo for that. With that, Members, I don't want to keep you from driving home and to your families and dinner. So again, we've reached the end of our agenda. Thank you to all Members, Administration, and resource people today. It is 5:56 [sic] and this Tuesday, October 20th, EACP meeting is now adjourned. . . .(gavel). . .

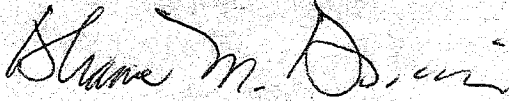
ADJOURN: 4:56 p.m.

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APPROVED:



SHANE M. SINENCI, Chair
Environmental, Agricultural, and Cultural
Preservation Committee

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Transcribed by: Crystal Sakai

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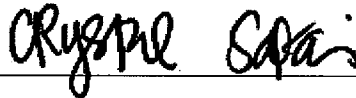
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CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 59 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 19th day of November 2020, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read "Crystal Sakai", is written over a horizontal line.

Crystal Sakai