

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

Council of the County of Maui

MINUTES

February 17, 2021

Online via BlueJeans Link

CONVENE: 9:00 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Kelly Takaya King, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Gabe Johnson
Councilmember Michael J. Molina
Councilmember Tamara Paltin
Councilmember Yuki Lei K. Sugimura (in 9:47 a.m.)

EXCUSED: Councilmember Alice L. Lee

STAFF: David Raatz, Supervising Legislative Attorney
James Forrest, Legislative Attorney
Nicole Siegel, Legislative Analyst
Wilton Leauanae, Legislative Analyst
Rayna Yap, Committee Secretary
Jean H. Pokipala, Office of Council Services Assistant Clerk

Michelle Del Rosario, Executive Assistant to Councilmember
Kelly Takaya King
Axel Beers, Executive Assistant to Councilmember Kelly Takaya
King
Kate Griffiths, Executive Assistant to Councilmember Gabe
Johnson
Davideane Sickels, Executive Assistant to Councilmember Tasha
Kama
Lois Whitney, Executive Assistant to Councilmember Tasha
Kama
Jordan Helle, Executive Assistant to Councilmember Yuki Lei K.
Sugimura

ADMIN.: Herman Andaya, Administrator, Maui Emergency Management
Agency (CARE-38)
Michele McLean, Director, Department of Planning (CARE-1(2))
Jeffrey Dack, Planner VI, Department of Planning (CARE-1(2))
James Buika, Coastal Resource Planner, Department of
Planning (CARE-1(2))
Keola Whittaker, Deputy Corporation Counsel, Department of
the Corporation Counsel

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Stephanie Chen, Deputy Corporation Counsel, Department of
the Corporation Counsel

OTHERS: Tara Owens, Coastal Processes and Hazards Specialist,
University of Hawai'i Sea Grant (CARE-1(2))
Kai Nishiki (CARE-1(2))
Jerry Damarin
Faith Chase (CARE-38)
Dawn Hegger-Nordblom
Junya Nakoa (CARE-1(2))

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

CHAIR KING: ...*(gavel)*... All right. Members, it's 9:00. Will the Climate Action, Resilience, and Environment Committee please come to order. We've got a little over bare quorum this morning, and one person coming late. But first of all, can everybody silence your cell phones and other noisemaking devices. And my name is Kelly King. I'm the Chair of the Climate Action, Resilience, and Environment Committee. I'd like to welcome the Members, and the public, and our support staff, and Administration to the meeting today. We have with us our Vice-Chair of the Committee Shane Sinenci, all the way from East Maui. Aloha. Good morning.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair. Mai Maui Hikina. And yes, pule for our friends and family in Texas and across 'Amelika braving the cold.

CHAIR KING: Yes. Thank you for that. I've been getting reports from friends in Texas. So yes, our thoughts are with them. We also have with us this morning from the island of Lāna'i, Councilmember Gabe Johnson. I don't know, are you on Maui right now or Lāna'i?

COUNCILMEMBER JOHNSON: Good morning, Chair King. I am on Lāna'i, and it's a little bit chilly, but sunny and beautiful.

CHAIR KING: Okay. Great. Nice. Next we have Councilmember Mike Molina from under his bridge in Makawao.

COUNCILMEMBER MOLINA: Good morning, Madam Chair and my colleagues. Yes, it's beautiful up here in Makawao, so I thought I'd broadcast to all of you guys from out under the virtual bridge here.

CHAIR KING: Aloha kakahiaka. Hopefully one day we'll be having lunch at that table behind you in person.

COUNCILMEMBER MOLINA: There you go.

CHAIR KING: Okay. And we have from the West Maui side, Councilmember Tamara Paltin. Tamara Akiko Maile Paltin.

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COUNCILMEMBER PALTIN: Aloha kakahiaka. We got virtual classrooms going on over here in the West side.

CHAIR KING: Oh, okay. Same building as you're in now?

COUNCILMEMBER PALTIN: Yeah. They're not doing their virtual learning at home, so --

CHAIR KING: Oh.

COUNCILMEMBER PALTIN: -- come to work.

CHAIR KING: Oh, okay. I thought we were...I thought some of the students were headed back to actual in-person classes. Member Sugimura, Yuki Lei Sugimura texted me that she'd be a few minutes late, she's in a meeting. And Council Chair Alice Lee requested excusal for today, so we have a little over bare quorum. But we have some really interesting information coming up. And today we have with us from the Administration confirmed, Michele McLean, Director of Department of Planning, and she is going to be joined by Jeffrey Dack, Planner VI from Department of Planning. Also James Buika, Coastal Resource Planner, Department of Planning. And we have also with us from the Administration, our new Deputy Corporate Counsel Keola Whittaker. So aloha, all you folks. Thank you for being on. We will be joined a little bit later by Herman Andaya, the Administrator for the Maui Emergency Management Agency. And I'm sure we'll have questions on how his move into the Hawai'i Telecom Building is going. But he has...he's tied up until about 11:15, so we'll expect him then. We also have with us, from Department of Planning, Tara Owens, Coastal Processes and Hazard Specialist from the University of Hawai'i Sea Grant Program. And our lovely Committee Staff, who work so hard putting these meetings together. Our Legislative Analyst, Nicole Seigel. Aloha, Nicole, and thank you for all your hard work up until the last minute, I might add. We also have our Legislative Analyst Wilton Leauanae. Okay. This is...his name is always so hard to pronounce. Leauanae. Rayna Yap, our Committee Secretary, it's great to be working with you again after a two-term hiatus. And James Forrest, our Legislative Attorney. Also we have Jean Pokipala, Council Services Assistant Clerk. So welcome to our OCS Staff. And again, mahalo for all your hard work. So Members, we have two items on today's agenda and they consist of CARE-38, The Operational Budgetary Review of the Maui County Emergency Management Agency, and CARE-1(2), Review of the Department of Planning Proposed Amendments to the Special Management Area Rules and the Shoreline Rules. And if there are no objections, I would like to switch those two items, Planning had requested to go first because they have to...they have a meeting at 11 that they have been working on for a long time. So if there are no objections, I would like to take up CARE-1(2) first.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KING: Okay. Thank you, Members. And we also will...I'd like to launch right into the...if there's no objections, launch right into the presentation, and then follow that with testimony, and then go into Committee Member questions. So we can get the

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bulk of the presentation out there first, and then that may inform any folks who wish to testify on this item.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KING: But appreciate everybody being here, and I think this gives us a chance to look...take an in-depth look at the new proposed SMA rules. So, all right, we're going to be reviewing those rules as it relates to sea level rise, shoreline erosion, managed retreat, and protecting the natural environment. And we...today we have with us the Director McLean, Jeffrey Dack, James Buika, and also Tara Owens from the Hawai'i Sea Grant Program. They're going to present to us, provide comments, and answer questions Members may have related to the Department's proposed amendments. And you should have gotten a handout. Rayna, did the handout go out that shows the changes in the rules that are being proposed?

MS. YAP: Yes, both documents that you had submitted have been uploaded to Granicus. So if the Members could refresh their iLegislate. Thank you.

CHAIR KING: Okay. And let us know if you need us to email that directly to you.

**CARE-1(2): REVIEW OF THE DEPARTMENT OF PLANNING'S PROPOSED
AMENDMENTS TO THE SPECIAL MANAGEMENT AREA RULES
AND THE SHORELINE RULES (RULE (7B))**

CHAIR KING: Before we get started, because we have Ms. Owens' expertise here in the matter related to SMA and shoreline roles in her work with Department of Planning, if there are no objections, I'd like to designate her as a resource person in accordance with Rule 18(a) of the Rules of the Council.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KING: Okay. Great. Thank you. All right, we'll go ahead and invite Director McLean to go ahead...to start her presentation. Aloha.

MS. MCLEAN: Thank you, Chair and Committee Members. Good morning. Thanks for the opportunity to present the proposed SMA and shoreline amendments. I'll jump right into the presentation and share my screen.

CHAIR KING: Okay. Thank you for being here, and for understanding that it somehow, the really big Planning Commission meetings seem to happen when we're having our Committee meetings. So I appreciate you doing this presentation for us so that we can have a better understanding.

MS. MCLEAN [PowerPoint Presentation]: Okay. Are you seeing the presentation?

CHAIR KING: We are now.

MS. MCLEAN: Okay. Great.

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CHAIR KING: There we go. Okay.

MS. MCLEAN: Here's a view of what we will be presenting today. I'll start by giving a general overview of the SMA and shoreline rules. Then Tara will jump in and talk about old and new shoreline setback calculations, the existing ones and the proposed new ones. I'll jump back in and talk about what those setbacks mean for permitted structures. Then Jeff Dack will join in and talk about what we're talking about the no needs revisions, which are activities that would not undergo any review. Then Jim will jump in to talk about the proposed new emergency...SMA emergency permit procedures. And then I'll wrap up to talk about proposed enforcement provisions, appeals, and our next steps. Presentation in all should take about 30 minutes, so we're tag-teaming so you don't get too bored of listening to any one of us for too long.

CHAIR KING: Okay. Thank you. Not that that would happen.

MS. MCLEAN: So general overview, just some background. The Federal Coastal Zone Management Act was passed in 1972, followed by the Hawai'i law that was codified in 1977. And under the current Maui County Charter, the Planning Commissions have authority over coastal zone regulation. I understand that there is a proposed Charter Amendment to pass that authority along to the Council, and when the Council considers passing that amendment onto the Charter Commission, we might want to have a fuller discussion about what that would mean because a number of things would change procedurally, not just the authority. We won't be getting into much of that today, but that would be a good opportunity to discuss that down the road.

CHAIR KING: Okay. Great. Thank you.

MS. MCLEAN: State Law calls for SMA boundaries and permitting requirements, and also goes a step farther for activities within the defined shoreline area. We have three planning commissions, as you know, and each has its own SMA and shoreline rules. And this is a map that shows the SMA on all three of our islands. And here's a zoom-in of Maui island because what we're talking about today are just the rule amendments for the Maui Planning Commission only. What we're discussing today does not involve the Moloka'i or Lāna'i Planning Commissions' SMA or shoreline rules. This is an effort...part of what we're talking about is an effort that's been going on for a very long time that originated with an idea to streamline SMA permitting by no longer requiring assessments for minor actions. The Department processes between 400 and 550 SMA exemptions each year, a lot of these for activities that are really, really minor, and we don't believe we should be doing those reviews. Jeff Dack will go more into detail about what those activities are. Changes are also proposed to improve the emergency permit process. And this Committee is well informed on the challenges of sea level rise and coastal erosion. We're seeing more and more emergency permit requests, and so the process to issue emergency permits needs to be improved more. And Jim Buika will be talking about that. Also, the enforcement provisions are inconsistent between shoreline and SMA. We want to make those consistent. It doesn't discuss how a settlement can be reached, so that needs to be clarified. And also, proposing criteria for enforcement actions. And then there are

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other minor proposed changes...as you know, when you go through legislation, just simplifying language, clarifying processes. And that was the initial effort. And now with the Climate Commission's report coming out and the sea level rise exposure area and sea level rise viewer being created, it's an opportunity to incorporate that into the shoreline rules and the establishment of shoreline setbacks. But what has to accompany those changes are how do we deal with existing development that will now be within the setback if the new setbacks are adopted. And we will turn now over to Tara to talk more about shoreline setbacks and the formulas, the existing and proposed new formulas. So I'm going to stop sharing my screen so that Tara can take it from here.

CHAIR KING: Aloha, Ms. Owens. Okay. There we go. Okay. Let's see. Can you put it on slideshow that we can make the current slide take up the screen?

MS. OWENS [PowerPoint Presentation]: Okay. Do you have it now?

CHAIR KING: We do, but we're seeing the thumbnails on the side. So if you can put...there we go. You got it.

MS. OWENS: That better? Okay. Good morning, Chair King, and to the Committee Members. Thanks for helping me get my slides going correctly. I have had connectivity issues with BlueJeans. I got cut off in the middle of this during the Planning Commission meeting. So if that happens, I'll rejoin as quickly as possible. Hopefully it won't. For those who may not know me, I'm Tara Owens. I'm a Coastal Geologist with the University of Hawai'i Sea Grant program. But as many of you know, I serve here on Maui as a liaison to the County of Maui, a technical liaison. And I have been asked to introduce the part of the shoreline rules that establish the shoreline setbacks. And that's because this part is largely based on the best available science we have regarding coastal erosion and sea level rise. And in the interest of brevity, this will be a limited background and assuming that the Councilmembers are fairly familiar with the information on sea level rise, which I think you all are. But of course, please ask questions when the time comes to clarify. As context for decisions within the shoreline rules, the purposes are sort of summarized here. Purpose of the shoreline rules are to protect the health, safety, and welfare of the public from coastal hazards; to preserve and protect the shoreline area and open space resources; to ensure the public can access, use, and enjoy the shoreline; and for constructed features to be compatible with the shoreline area. So to paraphrase, the purpose of the shoreline rules is to protect the shoreline area, and this...I always like to point out, not only includes humans and our built environment, you can see images on the right-hand side where there's healthy coastal dunes on the top that are protecting the homes and the infrastructure behind it, but it also includes the natural environment and all the ecosystem services that come with that. And these shoreline rules are primarily accomplished through shoreline setbacks, which are one way to accomplish a managed retreat strategy. So as real quick background, there were some severe erosion events on Maui in the late 1990s, and ultimately that led to Maui being the first county in the State in 2003 to adopt erosion-based setbacks. And so that was very proactive at the time, and some of the other counties ultimately followed that strategy. Of note, if you're looking in the definitions that listed on the screen there,

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12-203-4, it says that our annual erosion hazard rates, there's a map shown there on the right-hand side that depicts our erosion rates for an area in Wailea. Those erosion rates would be updated by the University of Hawai'i every ten years. So we'll come back to those updates in a minute. Right now, the way it works under the existing shoreline rules, and the way it was established back in 2003, the setbacks come out to be either the greater of A or B as shown on the screen here. So any given property, if they came in with a permit application, would calculate their setback in both ways, and whichever way was basically was most landward or most mauka would be the prevailing setback. So option A is based on erosion rates. So like those maps that I showed and basically the higher the historical erosion rate, the larger the setback. And that's plugged into a formula...let me see if I can turn on my laser pointer here, that might be useful. Hopefully you can see the red dot on the screen now. It's plugged into a formula, so this is AEHR, annual erosion hazard rate. That's again, an erosion rate that's based on historical shoreline change trends. Plug that into a formula that multiplies it by 50 years, which is...at the time, was the expected lifetime of a structure, a home, or a building along the shoreline, and add 25 feet, which was a minimum setback. So if your erosion rate was zero, zero times 50 would be zero, and you'd be left with a minimum setback of 25 feet. I should note that that minimum setback has now increased to 40 feet under recent changes to the State CZM Law, HRS 205(a) under Act 16 in 2020. And then there would be a lot depth-based setback. Basically the larger your lot, the larger the setback. But given our current state of experiences regarding erosion and high wave impacts and our awareness now of future conditions with sea level rise, there are some known deficiencies with this formula. Among them, the fact that this is based only on historical trends, and doesn't factor in the continuing and worsening erosion that's coming with sea level rise. So a few years ago, the Planning Department was having detailed discussion about updating these setbacks as the rules call for. When the State took legislative action in 2014 and 2017, and that's when the State required the development of the sea level rise report and the viewer that we're now using regularly. And so changes were deferred at that time in favor of waiting for that information. And then, as you know, erosion conditions are continuing and worsening. It's a widespread issue on Maui. These are just snapshots from around the island, some of which you've probably seen before. Okay. So then that legislative action resulted in Act 83 in 2014 and Act 32 in 2017, which was the Hawai'i Climate Change Mitigation and Adaptation Initiative. And the outputs of that were the State level...the State sea level rise report and the viewer, with the main recommendation to plan for 3.2 feet of sea level rise now. And that information was critical because it provided a basis to sort of overcome the barrier that we had previously with lack of planning level data as it related to sea level rise. And now it provides a tangible basis for further planning and policy discussions, which is exactly what is happening now. And hopefully, you recall from previous presentations with the Council, that we discussed how sea level rise will affect us in three different ways. In the form of high tide flooding, in the form of high wave flooding, and also in the form of erosion, which is land loss...not flooding, but actual land loss. And all of these are modeled and mapped in the sea level rise viewer. What the Planning Department is now proposing in the rules is to use that third model, the erosion model, as the basis for the updated setbacks. And so what you're seeing here on this image is a screengrab from the sea level rise viewer, and the red line on this image shows the coastal erosion scenario for 3.2 feet

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of sea level rise. In the proposed rules, this line, this red line is referred to as the erosion hazard line, EHL, erosion hazard line. So you'll see that in the rule language. And this line represents basically 80 percent confidence that a property will be safe from erosion landward of this line. Okay. So this is new information that factors in both historic and future conditions. But overall, this is not a new concept. The existing rules base the setback on erosion rates, and that is similar to what is being proposed here, except that we're accounting also for future conditions. I won't spend a lot of time...a lot more time on, you know, sea level rise projections and erosion history, but I do think it's worth noting that Maui is known to have the highest percentage of erosion statewide, and the highest amount of beach loss. And the impacts of erosion, of course, as you know, are already here. And the image of this in the corner of this shows the same property that you see right here under the red line. And this is showing existing conditions as they are, you know, often on the ground today. And once buildings and infrastructure are threatened in this way, as you see in this image, mitigation and adaptation options are much more limited, which is why setbacks are really important over the long run. Okay. So that brings us to the proposed amendments to the establishment of setbacks. Again, this moves us away from the formula that you saw previously based on historic changes to using the modeled erosion hazard line, which is based on past and future changes as the basis for setbacks. So now it would look something like this. The setback would either be A or B. And A would be the erosion hazard line, the red line, plus an additional 40 feet as a minimum setback when erosion reaches that red line. Or it would be a standardized 200-foot setback from the shoreline as mapped by the Planning Department in all the other locations where we don't have a red line or an erosion hazard line. And so I should clarify that the erosion hazard line has been mapped mostly for sandy beaches, but we have many other areas of geology on Maui that are different, such as, you know, higher palis and volcanic areas. In those cases, we don't have a mapped red line, and those areas would be subject to option B here, 200 foot from the shoreline or, if the property happens to have a recent certified shoreline, they could base the setback on a lot depth formula similar to what is already in the existing rules. Okay. So to wrap up, I'm going to leave you with some images of current scenarios because obviously we can learn from the past. I think you all know, we have existing development that is imminently threatened by coastal hazards around the island. You're familiar with the Kahana area, which is shown here. These buildings were constructed in the 1970s prior to coastal zone management practices and laws, so it was common in those days for buildings to be sited very close to the shoreline. So if you're looking at the building here under the arrow, you can see this is right about the time these buildings were constructed in the late '70s, and you can see that the building is almost sited directly on the beach itself at the time. And today, this is the same building, and it is now protected by a sandbag structure and there's, you know, a five-foot sliver of land between the corner of the building and the high waves, and this building is imminently threatened. So it's easy to imagine if this building had been set back, notice the large parking area behind the building? That could've accommodated the structure, and we might've avoided the serious conditions that are faced today. This is another example from Keonenui Bay in West Maui. On the left-hand side, this is an image from October 1st, 2020. So we had some early season north swells this year that seriously impacted West Maui. And this is that same building, another look at it, on January 23rd, 2021 to the right.

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And I'll just point out that the sea wall here that you can see fronting this building has been substantially repaired twice already, and is now failing for a third time. And we...the Planning Department just recently visited, and the foundation of the condo building is compromised, as evidenced by structural cracks within the units themselves. So looking to the future, and along with other approaches in our coastal zone management toolbox, things like maybe beach and dune restoration, the idea behind setbacks is to take advantage of our experiential knowledge and the best available science to site new development away from coastal hazards, and to also plan for the eventual obsolescence of existing structures like these that are threatened or may become threatened. And this is the last set of slides here to give you sort of a positive example of how this works. Of course a setback policy doesn't change the situation overnight, you still have many existing developments that are threatened. But it is a tool that is incrementally effective over the long term. And so we'll conclude with this example to aid in the visualization of how that can work in practice. So this is the Renaissance Wailea on the left-hand side back in 2007 or 2008. It closed down, and the property underwent a \$90 million renovation to eventually become the Andaz Resort. So the left-hand image shows these frontage buildings here for the Renaissance Wailea that were in the shoreline setback area. And as the resort was redeveloped, the frontage buildings were demolished, as you can see here in the image on the right. And then based on the setbacks as they are right now in the existing rules, the new frontage buildings were constructed back here, these are new buildings, farther from the shoreline and outside of the setback area. So what you see here is the blue line represents the approximate shoreline or the high-wash of waves, the yellow line represented what would've been the setback based on the erosion rates and that erosion formula, and the red line would've represented what would've been the lot back setback. And since this is a big resort property with a large lot, it was subjected to a maximum 150-foot setback. And interestingly, that lot depth setback is nearly equivalent to the location of the red line, or the erosion hazard line, that is now projected under future conditions in the sea level rise viewer. So the good news is that this resort property, hopefully, won't have to worry about the safety of these buildings for the foreseeable future. And so I guess I'll just wrap up there. It's a good way to visualize how setbacks can work incrementally over time through new developments and redevelopment. And I'll end there. The Planning Director will discuss more details about the applicability of the shoreline rules and what is allowed as permitted structures. Thank you very much. I'll stop sharing.

CHAIR KING: Mahalo for that.

MS. MCLEAN: Thanks, Tara. So I will pick up where Tara left off and talk about the proposed shoreline setback means. We'll see on this graphic there's a purple line. I actually should've made that red because this is just a depiction of the proposed new erosion hazard line in the purple, with the blue representing the current shoreline setback for this particular property. We're also showing the pre-2003 shoreline setback when the existing...before the existing setback rules were adopted. We currently have situations where we have existing structures that were lawful when they were built, they were outside of the shoreline setback when they were built, now a portion of it is outside the setback, but a portion of it is in the setback. Under the

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existing rules, you can renovate existing structures in the setback or outside the setback, and you can construct new structures outside the setback. And that would continue to be the same under the proposed new rules. Now in this particular circumstance, again, here's the current shoreline setback, you wouldn't be allowed to build in this undeveloped area here if this becomes the new setback. You can build here, and you can renovate here, but you couldn't do new construction here. So for this particular property owner...and this is just a hypothetical, this is a notable change for them if they had had ideas about building in this area. They will not be allowed to do that if the rule changes are adopted. There's another scenario with a structure that extends beyond the existing setback, and even beyond the proposed new setback. Again, an addition could be placed on this structure outside the new setback, but additions couldn't be made within the setback. So again, for a property owner with this type of situation, they might have wanted--and I have a graphic showing this--they might have wanted to put an addition here. But with these proposed new rules, they would not be able to do new construction within this setback. Currently, and under the proposed rules, there is a provision for what we call a minimum buildable area. So in this particular situation, let's say this is the current setback, and the proposed new setback goes really far mauka, putting almost the entire property in the setback. Nonetheless, there is what's called a minimum buildable area, which is 40 feet from the front yard setback. So there's an existing setback for construction already in the zoning code and in the building code. So a minimum buildable area of 40 feet. Right now it's 35 feet, we'd be proposing to increase that to 40 feet. So a 40-foot depth from the frontline setback where you can still build. And that's to ensure that there is still viable use of these properties. Even so, for this property owner, keeping in mind this is the current setback. So under the current rules, they'd be able to build in this whole area. Under the proposed new rules, that would be reduced down to this minimum buildable area. And going into more detail with renovation of existing structures, here's an example where the structure extends beyond the existing and the proposed new shoreline setback. Existing language is that...or excuse me, proposed new language is that non-structural interior maintenance, repairs, and renovations are allowed to existing structures if it involves no expansion, and non-structural exterior maintenance, repairs and renovations. So for these kinds of structures, and this goes a little bit farther than the existing rules, you can renovate, you can maintain. There's no requirement that they be demolished or allow them to deteriorate over time. When it comes to replacement of existing structures, though, this is one of the most important parts and really, a fundamental part of the discussion. Using this example where there's a structure that is partly in the existing setback and would also be partly in the proposed new setback, if a structure is damaged by coastal hazards, under the new rules, that cannot be repaired. The existing rules now, and I believe these are what the Committee has been sent, there are three color-coded options for how this situation could be addressed with the proposed new setback, with the underlying thinking being that the proposed new setback in many cases will be putting existing development in the setback that is not currently in the setback. So what is the right way to treat that existing construction? Should it be treated the same way the current is, which is if that is damaged by coastal hazards, it cannot be repaired. Or another option could be partial replacement could be conducted unless the structure is damaged beyond 50 percent of its replacement value. So if it has

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moderate damage, it could be replaced. Or should it be allowed to be replaced in its entirety. So these three options go from the most restrictive to the most lenient. And that will be a fundamental question for the Planning Commission to decide, and that's where we really want to get as much public input as we can. The existing language is very strict that if it's damaged by coastal hazards, you cannot replace it, with the thinking being, you're in this hazardous environment, you got damaged once, you really shouldn't rebuild again. But we see places like the Outer Banks in North Carolina that entire homes get completely obliterated by hurricanes, and they go and rebuild them completely. Do we want to see that here? So the moderate option is if it gets partially damaged but not completely, not more than 50 percent, it could be repaired or replaced. And then the most lenient, like in North Carolina, it could be completely reconstructed. So these are three very different options, and input on those will be very important for the Planning Commission to decide down the road. Here's another example similar to some of the slides that Tara was showing. Here is a screen grab from a section of shoreline showing a lot of existing development where the erosion hazard line is going to put all this existing development in the setback. So those three options that we just reviewed, what is that going to mean for these guys if they get damaged? Looking at this one property in particular, just to further demonstrate some of the previous slides, let's say this is the...this property's existing setback here. And you see this structure was built outside the existing setback, but now what will be built entirely...that will be located entirely within the new setback. So let's say this home gets destroyed. Should it be allowed to be rebuilt here, or should we rely only on the minimum buildable depth, which would allow construction back here? So that illustrates these three options and what that would mean for all of these properties that will be put within the new setback if it's adopted. Turning now to Jeff to go over what we nicknamed the no needs. So this is a very different component of the SMA and shoreline rules beyond the restrictions of the setbacks.

MR. DACK: Yes. Chair and the Committee Members, thank you. Good morning. My name is Jeff Dack. I'm...pardon my poor work-from-home lighting here. I don't have a wonderful backdrop like everyone else does, but I hope you can see me.

CHAIR KING: That's perfectly all right.

MR. DACK: Okay. My dark face. So I'm going to talk about...well, let me back up. And I told you my name. I'm the Supervisor of the Environmental Planning Section in the Current Planning Division of the Planning Department. That's the section that includes the shoreline planners like Jim, and we work closely with Tara, and a few of the shoreline planners, and other folks that work in the SMA. And so I'm kind of the historian on this whole set of rule amendments, so I'll touch on that in a moment. But first, to introduce how this no needs idea, we go way back to the coastal zone management act that again, the Director McLean talked about being adopted, I think, in 1977. And its basic purpose is to require protection, environmental clients of protection from development. And the act, the State law, HRS-25(a) tried to define what is and isn't development. Because if you're going to protect from something, you have to figure out what it is you're protecting from. Now, each of the four counties in the State administer the act a little bit differently. Some...actually, most

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of them just take a look at building permits. And when a building permit comes into, you know, one of the...another one of the counties, they just take a look at that and say, okay. Does this look like it's development or does it not under the act? And if it's not development, they may just make some very minor notation on the build permit or just something really very minimal, and just move on. And then they only deal with permitting for those kinds of building permit or other kind of development, possible development activities that technically meet the definition of development under the law, and then they issue permits. About 20 years ago...again, even before my arrival, the...we got direction. The County Planning Department got basically guidance from the Department of Corporation Counsel that we basically had to analyze everything that could be considered a proposed action within the special management area. And you saw Michele put up the map earlier of the special management area. You can see it's pretty broad in some areas. For example, it includes all of Kihei that is makai of Pi'ilani Highway, includes pretty much most of the West side that is makai of Honoapi'ilani Highway. It was drawn many, many years ago to be pretty much makai of various highways, so it includes large...very large areas. And that's in addition to, of course, including the area that's directly on the shoreline. So we have a lot. And again, as she mentioned, now we bring in 400, to 550, or 600 assessments every year since Corp. Counsel told us we had to look at every "proposed action" and we had to do some kind of assessment for that. So it...and I guess at this point, I'll try to share screen. Hopefully this works well. Okay. Are you seeing...I hope you're seeing a pdf document. Okay. Very good. Thank you. So many of the kinds of proposed actions that all the current rules mention are really very small things. And it...they...it goes anywhere from, you know, just an example, kind of the top range of a proposed action that the State law says could be considered exempt. And it would be like a...you could do a...originally, you could have done a 10,000 square foot single-family residence. Now it's down to 7,500. But anyway, that can be done with an exemption. But then it goes down to really manini, like we like to give an example of a mailbox. If somebody comes to the Planning Department and says, do I need to get...do I need to submit an application for a special management area assessment to put in a mailbox? We'd say...we'd kind of say, oh, my gosh, I wish you hadn't asked us. We'd say that to ourselves. I wish you hadn't asked us. But since you asked the question, yes, we have to tell you the answer is yes. And so if somebody wants to come and they want to put...change out their kitchen cabinets and they're in the SMA, and say they're just a house or two makai of Pi'ilani Highway, and they're going to change out their kitchen cabinets, we have to say yes. And it just doesn't make a lot of sense. And even in the shoreline area, when you get more makai, you could have a similar situation. You could have a condo owner that happens to be...the property happens to be in the setback. And they...and again, we have to tell them, well, not only do you have to come for...turn off my phone here, my ringer. You have to come in for the setback, you have to come in for the approval under the shoreline rules. So we started a group about ten years ago to try...to try to make some sense, and look at what kinds of things really made sense to be looking at and what didn't because the definition is so broad right now. And it was a streamlining thing. Not that it was...streamlined actually to reduce everybody's burden, basically. Reduce the burden of the property owners so that they don't have to come in through and pay \$260 and spend a month or two submitting an application, going through a whole process, to get approval to revise the kitchen

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cabinets. And to take the burden off of Staff so that we can put our greater attention onto things that are much more significant. Burden...unburden commissioners who might need to receive some appeals on the island of Moloka'i...pretty much all of these things go before the Moloka'i Planning Commission. Again, we're talking about Maui, but that's just to give you some examples. So we started to develop...we had a committee of the current divisions, our zoning folks, we set out these...what we have come to affectionately call the no needs. They are technically, under the rules, really called special management area categorical exemptions. And we've been looking at these things, as I said, going back ten years. This is where this current amendment to the rules started. There are other streamlining things we're trying to do in the rules, and that and...that we're not getting into, but some of it relates to the setbacks, and then we got connected to the shoreline setbacks, and it's just taken a good long time to get here because with...one thing led to another. And even though this is the subject matter we started with, it now includes many, many kinds of revisions. It's really a revamping to the rules in a lot of ways. So that's a history of how we got here, what these no needs are, and real briefly, let's go through some of them, just examples. You know, things like title...transfer of land title, creation and termination of easements, customary agricultural activities, changes in uses or operations don't increase density, temporary events, testing for...so...archaeological, geophysical testing so that you can actually...you would actually have to get a SMA assessment to do the archaeological testing to get an SMA assessment...it was just kind of...well, I don't need to go more of that, just kind of sounds crazy off top its head. But we're trying to fix a lot of these kind of technical things. Then you get to little more significant things like nonstructural interior maintenance repairs. Okay, so here's the kitchen cabinet. So you don't have to come in for a kitchen cabinet anymore. And you can do...here's...there's even example, floors, carpets, and limited up to, you know, a half-a-million dollar valuation within a 12-month period. We don't want these things get immense, but if there are small things, we're suggesting that these just be...you don't even come into the Department anymore. Here's a similar kind of thing for non-structure exterior maintenance, and we have a few other things, small driveway, parking lot repairs, exterior installation of things like solar panels, photovoltaic. We have to...every time they come in, again, we have to go through an assessment process, they're on a roof, they're not going to have any effect in the special management area, they're not going to ground disturb anything, so why should we...why should we...be taking everybody's resources to put them through a process. And then you get to a few more things like small enclosures, single-story enclosures of decks, site improvements, minor things that...so right now, technically, if you want to put in a lawn, you have to get a special management area assessment. And so we put in...are suggesting some things to allow modest landscaping, modest kinds of work that might involve some level of ground disturbance up to six inches deep and over. But, again, limited to not over 300 square feet. Again, you don't have to come in again, but if you have situation like the mailbox I mentioned. Okay, well, that's going to go more than six inches deep, and it's not going to be 300 square feet. So we put in...so this is kind of, you know, small areas of horizontal ground disturbance that's very shallow, and then these are even much smaller areas of ground disturbance at a...for a total of 16 square feet, that's a little bit deeper. So this would allow you to put in a couple fence posts, or a mailbox, or whatever without, again, having to come into the Department. There's a few things here on

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operations and maintenance for public infrastructure. And then also, to allow for work by the Departments of Water Supply and Environmental Management if there's infrastructure that's in imminent risk of failure to affect the public health and safety. So that's a pretty quick overview of what we're suggesting be no needs, so to speak, within the SMA. Many of the smaller...all the earlier ones at the top, I don't want to go through them again, are also proposed to extend into the shoreline rules. So again, in a kitchen...if you want to put in a kitchen cabinet and you happen to be in a condo unit that happens to be in the shoreline, or you wouldn't have to come in for either SMA or shoreline rule approvals. I was also asked to speak real briefly about the...there's been recent amendments to the Coastal Zone Management Act in September of 2020, and that was referred to as Act 16. And just wanted...it did a few things. It recognizes sea level rise, prohibits private shoreline hardening that would threaten beaches, provides more protection for coastal hazards, expand...and expanded permit requirements for single-family residences right on the shoreline. And just wanted to mention that all of our rules, there had a few tweaks to the earlier versions of the rules, those rules after that...after that was passed, but they...all the shoreline rules, SMA and shoreline rules, excuse me, as we're proposing them now would be consistent with the Act 16. And that's all I have. Thank you. I think Jim Buika will now be talking about one of the other kinds of improvements to the rules that kind of...that evolved as part of this overall process. Help trying to fix some problems with our special management area emergency permit procedures. Thank you.

CHAIR KING: Okay. Great. And I see we now are joined by Councilmember Sugimura. Thank you for joining us this morning.

COUNCILMEMBER SUGIMURA: Morning.

CHAIR KING: Moving on to Mr. Buika. Jim, are you there?

MR. BUIKA: Hi.

CHAIR KING: Oh.

MR. BUIKA: My buttons aren't...oh, there we go. Okay. My buttons weren't working, and I was starting to panic here after all this preparation, then I can't get on. So here I am. My name is Jim Buika. Thank you, Chair King, and the Committee Members for being here. Congrats to Gabe Johnson, new Member currently. Our...every opportunity for us to speak to you about our shoreline situation is very precious. We appreciate it, and thank you very much. We're just hitting the tip of the iceberg here today. So I'll go over...oh, my position, I've been a shoreline planner for the last 14 years, and I've been partnered up with Tara Owens for the last 12 years on the shoreline. So we've seen a thing or two, and we've seen a thing or two change over the years, over the past decade. And we are clearly seeing evidence of sea level rise. And so I'm going to focus on one section of the rules. And I'll share with you a short PowerPoint. Trying to make it open up. It won't open fully. Come on. You see at least the screen here? Yeah?

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CHAIR KING: Yeah, we can see the screen, but it's got...it's kind of small, and it's got all the thumbnails attached to it.

MR. BUIKA: Yeah, I know. It's...

CHAIR KING: Are you able to click on the...are you able to click on that...

MR. BUIKA: I'm trying. It won't...my County-issued laptop is failing me here.

COUNCILMEMBER PALTIN: What if you pressed that square in the upper right corner, the big square next to the X.

MR. BUIKA: Next to the X in the right...

COUNCILMEMBER PALTIN: Yeah.

MR. BUIKA: Nothing is clicking.

COUNCILMEMBER PALTIN: Oh. Not working.

MR. BUIKA: Big bummer. Big bummer here. Come on. All right. You get what you get. So sorry.

CHAIR KING: Okay.

MS. SIEGEL: Chair, this is Nicole. I could share the slides for you, Mr. Buika, if you want to just tell me when to switch through.

MR. BUIKA: Yeah, okay. They're a pdf and I have one...but that's okay, I have one animated. But yeah, if you could do that.

MS. SIEGEL: It's okay.

MR. BUIKA: Yeah, I apologize for the time delay here. But let me start anyway. The...I'd like to focus on the proposed amendments to the emergency rules of the special management area rules for the Maui Planning Commission. And I'll focus on...thanks. Next slide. Okay. Here. So I'll focus on four key points here. They are in Section 12-202-16, it's called the Special Management Area Emergency Permit Procedures. And the reason we'd like to focus on these is this actually is a place where the Council can have an influence on the process, and enable us to move from emergencies to more long-term shoreline planner...planning. And so we've incorporated these ideas into the rules. So first point is I'll talk about why we're proposing these rule changes, give you an example of a common emergency, talk about the proposed rules, and also a proposed process that happens once you get an emergency permit. So next slide. Why the proposed rule changes. Our rules talk about the purpose of an emergency permit is to allow an urgently needed protective measure, principally of a temporary nature. So right now, the problem with our rules is our current rules only address the immediate emergency, and do not encourage or

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provide guidance to address the situation with a long-term solution. So really, our rules are reactive, especially for coastal erosion. We get an emergency, we try to protect the structure as Tara showed, and...but there's no impetus for...or incentive for proactive long-term planning. So the idea behind the rules is if it's an emergency, then we need to solve our emergency. That's the basis behind these changes. So we're...in our rules, we're clarifying a process that is addressing coastal erosion mostly. There are other types of emergencies, but 90 percent of the emergencies are due to coastal erosion. Thanks, Nicole, next slide. Oh, again, why the proposed changes, I have six of them. Temporary property protection managers for coastal erosion have become a substitute for a long-term solution. And this, when we get these temporary emergency protective measures around the shoreline, creates a continued work for the Staff, which is not good. Second is property owners now have become...they've become complacent. They have some protection out front, the problem goes away, they ignore it, they don't want to do anything more. Third, the temporary measures are costly, so owners are unwilling to remove them, even as the beach recovers. Say if we put in sand bags on the shoreline, these sandbags can cost a quarter million dollars to a million dollars for implementation. They're good for 180 days. No way, Jose, these bags are coming out after a condo has just spent a million bucks, right, so that's a problem with our current rules. Next slide. So going on to these why four, five, and six. So to move from temporary to a solution requires permitting, and four, five, and six, their permitting is costly, permitting is lengthy, permitting is complex. These people don't know what to do. So if we ask them, hey, you got to come up with a long-term solution, such as beach nourishment, relocation, elevation, it's costly to permit and to execute. I think you'll agree with that. Permitting is lengthy if we have to do an environmental document, obtain multiple permits. It can take several years. And permitting is complex. When you're at the shoreline here dealing with the water, we're dealing with multiple jurisdictions that often require County, State, and Federal permits, and that's a big deal. So permitting is costly, lengthy, and complex. Nobody wants to do it. Next slide. So part two, just an example of manini, common emergency that we see along the shoreline. This is along the, I think, Kahana Bay. You can see there, there's some coastal erosion that's right next to the building. There were sand bags that were put out in the foreground there at the Valley Isle resorts three years ago. The ocean went right around it, started chewing up the land behind it, so we had to put more sand bags. So even though it's not like a super emergency, people freak out, right. The condos freak out, they see this, it's not normal, it's episodic, and we need to respond in some way. So the problem compounds itself, and the problem compounds itself because we have erosion end effects there, and the sandbags tend to get extended by the State, often they're allowed for three years, where ours are allowed for 180 days. And so anyway, they...we see sandbags around the island. Too many places, far too often. So this yellow circle here is meant for...as we move down the coastline here to the next property to the north. You'll see that same yellow circle -- Nicole, on the next slide. I wish this was the one we could animate here, but...okay. Anyway, this is again to conclude what I'd like to explain to the Council is how and why are we getting into these situations of this significant coastal erosion on our shorelines. Look at this picture. This is a picture Tara showed you, Valley Isle, where we have had water washing up into Unit 101 there on the first floor. So really, how does it happen? How did we get ourselves into this situation? I have a little quote there

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from Ernest Hemingway. I'll paraphrase it for you. How'd you go bankrupt, Kelly asked? Two ways, Jim said. Gradually, then suddenly. And that's the situation on our coastline here. We have gradual coastal erosion, and then sudden coastal erosion. So that's how it happens. Why it happens? These are the whereases. Whereas, beaches and shorelines are public trust resources, right, the condos don't own them, own the beaches. Beaches and shorelines are managed by the State. Where is the State? The State's in O'ahu, DLNR. Private owners are unable to intervene on public lands, and owners observe gradual erosion over the years, but managing shorelines are not our responsibilities. Oh, Marge, look, I remember I came last...we came last December, the beach is about half as wide as it was then. You know, so they see these changes, and then suddenly a large episodic storm causes severe erosion fronting their parcel, and then this is when, over time, the erosion problem suddenly becomes their problem, and owners must take matters into their own hands, come in with an emergency permit. So we sandbag the Valley Isle, there's an end effect, the next storm, it creates in the foreground here. We have the Kahana, Sands of Kahana, with six layers of sandbags there, and we have a domino effect from the Valley Isle down to the next property, losing the beach in one episodic storm in one or two days. And part of their land, ten feet of their land gets close to their building, they want some protection. And then so...and not only that, but the sand bags, the beach used to be up at the top of those sand bags, the sand bags tend to deflate the beach. So those are really the points I want to make here then...next slide...I'll go quickly through this to keep within our half-hour limit here. So our proposed rule changes that I'll quickly go over. They've been vetted by DLNR, Office of Conservation and Coastal Lands, which is kind of our counterpart agency, Office of Planning. They augment our existing rules. And what they do is they establish a process for moving...a required process for moving from temporary protection to more long-term solution. And it provides the applicant right up front, very quickly, with a...knowledge of a planned path forward to alleviate the emergency situation. And it provides planning steps into the rules for solving their emergency. So it's transparent, consistent, and it forces the applicant, if they have an emergency, to solve their emergency through the permitting, planning process to come up with a long-term solution. Next slide. These I'll go over quickly, but based...oh, okay. So right now, there are changes to H&I of 12-202-16, for an emergency permit request that is the result of, or otherwise involves coastal erosion. The emergency request is still limited to 180 days, but within that 180 days, the applicant must provide to the County a 90-day permit compliance requirement of looking at what the options are. And so...and they are also required to meet with us, the County, within that 90 days after that emergency permit so that we can educate them as an early education intervention about the path forward. So next slide. The next couple slides are the actual rule changes. I'll just summarize them to keep going. This one's important because within 90 days after that...the emergency permit is authorized, the applicant must submit and come into the County looking at alternatives. They must submit a list of alternatives, including A there, relocation of threatened structures, or elevation of structures, and dune and beach restoration. And also any other possible alternatives, which may include protective or erosion control measures, such as groins and offshore structures, or breakwaters. A description of how each alternative complies with the shoreline rules, a draft timeline, design...a draft timeline to plan, design, and complete each long-term alternative, and a list of the Federal, State, and

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County permits that would be required to achieve each of these alternatives. So that's kind of--go ahead. I just have two more real quick. Nicole, next slide. So they have...in 90 days, they have to submit this, meet with us, that's basically what they do, and they have to remove the emergency protective measure. And the next slide. They have to remove the emergency protective measure if they don't come in and look at these alternatives with the County within five months' time. So we're asking them to put a plan together as part of the emergency. We're giving them a lot of homework, maybe a lot of work on our end, but what it does is it jump starts and accelerates the planning process for getting rid of the temporary sand bags or whatever up front. So I think that's it. Next slide, I think is our team, Nicole. Yeah. Here, this is our Maui Coastal Zone Management Team, list of us. Myself, Wesley Bradshaw is a new Coastal Zone Management Planner, Laury Kanae is a CZM Planner I, Wes is a Planner V or IV. Tara and Wesley Crile are both UH Sea Grant. Wes is new as a Dune Management Coordinator. And thanks to Council for funding his position, and Michele McLean. And as you...as you all well know, it's budget season, and there is a line item there, and I strongly lobby to continue to keep Tara Owens and Wesley Crile, UH Sea Grant, line item in the budget, they are vital to our operation. And of course, Jeff Dack runs the show as our Environmental Section Supervisor. So in just one final comment also, I'd like to thank the Council, Kelly King, for pushing \$175,000 of budget last year to do some of this proactive planning for Mā'alaea condos that are being threatened now, and we're...more and more emergency temporary permits. We're going to do a sand study, the RFP, Wes and Tara, myself, Michele have finalized that RFP, and it's going to out on the streets fairly soon, and we'll do a sand study offshore to see if we can do a regional project there. So your budgetary influence is critical. Another key thing, if we move from temporary emergency cascading domino effects, we need to look at these projects from a regional point of view. And when you get to these bigger projects, say 20 million...5 to \$20 million, we need a funding mechanism, and the Council can also play a key role in funding such things, as Community Facilities District taxing the private entities to do these projects. So that's great, and we appreciate your financial support of our shoreline planning process. Mahalo, and thank you for your time.

CHAIR KING: Okay. Mahalo, Jim. And I think we're back to Director McLean for a wrap up.

MS. MCLEAN: Yes. Thanks, Chair. It's a good thing you don't have an orchestra or you would have started playing Jim off. We'll take the opportunity to make his plugs, but I definitely appreciate his comments. Okay. We'll go ahead and wrap up here. Okay. Here we go. With enforcement and appeals, we're proposing amendments to the SMA and Shoreline Rules relating to enforcement. These would clarify that a violation can only be cured when the (*audio interference*) has been corrected and when fines have been paid. Because we've been in situations where the...one of those two things happens, and the property owner is expecting resolution or additional permits, but we want to make sure that both of those things are accomplished before we can determine that a violation is cured. It gives other options for serving enforcement notices. We always use certified mail as the first option, but when those get returned to us, we need to have other opportunities to provide service, and that includes posting on the property, and delivery publication in the paper, and so forth. And it

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also creates criteria for how fines are established in the first place. These exist in the Moloka'i Planning Commission rules, but not in the Maui rules, so it's important to have those criteria. Recently had a violation reduced by the Planning Commission, in part because we didn't have adequate criteria in the Maui rules. When we're talking about appeals, we're only proposing amendments to the SMA rules related to appeals. Right now, the rules have this sort of hybrid option of the Director holding a hearing, and we want to eliminate that option so that the matters go directly to the Planning Commission for hearing, but it does also allow for negotiated settlement. Right now, settlements have to all be adopted by the Maui Planning Commission. We're proposing to allow the Director to settle violations. If the amount of fines reduced doesn't exceed \$50,000, I have to be candid that the Planning Commission is not thrilled with that, so they may not allow that at all, or perhaps they might lower that dollar threshold, but to give some authority for the Director to settle. Next steps...first I do want to repeat, I know that you've heard this before, but we did conduct quite a bit of outreach in 2019 with various interest groups and organizations, community associations, and we hosted four public meetings throughout Maui County. We also sent a postcard notification to all shoreline property owners on Maui. And the intent after that outreach was for our Staff to regroup, and go over our notes, and figure out our next steps, and COVID hit. And so this effort has been somewhat stagnant for nearly a year, but we have gotten back to it. The latest versions, the ones that you have, we believe address the most prominent concerns that were raised during all of that outreach. One has to do with areas that are mapped by the sea level rise viewer, and Tara discussed this a little bit, where the underlying geology might mean that that mapping on the sea level rise viewer isn't really ground proofed, and so the rules address those areas that have different special geological considerations. And also, as I reviewed with you, those three options on how to deal with existing development that would be put within the setback. We did also hold a workshop with the Maui Planning Commission last month, and we got comments from public testimony and from commissioners, so we're continuing to make refinements. And so our next step are to continue with the outreach with more public meetings, as well as targeted meetings with interest groups and stakeholders. We will have, hopefully, two new Maui Planning Commissioners starting in April, so we would want to do another workshop with the Commission with those new members, and then potentially schedule them for adoption with the Commission later this year. But the result of all of our outreach will really determine what drives the process from that point forward. And finally, we can conclude our presentation. Thanks so much for giving us all of this time, and we'll be available for a while for questions.

CHAIR KING: Okay. Thank you so much, Director McLean, for putting that whole presentation together. That was very comprehensive in how the new proposed rules relate to what we're talking about, managed retreat and shoreline management. So I would...at this point, I'd like to go into...straight into public testimony. We have about five testifiers who have signed up, and then we can...once we close public testimony, we can go into deliberations, and then we can...I'll give each member a chance to ask questions. So if there's no objections, we'll take public testimony now.

COUNCILMEMBERS VOICED NO OBJECTIONS

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CHAIR KING: Okay, thank you. Nicole, you want...or are you going to be reading off the names?

. . .BEGIN PUBLIC TESTIMONY. . .

MS. SIEGEL: Chair, yes, I can. The first person signed up to testify is Kai Nishiki, to be followed by the person logged in as phone number 7722 for the last four digits.

CHAIR KING: Okay. Aloha, Kai.

MS. NISHIKI: Good morning. Good morning, Chair, Committee Members. Thank you very much for having this item on the agenda. I really applaud the Planning Department for the proposed amendments to the SMA and Shoreline Rules in order to further protect one of the most important and significant resources of Maui County, our shoreline environment. We have seen much in the news about the State and County moving towards much stricter rules and enforcement in order to prioritize and protect our beaches and coastlines, although we are still seeing a weak response in regards to upholding fines against violators. I have submitted ten pages of written testimony with detailed comments and proposals based on meetings with our large shoreline advocacy group. We also prepared extensive comments back in 2019, but unfortunately, it does not appear that any of them were substantively incorporated. It is time to enact strong and aggressive policies to protect our natural resources and facilitate coastal retreat. Scientists have been warning us for years to get ready for sea level rise, extreme weather events, and severe coastal erosion. We have been slow to respond, which contributes to further degradation of our resources. This is not a time to weaken protection of our resources or look at permissive language or loopholes to allow structures in coastal hazard areas. Therefore, we strongly support utilizing the 3.2 feet of sea level rise as planning and legal instrument, adopting the erosion hazard line, shoreline setbacks, and choosing option A on 12-203-12(6). We understand the significance of the SMA and Shoreline Rules, and want to be sure that the changes proposed are aligned to effectively prioritize protection of our resources. While presentations and studies are great, our community is depending on you to not delay. We are looking for meaningful legislation, proactive policies, and we want to see budget priorities directed to increasing funding for the SMA fund, more staff for CZM and enforcement, start acquiring lands mauka of our beach parks so that we have parks in the future, and most importantly, getting start on coastal retreat. In meetings yesterday discussing adaptation pathways with coastal experts in California, the major findings of cost benefit analysis is that the key decision is how to invest now in the short-term, or pay much, much more in the long-term. Time is of the essence. Thank you so much. Mahalo.

CHAIR KING: Okay. Mahalo, Ms. Nishiki. And Members, I realize I didn't go through that whole litany of all the rules for testimony, but I had looked over the...if anybody has any objections to that, let me know, but I just...I looked over the list, and it looks like everybody has been frequent testifiers, so I didn't want to take any more time just going over the list of rules. But I really appreciate your testimony, Ms. Nishiki. Are

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there any questions? And bear in mind too, that we can use the testimony, the content of the testimony too, in our questions of the Department, so...okay. We have couple questions. Member Paltin, followed by Member Johnson.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Nishiki, for your testimony. I was wondering if you could submit to the Committee your comments that you made in 2019 that were not substantively included.

MS. NISHIKI: Oh, yes. I can forward that to you folks.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: Great. Thank you. Thank you, Member Paltin. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. It's a similar question, Ms. Nishiki, is that have you...you're a frequent testifier, have you had any issues with the eComments? Is it working out for you?

MS. NISHIKI: Actually, I continue to use the email option.

COUNCILMEMBER JOHNSON: Okay.

MS. NISHIKI: I had a few problems, so I've just been using the email option because then I'm kind of sure that it's there. But I look forward to working out the kinks, and I think it's a great improvement, so you can just go right in there and type it in. So thank you.

COUNCILMEMBER JOHNSON: Okay. That's all the questions I have, Chair. Mahalo.

CHAIR KING: Okay. Thank you, Member Johnson. All right. Thank you so much for your testimony, Kai. I really appreciate it.

MS. NISHIKI: Mahalo. Have a great day.

CHAIR KING: All right. You, too. Next testifier, Nicole?

MS. SIEGEL: Chair, the next person signed up to testify, the last four digits of their phone is 7722. I will go ahead and unmute your mic now.

CHAIR KING: Okay. 7722, can you...if you're here to testify, can you start with your name? Phone number 7722? Going once, going twice.

MR. DAMARIN: Hi, this is Jerry Damarin, and I don't have any comments. Thank you so much for a good session.

CHAIR KING: Okay. Thank you, Jerry. Next testifier.

MS. SIEGEL: Next testifier is Faith Chase, to be followed by Dawn Hegger-Nordblom.

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MS. CHASE: Good morning, Chair King. Good morning, Committee. I wanted to speak on the item regarding MEMA. I...these questions have developed over the course of the last 11 months in trying to reach them and really try to figure out what their service to our community is. And so I did hear you just say that you would...this is the time when we could present questions that you might ask the presenter, so I do have some questions. And one of...the first one is, how does MEMA act in any fashion as Civil Defense. And I've honestly tried to get these questions answered myself through Mr. Andaya in conversations. I realize there was a name change. Does that mean the type of work has changed as well? The other question is, what has MEMA done during the pandemic to answer the calls from specifically the houseless, homeless, those in need. And then the third one, this may not apply because I believe I heard in introduction comments that MEMA perhaps has made an office relocation, but nonetheless, my questions was, does MEMA feel the output possible...the community output, the work...does MEMA feel the output possible within the restraints of a six person staff in the basement is mediocre, and perhaps the return of a traditionally known and understood Civil Defense should be reinstated. And I know that sounds kind of spicy, yeah, but you know, I've had conversations with Mr. Andaya, and this was a recurring complaint. And to go around because of a name change and because of the conditions in office, I want to believe this presentation today will make me smile. And I just...you know, I'm very frustrated. I feel like my Council body knows what I'm frustrated with, and I just want to take this opportunity to get that on the public record. And thank you for the Planning Department presentation, that was very thorough. And thank you equally to Kai for staying so steadfast. And as far as the testimony comments, the eComments, really amazing. The email option, thank you for that because sometimes there's visuals. I just have to say that I'm going to the State Legislature and bragging about Maui County and how fast you guys implemented everything. I think we are...you are...we are leading in that fashion. Thank you for your time today.

CHAIR KING: Okay. Mahalo, Ms. Chase. Any questions for our testifier? If not, thank you, and I hope you can hang on through the second presentation after the break.

MS. CHASE: Yeah. A hui hou.

CHAIR KING: Okay, great. Nicole, next testifier.

MS. SIEGEL: The next person signed up to testify is Dawn Hegger-Nordblom, to be followed by Junya Nakoa.

CHAIR KING: Ms. Hegger-Nordblom?

MS. HEGGER-NORDBLOM: Sorry, I didn't sign up to testify, but I'm just listening and observing. Thank you so much.

CHAIR KING: Okay, great. Well, thank you for join us.

MS. HEGGER-NORDBLOM: Thank you.

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CHAIR KING: And we'll move on to Junya Nakoa.

MR. NAKOA: Good morning.

CHAIR KING: Good morning.

MR. NAKOA: Over here, Nāpili stay a little bit cloudy. But what you call, great presentation by Tara, Jim Buika, and Michele McLean, that was bad ass. But you guys should get more the local people involved, you know, especially here in the kind, had plenty pictures was all right here in front of our beaches, yeah. In front of Kahana, the one by...you know what I mean. All in front here, Honokowai. And so yeah, get more people involved. I know you guys said you going get more public meetings and all that stuff. Well, I lived here all my life, and I no see one meeting about all these shores, shoreline stuff, but get plenty guys throwing sand bags on their property and all of that. And then some of that sand bags that end up in front of Kahana Boat Ramp, where my `ohana hang out, and that's kind of junk. But good on the motion, I...when go...when I was at the Andaz, that set back, the picture you guys when show, oh, the buggah working, Cuz. Oh, only far the beach is from the building. But I think that is what should be happening all over here. But yeah. And then yeah, and I going tell you what, these condos, especially the nine condos what is the Kahana beach restoration, whatever. They all grumble with each other. They no even show up to their own meetings, and then they like us help them out, they're scrubs. And then the Director changing the fine...oh, heck no. I sorry, Michele, but you no can have all that kind power. You should make...you know, follow the laws, follow the Charters like that. The Hololani one, they when take the machine inside the water, you know that's wrong. You wrong, you wrong, you know what I mean. Just pay what you supposed to pay. That's all I get for say. Mahalo.

CHAIR KING: Mahalo for your testimony. Junya, we have a question for you from Councilmember Sinenci.

MR. NAKOA: No. Nah, only joke.

VICE-CHAIR SINENCI: Mahalo, Chair. Eh, aloha, Mr. Nakoa.

MR. NAKOA: Yes.

VICE-CHAIR SINENCI: So you mentioned, you know, Kahana and Nāpili as part of some of these high risk areas. About how many miles of shoreline we looking that is you personally see affected by sea level rise?

MR. NAKOA: Ho brah, that's choke. All the way from...okay, well, I don't know about miles, stuff like that, but from...all the way from Nāpili Bay all the way to Kā'anapali. I mean, you get all kind, you know, the pictures we show, they throwing sand bags, you know, in front of their properties, and oh, now the thing going move to the next property. And I think, oh, put some more sand bags, oh, move on to the next property. The things is just keep on moving like a domino effect, and then the thing

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not working, so I don't know, braddah Shane, I don't know how many miles, but if you go look for yourself, it's pretty far, brah. The thing is pretty much a whole beach is all jam up. Before we used to go get black crab like that, but hard for get black crab on the sand bags.

VICE-CHAIR SINENCI: Okay. And then, you know, I understand that between some of the areas, you know, get papa, get rocky outcroppings that come out. So they're not necessarily affected by some of the erosion areas. Are we just talking about areas where get mostly sand, and as far as erosion...I mean, is the areas we get rocky outcropping, the papa, are those less affected by sea level rise?

MR. NAKOA: Oh, yeah. Oh, yeah. A prime example is by Wahikuli Beach, you know, all those rocks, you know, that was put in front of the beach, you know what I mean, that's rocks, it's natural stuff. But when the wave hit them, the buggah go right through the rocks and then go back out. The thing...that coastline nevah get eaten up like how by the pali stretch get eaten up when they when build that stupid sea wall, but...and like when you put the sea bag, the sand bag...look the one Buika when show, the buggah went around the sand bags and went erode behind them. You know, go follow what the Hawaiians did in the old times. They put the rocks, like you said, when get all the rocks like that, nothing, no more too much damage. But me, I not the smart kine guys that go college like that, but I get common sense. My daughter said no need go college, just get common sense.

VICE-CHAIR SINENCI: Mahalo, Junya. I mean, you definitely provide some good mana`o of being right out there Nāpili, Kahana side. Thank you, Chair.

CHAIR KING: Thank you, Vice-Chair Sinenci. We have another question from Member Paltin.

MR. NAKOA: Oh, my.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Nakoa, for your testimony today. I just wanted to ask a question on your comment about the Director being able to address fines that are \$50,000 or less, and you said that that wasn't appropriate. I know our Administration through Corp. Counsel is able to address fines or settlements of 7,500 or less, to settle up to that number. Do you think that's a more appropriate number than the \$50,000 number?

MR. NAKOA: Yeah. Yeah. I think that's even good. Like the 50,000 is plenty money, brah. You can use that for the other stuff if they screw up. But the 7...what you say, 7,500, that one enough. That would be good enough. That one person can make a decision like that. But if the buggah is like 50,000 or more, or like that kine number, go follow the rules, follow the law, maybe you guys should get the power because you guys bad ass.

COUNCILMEMBER PALTIN: Thank you. I appreciate that.

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CHAIR KING: Okay. Thank you, Member Paltin. Is that your questions? Okay. All right, any other questions? Seeing none.

MR. NAKOA: No.

CHAIR KING: I'll thank Mr. Nakoa. Thank you again for your testimony, for being our community watch dog.

MR. NAKOA: Thank you. You guys have a good job...good day, and good job, you guys, shoots.

CHAIR KING: Okay. Great, you too. Nicole, do we have any other testifiers signed up?

MS. SIEGEL: Chair, nobody else is left to testify. If there's anybody that would like to testify, please indicate in the chat or unmute yourself.

CHAIR KING: Okay. Anybody needing to testify today or wanting to testify? Going once, going twice, seeing none. Is that it...are there any objections to closing public testimony at this time or...and accepting written testimony into the record?

COUNCILMEMBERS VOICED NO OBJECTIONS

. . .END OF PUBLIC TESTIMONY. . .

CHAIR KING: Okay. So ordered. All right, so ordered. And Members, so we're going to go into question and answer while we have the Planning Department here. If you need to take a break, you know, just feel free, we have six members on the call now, so we're pretty safe with quorum. And we'll ask Director McLean to come on the screen, and we'll start with our Vice...I guess what we'll do is we have six...so let's give everybody four minutes for your first round of questions, if you have any burning questions after that, we'll go back. And we'll start with...Nicole, if you can do the timing. And we'll start with Member Sinenci.

VICE-CHAIR SINENCI: Mahalo, Chair. And aloha, Miss...Director McLean, for your presentation. In your presentation, you mentioned 4 to 500 exemptions a year. Can you clarify? I guess, you know, what are some of the...I guess, the main reasons for those exemptions?

MS. MCLEAN: That's a great question. I could spend more time with Staff to get a better picture of what those mean, but a lot of them are for the kinds of actions that Jeff Dack reviewed with you. We do a lot of SMA exemptions for temporary events, hotels, and golf courses. We'll do different festivals in putting up tents and so forth for a day or two, and those always get SMA exemptions. A lot of those activities that Jeff reviewed, people do without getting exemptions, which, you know, there are no real concerns about that. We think that's the way it should happen, so we do know that a lot of those activities happen without SMA review already. We do issue exemptions

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for single-family homes. That's in State law, it's also in our rules. We are not proposing to change that and have that be a no need. We would still need to review exemptions for single-family homes because there may be cases that they don't qualify for an exemption. A lot of exemptions for interior renovations or reroofing, solar panels, cell towers, painting...there's quite a variety that would be covered by those no needs. But I can...I'd be happy to get a more accurate profile of, you know, the breakdown of those 4 to 500 exemptions to give you a little more information.

VICE-CHAIR SINENCI: Okay. Thank you, Director. So not necessarily for new building, a lot of it for activities, special events, those types of things, renovations in existing...already existing structures within the SMA, yeah?

MS. MCLEAN: That's correct. I don't know if Jeff or Jim want to jump in. They're more on the front line of those than I am. If either of you have a more specific answer, please jump in.

MR. DACK: This is Jeff. I think Michele...I wouldn't have anything to add necessarily to Michele's answer. I think it's pretty comprehensive. It's all kind of things, and most of them are small. But yeah, it does range up to single-family residences.

VICE-CHAIR SINENCI: Okay. Mahalo, sir. Then other question was, I believe there was a timeshare project in North Kihei that last we heard had some...was going to build along the shoreline. Are you familiar with that one as...do they receive an exemption for building on the makai side of the street?

MS. MCLEAN: I believe you're talking about the Maui Lu redevelopment.

VICE-CHAIR SINENCI: Yes.

MS. MCLEAN: They received an SMA major permit from the Planning Commission, and then they came forward a little while ago for a time extension that was sent to the Planning Commission again, and they were granted a time extension. I was surprised at both of those things, but nonetheless, they did go through the SMA major process and Commission review of the extension. . . .*(timer sounds)*. . .

VICE-CHAIR SINENCI: Okay. Mahalo. Mahalo for that. Okay. Thank you, Chair.

CHAIR KING: Okay. Mahalo, Vice-Chair. And thank you for clearing that up, Director McLean, that I was wondering who made that exemption too. I guess it was the Planning Commission. Okay. So I'm going to go in alphabetical order. We'll start with Mr. Johnson. Questions?

COUNCILMEMBER JOHNSON: Thank you, Chair. Yes, I have some questions. So about these, you know, managed retreat, is that considered a taking in anyway?

MS. MCLEAN: That's probably a question Corp. Counsel could answer, but one of the reasons we have that minimum buildable area is to ensure that there is still usable,

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reasonable use of the property. But I don't want to get into the legal part of that, I'd get myself in trouble.

COUNCILMEMBER JOHNSON: Okay.

MR. DACK: This is Jeff Dack. I'd like to add to that, though, if you don't mind.

COUNCILMEMBER JOHNSON: Sure.

MR. DACK: There's a provision to the short...the minimum buildable area. And basically...the fundamental provisions in the existing Shoreline Rules from 2003 are carried forward to the present day. There was a legal analysis done in 2003 by then Corporation Counsel that...really a great analysis that said that the rules in 2003 would not involve a taking. And again, the fundamental structure is no different...would be no different in the proposed rules there are right now. And in the 20 years...well, almost 20 years since those new rules came in effect in 2003, they've never been challenged.

COUNCILMEMBER JOHNSON: Okay.

MR. DACK: So the taking seems to be...would seem to pretty safe from the taking standpoint --

COUNCILMEMBER JOHNSON: Okay.

MR. DACK: -- from history. Thank you.

COUNCILMEMBER JOHNSON: Thank you. All right. So in regards to the idea of a...no need categories, you mentioned about how solar is kind of a no need consideration. And to me, that makes a lot of sense. Like we...part of what got us in this mess was our reliance on fossil fuels, and we kind of reward the property owners with those kinds of carrots. Like, hey, you have a parking lot, but if you build, you know, electric car parking stalls, you might get...you know, those kinds of things make sense to me. Is there...you said there's a list of like 400. Can you clarify if there's anything specially addressing the long-term effects that is causing us this problem to begin with?

CHAIR KING: Good question. Director?

MS. MCLEAN: Gosh, that's a big question. The...so taking a step back, the purpose of the SMA is to protect the coastal environment and to assess potential developments or what is called actions, impacts on the coastal environment, and to mitigate those impacts when they can be mitigated. It doesn't go so far as to provide incentives in that proactive sense. We would need a additional group of planners with a different caliber of expertise to do that. But in terms of incentivizing, yeah, I hadn't looked at the solar panels being a no need as an incentive, but --

COUNCILMEMBER JOHNSON: Yeah.

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MS. MCLEAN: -- it...certainly, it...

COUNCILMEMBER JOHNSON: Well, it ought to. But okay, I got one last question for you.

MS. MCLEAN: Sure.

COUNCILMEMBER JOHNSON: So I know my time is limited, so I apologize if I feel rushed. The idea of pulling back, is the liability on the landowner to clean up the things that they left on the beach? Like, how does that work as far as we command them to pull back, and we say we can't build here. Are they...is it your kuleana to make the land, you know, as it was? I mean, how far...do they put sand dune restoration, or what's this...what's their end of the deal?

MS. MCLEAN: That is a comment that we got with the Planning Commission workshops. So we did talk about structures that may be abandoned, and that it is the landowners responsibility to remove those so that the structure themselves, as they deteriorate, don't become a hazard.

COUNCILMEMBER JOHNSON: So removal, but not restoration?

MS. MCLEAN: When we talk about removal, they would have to get permits to remove. And so part of that approval process would involve any necessary mitigation. It could involve restoration, but we would want to make sure that, you know, a big hole in the ground is...if . . . *(timer sounds)*. . . left, for example, they would have to make sure that the condition is not hazardous.

COUNCILMEMBER JOHNSON: Okay. Thank you, Director McLean. Aloha, Chair. I have no more questions.

CHAIR KING: Thank you, Member Johnson. Someone told me my video is frozen, but I'll keep going if you can, you know, at least hear me. It's not frozen. I'm looking at it. It looks like it's working on my end, but...so I apologize if it looks like if it's frozen to you folks. We're going to go next to Member Molina for questions.

COUNCILMEMBER MOLINA: Thank you.

CHAIR KING: And I was told that your video is frozen too, but it doesn't look like that to me anymore, so...

COUNCILMEMBER MOLINA: Oh, okay. All right. Oh, well, frozen or thawed out, here we go with my questions. But anyway, thank you to the Department, very thought provoking presentations. Staying on the topic of Member Johnson, who brought up the issue of takings and managed retreat. I appreciate he brought that up, and I appreciate the clarification of Mr. Dack on the takings aspect. Staying with management retreat, with the management retreat section of your plan, will these rules have any influence on the types of zoning changes that may be needed to prepare us for any sea level rise?

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MS. MCLEAN: That's a great question. I think, you know, as you know, zoning has to comply with the community plan. And we are seeing, as you're reviewing now the West Maui Community Plan, there was...coastal erosion and coastal hazards were very much on the CPACs and Commission's mind when they reviewed the plan. So their...the zoning would have to follow the community plan. So if those community plans are making designations, then zoning could very well follow that. But without those changes, if for example, you know, a whole stretch of coastline is zoned and community planned hotel and single family, then you would have to change both the community plan and the zoning to something like open space or conservation if you did want to add those protections. SMA is in addition to zoning and community plan, the regulatory effect of zonings and community plans, so even with zonings and community plans that allow development, the SMA and Shoreline Rules can ensure that development doesn't occur in the areas that it shouldn't.

COUNCILMEMBER MOLINA: Okay. Great response. And also, before my time is up, would...do you foresee any uptick with permit requests for building in the areas that are currently in the old setback rules? Because in light of the immanency of any rule changes, we potentially could see that. I'm just curious about the insurance premium impacts too, as far as on these property owners. So any thoughts on that, Director?

MS. MCLEAN: Yeah. We...a couple of things. We haven't seen a big rush to build, you know, racing against the clock for the Shoreline Rules. But because the sea level rise viewer exists now, when we do review any development that is within the sea level rise exposure area, we do give additional consideration to that development, and...because we know that that is an existing coastal hazard. Even though we don't have the hard redline of regulation, we can still impose requirements and preventive measures on that development to make sure that it is...that it would be resilient to those coastal hazards. In terms of insurance, we understand that there are some insurance companies that have already stopped insuring coastal properties, even before the Climate Commission's report was adopted. So I don't know how much the regulatory changes might have on insurance. It's more Mother Nature that's having the impact. That's anecdotal. I can't say that that's, you know, documented, but that is what we've been hearing.

COUNCILMEMBER MOLINA: Okay. All right. Thank you very much, Madam Director. Thank you, Madam Chair.

CHAIR KING: Thank you, Member Molina. We'll move next to Councilmember Paltin, and followed by Member Sugimura.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Director, for your presentation. I'd like to focus my questions for the first round mainly on the categorical exemptions. For the SMA on Part J, where it says, you know, nonstructural single-story enclosures, I just was wondering because I was under the impression that Public Works measures square footages everything under the roof, but Planning measures square footage as livable spaces. And like usually they say, like, you can

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have this big of house with this big of lanai. So then if you enclose the lanai, then how does that affect your square footage in terms of Planning's measurement versus Public Works measurement?

MS. MCLEAN: I don't think that our measurements are off from each other. But the square footage does become very important when we're talking about those enclosures because that can be the difference between an exemption, or needing a minor or a major permit. And I believe the...that particular provision says as long as it doesn't increase the square footage beyond 7,500 square feet, which is what is allowed as an exemption. Jeff is popping up on my screen. I don't know if he wants to chime in on that because he's really the no need expert. Oh, he disappeared...now he's back.

MR. DACK: Just very briefly. These...the no need section relative to that has been written to mirror perfectly the definitions of square footage in the zoning ordinance. So it...and again, to the extent that, as Director says, the zoning ordinance doesn't differ from the building code much. We would be following the zoning ordinance definition of square footage precisely in the rules.

COUNCILMEMBER PALTIN: Okay. So like for accessory dwelling unit on a lot with...that's only allowed a certain size accessory dwelling unit, they probably wouldn't be able to enclose the lanai areas because it would exceed the square footage?

MS. MCLEAN: Correct.

COUNCILMEMBER PALTIN: Okay. And then I had a other question. You know, like, why the \$500,000 in 12 months or resurfacing 300 square feet. Why those numbers were they chosen? Like, for example, in the SMA area, you can do up to, like say, \$1.5 million of improvements...or in the shoreline area, up to \$1 million of improvements; and depending on where they are located in reference to the shoreline, sometimes I think they should spend that \$1.5 million moving back on managed retreat or other things instead of building up the value of their property to like \$1 million extra or \$1.5 million extra, and not addressing the situation that we see coming. So I just was wondering how those numbers and time frames came up.

MS. MCLEAN: I'd ask Jeff to jump in again to see if he has anything to add to what I'll say. The 500,000 is the existing threshold between a minor and a major permit, so that's a figure that's used already. And rather than just saying, you can do these particular actions however much you want for however long you want, we felt it was appropriate to put some kind of restriction on it. So the dollar value was a way to do that. Some of those activities require building permits, so that's how the amount would be documented, but some of those activities don't require building permits. In terms of the area, I . . . *(timer sounds)*. . . don't...Jeff, maybe you can comment on how the area was determined for the ground altering.

MR. DACK: There's a few thresholds in there, like the 6 inches and the 16 square...6 inches deep or 16 square feet of area. There...a number of Staff got together from two different divisions and tried to come up with what made some sense as kind of common kinds of things that would be done. For example, you know, probably better

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examples is basically the low small amount ground of surface. Okay, you can probably put in a little driveway, you can do some turf work, you can do some very shallow planting, and keep it within six feet. The 16 square feet, you could put in a few fence posts. The 300 square feet, it...we just thought, okay, about a 20 by 30 area, we had to find some cut off locations. But again, even if someone's 301 square feet, that doesn't mean they can't get a permit, that's just...or can't get approval, that means they just have to still come in for an assessment. If it's 299 square feet, they wouldn't need to. You got to draw the line somewhere, and then again, it's just a combination of, you know, Staff experience and, you know, probably 40 to 50 years of Staff experience in different divisions got together, and those seemed like numbers that worked for what we see as applications and realistically reasonable things that the people would do in the field.

COUNCILMEMBER PALTIN: Chair, if I can just follow up on this question because otherwise we'll get off the topic and it'll be...

CHAIR KING: Yeah, we are running out of time, so if you can follow up quickly, and then we'll go to Member Sugimura.

COUNCILMEMBER PALTIN: So my concern with L is...the way that I read it is a 6 inch deep...like say I did a 16 by 1 by 4 foot rock wall 6 inches deep, and then the thing falls over because we're only doing 6 inches. Like, is there any kind of thing...and like how do you determine like, oh, they are doing 300 feet...or 300 square feet, like, people driving by like, oh, it's 350 square feet, or it's more than 6 inches. What mechanism do you have to check up that these rules are being abided by, whereas before, you see work done, no permit, okay.

MS. MCLEAN: It would be the same as our regular enforcement, which is complaint based. So if there is a question, we go out and look, and we say, oh, no, you fall within the no needs, so you're fine. Or no, you exceeded what the no needs allow. You needed to submit a assessment for that. So then we can conduct enforcement at that point.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: All right. Thank you, Member Paltin. Member Sugimura, questions?

COUNCILMEMBER SUGIMURA: Yeah, thank you. So Jeff Dack, I...your no need permit, I just would like to recognize that for about 15 years I did Maui Matsuri, and we had to get these temporary permits because we were putting up tents at the UH Maui College, and it fell within the SMA area. We always wondered why, but now I know why, and we did it. So thank you for your help with that. And I will review your list of no need and look forward to that. I wanted to find out from you your timeline for adoption, Michele, for the rules. I know your last screen you talked about it, and you said that you plan to meet with interest groups. So who are they, when does this happen, and when do you plan to finalize these rules?

MS. MCLEAN: The interest groups that we met with before, we've met with the Hotel and Lodging Association. We've met with various community associations and the

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Alliance Community Associations. I believe we got input from American Institute of Architects Maui Group. We've reached out to various planning consultants. The Operators Association, the Maui Facilities and Engineering Leadership Council, which does the facilities management for hotels and condos. We would probably...so we would reach out to those groups again. We will probably do a couple of public meetings, just open public meetings. We would have to do at least one workshop with the Maui Planning Commission to get...mostly to refresh the current members, and also bring the new members up to speed. And then at that point, after doing that, what's going to drive the process is whether or not we think they are ready to be scheduled for adoption. I would like to think...

COUNCILMEMBER SUGIMURA: And when can you anticipate...that's a lot of meetings, so thank you, and a list. So you have a timeline that you're thinking of, what is...do you have a target?

MS. MCLEAN: I think we could get those meetings accomplished by the summertime. And then potentially scheduling the rules for adoption later this year. That's what I would like to aim for but, you know, it's driven by the input, and if we can get support. REALTORS Association was another group I forget to mention.

COUNCILMEMBER SUGIMURA: Okay. And then on the emergency permit and, of course, all the shoreline things that Jim Buika talked about, right, like Kahana Bay and I've been kind of meeting with them periodically, understand the concerns. So are you saying...and I know that Sam Lemmo from DLNR was recently in the news talking about how they are going to be pushing back on the temporary permits that they've issued for these shoreline projects. So I guess a concern is that because we still have the problem existing, and if we push back and ask them to remove the sand bags, you know, for the beach nourishment, what is our plan? I mean, if it's only 180-day permit, emergency permit, I mean, what is Jim Buika going to do? He's already pretty busy, and then he would have to go and regulate that. So what is the overall plan? If Jim's on the line, I would love to hear what he has to say.

MS. MCLEAN: Yeah. Jim, please jump in. The gist is that rather than just getting an emergency permit to stop (audio interference) is they have to come up with a long-term plan. And that --

COUNCILMEMBER SUGIMURA: Okay. So as long as we do it then, that's fine?

MS. MCLEAN: Well, it...it depends on what the plan is. If their plan is a *(audio interference)* no, that wouldn't be acceptable. But to...to really put thought and time into what the...you know, what is the long-term picture for that property and that's going to be on a case-by-case basis. It's going to depend on --

COUNCILMEMBER SUGIMURA: Okay.

MS. MCLEAN: -- how close the development is to the shoreline; whether there's land mauka to *(audio interference)* . . . *(timer sounds)*. . . There are a lot of things that go into figuring out what a long-term plan each property would be.

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COUNCILMEMBER SUGIMURA: Okay. Because, for sure, Kahana Bay and Nāpili Bay, they're working on a long-term plan, right, Jim?

MR. BUIKA: Yes. Right now, any of the...the major areas, we do have long-term plans. We actually have a long-term plan for Halama Street that's begun, Maalea Bay due to Council funding this year, Nāpili Bay has a --

CHAIR KING: I don't want to cut...I...I hate to cut you off, but I want to make sure I...I get a chance to ask my questions before you folks leave because I know we're coming up on the 11:00 hour. So --

MR. BUIKA: Yeah, okay. And...and I'll just say that a lot of times I tell them, hey, you know, these...these couple of parts of your condo here, they're toast. They got to move. So what I ask them to...you know, long-term, I tell them with the 180 days, I say, within 180 days, I need a conceptual drawing of where these buildings would be relocated on your property.

CHAIR KING: Okay.

MR. BUIKA: As a way of making these people start thinking, et cetera. So we do interchange, interact with the...these folks all the time.

COUNCILMEMBER SUGIMURA: Okay. Thank you, Jim.

MR. BUIKA: In a very stern way. Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: It's clear. Thank you, Member Sugimura. So Director, I'm going to try to get through my questions quickly. If you can give me a couple extra minutes, that'd be great. My first one is, when you're meeting with the stakeholder groups what environmental groups have you met with?

MS. MCLEAN: Gosh, well, we...we haven't done another round of outreach since 2019. I would have to go back and look. I don't know if...if any of the team can remember. Yeah, I...I don't recall. I don't know if *(audio interference)* --

CHAIR KING: Okay. If there's a list that you can send us, that would be great. But I think that that's really important along with --

MS. MCLEAN: Uh-huh.

CHAIR KING: -- meeting with developers and realtors. And then the other thing I wanted to...is kind of a more conceptual big picture thing, and I think a lot of the concern that's come from some of the rules being, you know, being arbitrarily decided by the Director. It's not necessarily aimed at you, it's just, you know, a discomfort with having one person being able to make these types of decision and that's why, you

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know, the proposal to maybe look at the rules, and...and which parts of them should maybe be enforced by the Council. So, you know, one of the things I'm...I've been talking about is...is an ordinance to...to put a...to preclude any building on...in these shoreline areas, but it sounds like your rules are doing that. And so I just kind of wanted to get from you...if you can give me an overview of your...your view of rules versus ordinance because the rules can change at any time. Is there...is there some parts of this that we need to put into ordinance so that they aren't...you know, the next Administration or, you know, somebody comes in and changes them, or...or we just get, you know...part of the discomfort, I think, on the...on the part of the public is that the Planning Commission...Commissioners are largely appointed but, you know, for us, we're elected. So if they don't like something we're doing, they can kick us out in two years. But they don't...you know, Planning Commission is there for five years. So I think that's part of what you're hearing is that, you know, we have a direct response, you know, obligation to the community. So I just wanted to get your thoughts on whether we can institutionalize some of these ideas that...that you're using, you know, the option, A Option, B, in ordinance, or do you think that's a bad idea?

MS. MCLEAN: Gosh, I...I hadn't thought of that as a regulatory mechanism. We...we just focus on SMA and shoreline, so I don't...I'm just putting on my old OCS hat and figuring out how that bill would be crafted. That's a really interesting question, and I...I don't have a good answer for you, but *(audio interference)* --

CHAIR KING: That's fine. I kind of wanted...you know, I'd love to have a discussion with you offline at some point.

MS. MCLEAN: Yeah.

CHAIR KING: Maybe Tara Owens has some thought on that, like, she's probably *(audio interference)*

MS. OWENS: Well, obviously this...this is outside of my area of expertise, of course, but I think there's an...maybe an analogous example from Kaua'i where their shoreline rules or setbacks are implemented via ordinance through the Council. And then I think, though, that they're...once adopted, those are administered by the Planning Commission in a similar way. So I think it's kind of a hybrid approach --

CHAIR KING: Okay.

MS. OWENS: -- and that could be something to look at.

CHAIR KING: Okay. On the...thank you for that. I'll definitely take a look at that, and if I find some interesting documents I'll send it to all the Committee Members. And then I'd love to have a further discussion on this with you, Director, because, you know, it's...it kind of goes to the whole governance thing on SMA and enforcement and everything. And so I think we have one burning question from Member Molina. Mr. Dack, did you have a...a brief *(audio interference)*

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MR. DACK: Yeah, just very briefly on that point. Recall that we have three Planning Commissions and three sets of rules, so ordinance could be...you know, ordinance usually will affect the entire Council like your Charter amendment you're thinking of, of possibly having the...the SMA become under Council. That would take the authority away from the Molokāʻi Planning Commission, Maui Planning Commission, and Lānaʻi. And it would take it...you know, it'd make it kind of uniform across the whole County, whereas maybe...whereas...whereas one size may not fit all. Just so *(audio interference)*

CHAIR KING: Okay.

MR. DACK: Thank you. That's all I have on that *(audio interference)*

CHAIR KING: Keep that in mind and...and, you know, we have done that with other ordinances where we've exempted Lānaʻi and Molokāʻi. One I can think of in particular was Mr. Molina, but you have a burning question and then, I think, Member Paltin has another burning question.

COUNCILMEMBER MOLINA: Yeah, thank --

CHAIR KING: Mr. Molina.

COUNCILMEMBER MOLINA: -- thank you, Madam Chair, for this privilege. Yeah, it's...it's burning alright. No, it's an interesting burning one. For Ms. Owens, in your presentation, you mentioned that Maui has a higher rate of coastal erosion. Can I ask why is...is it due primarily to nature, or does Maui, I guess, have more man-made structures that contribute to this higher rate of erosion?

MS. OWENS: Yeah, really good question. And then...and it's really probably a combination of things. The things you just mentioned, but one significant factor is the fact that our island is subsiding because we're right next to the Big Island, and the Big Island is growing all the time. And it gets heavier, and it pushes down on the flexible lithosphere that we sit on. And since we're right next door, we kind of get pulled down as well. And so our...our relative rate of sea level rise is higher than Oʻahu and Kauaʻi and...and thus leads to more erosion.

COUNCILMEMBER MOLINA: Great, great. Appreciate that information. And I'm an old schoolteacher, so someday I'd like to share with kids who have questions about climate change and shoreline erosion. So thank you for that response. Thank you, Madam Chair.

CHAIR KING: Thank you, Member Molina. Now we know when we get that sinking feeling in our stomach about something, it may be...may be actually a physical reason. Member Paltin?

COUNCILMEMBER PALTIN: Thank you. I...I had a few comments and a question. I'm on the shoreline rules, page 5, line 16. Looks like there's a whole bunch of words with no spaces on it and then when I go on to page 6 and 7, there's two definitions of

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nonconforming structure or activity. Page 6, line 6 goes into lawful nonconforming structure or activity, and page 7, line 13 says nonconforming structure/activity lawful, but they both have the same definition. So I think maybe that's a repeat. On page 6, I was wondering why the cost went up from 125,000 to 250,000. And then there was one other typo. But I was wondering, what's the County's long-term plan for Puamana Park. I heard that was going to be closed permanently due to erosion and the iwi being washed out from under that location. And as the County runs that park, what is our long-term strategy to address that?

MS. MCLEAN: In response to your...all those questions, if...if you want to put those in writing and send them to the Department, we'd be happy to answer all those specific questions. With regards to Puamana, we did recently conduct a site visit with the Parks Department and with the group involved in protecting the iwi. And to me, it...it seems like there are two different issues. One is the immediate protection of the iwi, and we're working them on...on the best plan for that. To me, moving them as far mauka as is culturally appropriate would be the best thing to do, just to provide longer protection. The long-term plan for Puamana is really with the Parks Department. They are doing the vulnerability assessment for all of their facilities, and Puamana would be right in there with those. So we are working with them on what measures could be taken, but I don't want to speak for them and what their long-term plans for...for the park in general.

COUNCILMEMBER PALTIN: If...if the shoreline access from that location gets terminated long-term, would there be a possibility with the neighboring gated estates to ask for shoreline access for the public?

MS. MCLEAN: We're...we have been working with...with gated property for a while now to ensure free public access without restriction, and that's still a work in progress. So that's something that needs to happen no matter what, and then that would still be in existence if Puamana Park is...is closed off.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR KING: Thank you, Member Paltin, and thank you so much, Director McLean and your team, for hanging out with us a little bit longer than, you know...because I know you said you had to leave at 11:00. Appreciate all the input, and this will be...Members, if there's no objections, we'll defer this item and then we can maybe put together...you know, once you get further down the line too, maybe we can come back and see how you've addressed some of the concerns that the Committee had. And just to let you know, Director McLean, that that proposal to...for the Charter Commission was in response to some community concerns, some of which we heard in testimony, but it's just a proposal to have them look at this. So...to have a discussion on whether we want to put that into...as an option because, like we, you know, we just heard today that Kaua'i is doing their...their...their shoreline management rules by ordinance, and so it wasn't...it wasn't an advocacy necessarily. I just want you to know...and I just want you to know also that none of this is a direct attack on any persons. It's just this whole system that we're trying to look at, what...what works...you know, what works best.

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MS. MCLEAN: Yeah. And...and I didn't take it personally. My...I guess I wear different hats. My Poli. Sci. major hat took...looks at the processes because with the Maui Planning Commission, when they hear SMA major permits, for example, that's a contested case, and there's the opportunity for intervention. It's a very particular process. That wouldn't be the case if those permits that are approved by the Council. I'm not saying one is better than the other, I'm just saying they're...they're different than just what the approval authority is. The...the way that those proceedings are conducted is...is different. And just so that there's a full understanding in considering that Charter change, that's...that's what I wanted to convey, that...that...having the understanding of the differences. It's...it's not just a matter of who gets the approval authority, it's the process itself, and what that can mean for the public and...and their stake in these matters. So that was the point (*audio interference*)

CHAIR KING: Okay. No, I...I appreciate that, and that does get conveyed, or if they decide to take it up on their own, the Charter Commission, then hopefully they'll have that thorough discussion. So I...I'd rather have it there if they're going to make those decisions on whether to put it on the ballot than for us to, you know, have that...have that full discussion and demand something of the Charter Commission. Okay. So thank you so much, and I'll let you go and...and really appreciate your extra time. We'll have you back again. And thank you to everyone else, Ms. Owens, Mr. Buika, Mr. Dack. Did I cover everybody you were here with? And we're...we'll have you folks back again as well.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION. (Excused: AL)

CHAIR KING: We're going to, Members, take a break right now until about 11:25, and come back at 11:25, and then we'll have Director Andaya come on and give us an overview, and hopefully hear how his other move into the Hawai'i Telecom building is going. That's going to be my number one question. And so I'm going to go ahead and recess now. It's 11:12 and we'll be back at 11:25. . . .(*gavel*). . .

RECESS: 11:13 a.m.

RECONVENE: 11:28 a.m.

CHAIR KING: Okay. Go ahead and do the countdown. Five, four, three, two, one. . . .(*gavel*). . . Okay. It's 11:28. Will the Climate Action Resilience and Environment Committee please reconvene. We have with us, after the short break there, Vice...Committee Vice-Chair Shane Sinenci, and we have Members Tamara Paltin, Yuki Lei Sugimura, Mike Molina and Gabe Johnson. Thank you all for being here.

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**CARE-38: OPERATIONAL AND BUDGETARY REVIEW OF THE MAUI COUNTY
EMERGENCY MANAGEMENT AGENCY (CC 21-36)**

CHAIR KING: We just finished the...the presentation on SMA proposed rule changes by the Planning Department, and we're moving on to CARE-38, Members, the operation and budgetary review of the Maui County Emergency Management Agency. We are...so do we have Administrator Andaya here yet? We're waiting on Administrator Herman Andaya from the Agency to come and give us an overview of where they're at in their current budget expenses, and he'll be providing us with an operational review of the current year as well. If we...if we get cut off a little bit short because he has to leave, or you know, after his presentation, we will also be having a review, you know, once we get to budget. So that's kind of been our...our process, in case you...you hadn't followed, Member Johnson, this week. We do these operational overviews. They don't let the Departments talk about...the Administration doesn't let the Departments talk about their...their upcoming budget or their...their plans or...or their requests for the next year, so we get to hear about their previous year...or the current year, and the current budgetary restraints that they may have, and then we oftentimes end up doing a second review once we get into budget, so that then they can talk about their budget requests and...to the various different Committees, and let us know where...what's working, what's not working. And I think we all...we all have a good understanding that the Maui County Emergency Management Agency is very small, and I...I was hoping the Administrator would also address...I understand Dr. Joyce is not there with the Agency anymore, which was our...he was our climate expert. I think he has a PhD. He's a meteorologist. So he...hopefully he can talk about what's happening with the Staff, and then also the move that they're planning to make or maybe have already made to the Hawai'i Telcom building. The other...the other thing I asked him to address was what the MEMA response is to the...the Governor's declared emergency on the drought statewide, so if we have any issues that we're...any preventative or mitigation actions that we're taking. So those are hopefully some of the things that he will address, and we'll...we're going to go right into questions after he finishes his presentation. But I know he's coming because I heard he stayed up late last night making his presentation. So I know he's planning to come. Nicole, any word?

MS. SIEGEL: No, Chair. I just sent him another email a couple of minutes ago to let him know we're ready, and I sent the link to the BlueJeans call as well. And I'll try giving his office one more phone call.

CHAIR KING: Okay. And...and Members, I know that, you know, BFED is trying to have an evening meeting, which I think is in lieu of an actual public hearing tonight. I'm going to try to attend the Lāna'i Planning Commission meeting because they're going to be taking up an item that we passed out of our Committee and out of the Council to ask the Planning Commissions to review the addition of the Climate Action items into the...the countywide policy plan. So you may recall that we passed that out of Committee at the end of last year, and the...and that addition has to go through the Planning Commission. So it has to go through Lāna'i, Moloka'i and Maui Planning Commissions before it comes back to the Council for us to approve or not. And that is basically making climate action one of the main goals of our Maui Island...of our

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general plan. So...so I'm going to try...I'm going to go and see if they have any questions and give some testimony on behalf of the Committee. But I don't...there he is. Okay, great. Welcome, Administrator Andaya. Nice to see you. I...I've been reading the...the notes off, and I noticed that even though I've been calling you Director Andaya, that your title is Administrator Andaya; is that correct?

MR. ANDAYA: . . .*(inaudible)*. . .

CHAIR KING: Oh, you're on mute. Can you unmute yourself?

MR. ANDAYA: Sorry about that. Yes, that's correct. Administrator Andaya.

CHAIR KING: Oh, okay.

MR. ANDAYA: It's MEMA Administrator.

CHAIR KING: Try to get...I'll try to remember that and get that right. So without further ado then, we'll...we can go right into your presentation, and if you want to go ahead and share your screen or have Nicole put your...your...oh, there we go. Okay.

MR. ANDAYA: Can you see my screen?

CHAIR KING: Yep, we can see it. It looks great.

MR. ANDAYA: Okay. So you see the slide, right? The...

CHAIR KING: Right.

MR. ANDAYA: Okay, great. So...sorry.

CHAIR KING: You want to go back to the slide show? There we go. Oh. Nope. We just lost it now.

MR. ANDAYA: Oh.

CHAIR KING: You're...you're not seeing my screen right now? My...just --

CHAIR KING: No, we lost it.

MR. ANDAYA: Oh. Sorry.

CHAIR KING: Could you go back to...can you go back to share screen? Now we see the...your...we see your slide. If you can put it on slideshow and make the main screen...

MR. ANDAYA: There?

CHAIR KING: There we go. Okay.

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MR. ANDAYA: Okay.

CHAIR KING: Now you're on --

MR. ANDAYA: Okay.

CHAIR KING: -- slideshow.

MR. ANDAYA: Okay. Thank you very much. I'm...I'm...I'm terribly sorry about that. So first of all, I just wanted to thank the Committee, Madam Chair. Thank you very much for allowing our agency to brief you on our operations and the status of our fiscal year '21 budget. First of all, I want to thank the Council and Administration for all your continued and ardent support of this agency. Your support recognizes the importance of emergency management, and the need to maintain resiliency in our communities. The Emergency Management...or the Emergency Operations Center, the EOC, remains in partial activation, and has been in this state for the last 350 days, which began when Mayor Victorino executed the Emergency Proclamation for COVID-19. In this activation, we have also responded to other emergencies, such as . . . *(inaudible)*. . . that will result in the evacuations, flash flood warnings, and even a hurricane, specifically, Hurricane Douglas. So to put it lightly, it's been a very busy time for us. And remarkably, the MEMA staff continues to be vigilant and tireless, and remains steadfast through our mission. So I'm extremely proud to work alongside these consummate professionals, who understands the gravity of the emergency before them, and the importance of the work that we do. The...the mission of MEMA is the following: Utilizing emergency management principles, we protect all persons within the County of Maui to achieve whole community resiliency. And while we're not able to prevent an emergency from occurring, we can influence our ability to bounce back from an incident through our community's preparedness, and by employing mitigating measures. In fulfilling this mission, MEMA has adopted a vision, to which we strive towards in our daily operations, and our vision includes the following: MEMA is an elite organization of highly trained and dedicated individuals, performing as a tight-knit, cohesive team that is well regarded in the public and among emergency managers, and is profoundly effective in its efforts to create a more resilient, whole community. Recently, MEMA adopted the following values, which serves as guiding principles for our agency, and they are as follows: Aloha; Hilina'i, or trust; Mea la'a, which is dedicated; Laulima, together; and Mālama, to care for. So these are the values that...that we strive towards, and they all have important meaning in our daily operations. Every year, a threat assessment is conducted to determine which threats we should be mindful of and prepared for. And in this graph, you can see that the three biggest threats is hurricane, tsunamis, and earthquakes. A close fourth here is flash floods, which we have been seeing more recently. And also, a close fifth here, is cyberattacks. For this reason . . . *(audio interference)*. . . of our Homeland Security grant program funding, which amounts to about...well, over 500,000 towards cybersecurity. And we can talk about that later. This slide shows the number of EOC activations over the years, and Area C is one of the more active EOCs in the State. That, as you can see, from 2017 to 2019, the number of activations, EOC activations, has indeed, grown. In 2020, we included in

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this list the COVID-19 emergencies, which now brings us to seven Federally-declared disasters in the last ten years. That's quite a bit for our agency, and I've met many other emergency managers from across the country who have not even experienced a Federally-declared disaster, and here we are with already, seven. This is MEMA's organizational chart, and we have an EP of nine, two of which were added this past fiscal year. During my tenure at MEMA, we have advocated for a need for more Staff and for more space for the EOC. And this Council heard our plea, and recognized and supported MEMA's plans to increase its functions and capabilities by addressing the agency that was sorely understaffed. As such, this Council increased our Staff, and this year we were able to hire three accomplished and well-qualified individuals into these positions. In a matter of weeks, these individuals have hit the ground running, and I would like to take this time to introduce them, and by giving...and by...and by so doing, give you an idea as to our operational rhythm, the type of projects that is currently ongoing within MEMA. And you know, please take note that these individuals were just hired in...in December, this past December. One of our most recent hires is Gina Albanese (*phonetic*), and she's our hazard mitigation specialist. She is a 13-year veteran with the Federal Emergency Management Agency, FEMA, where she served as the public assistance coordinator. She has been deployed to over 40 natural disasters across the country, where she assisted local and state governments in applying for FEMA public assistance funding. Yesterday, Ms. Albanese was able to find a FEMA grant that can be used to retrofit school...school buildings that are used as emergency shelters. We spent yesterday identifying various schools in the County that we use as shelters, and prioritized them based on need and the condition of the building. And Ms. Albanese will begin their application process for this grant. Last week, Ms. Albanese coordinated the submission of a number of applications for a hazard mitigation grant. Ms. Albanese has also looked at FEMA public assistance and other FEMA grants for possible County reimbursements for our activities. And so Ms. Albanese has been a tremendous benefit to our agency and to this County because of her vast experience within FEMA. So she's assisting us with public assistance...applying for public assistance grants and whatnot. Another one of our recent hires is Rocky Bolor (*phonetic*), and you can see he's one of our planners. Rocky is a retired Special Forces veteran, and a former Hawai'i State Sheriff. As a Green Beret, he has planned and led special operations throughout the world. He is foremost a battle planner, and has been able to translate the military decision making process to the system that we use and is prescribed by FEMA, called the Incident Command System. Mr. Bolor has been very busy with writing incident action plans and after-action reports, as well as making updates to our many emergency plans. We are also very fortunate to have on our Staff Kaho'o Kamakawiwo'ole (*phonetic*). He is also a battle planner, and served in the U.S. Air Force, as well as in the Hawai'i Air Guard, and he currently serves in the State of Hawai'i Vaccination Corps Planning Group. He coordinated and led the US Department of Health and Human Services COVID testing program in Maui County. Mr. Kamakawiwo'ole is currently involved with DOH's vaccination planning efforts, and especially the closed POD, or point of dispensing. Another recent hire is Everett Balmoris (*phonetic*). Mr. Balmoris comes to us from the tourism industry. He is a graduate of the prestigious Emergency Management Institute, and in past years, Mr. Balmoris has been assisting MEMA with the training and coordination of our community emergency response team. In MEMA, he will be tasked with expanding

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the CERT program, which will include recruitment of new volunteers and continuous engagement of existing CERT volunteers. Mr. Balmoris will also be tasked with coordination and management of our training programs, which include Staff and our EOC partners. He is also a HAM radio operator, and Mr. Balmoris will be assisting MEMA with expanding our HAM radio capability. So as you can see, our newest employees have already accomplished much during their short time in our agency. Their contributions have definitely enhanced MEMA's capabilities, and we appreciate the Council's recognition and support of our request for additional staff. I should also note, there's two other people on Staff as well. Paul Coe, Paul Coe is a retired Fire Captain. He was...he spent 30-plus years in the fire service, and he is also a graduate of the Emergency Management Institute, so we're very lucky to have him on board as well. And also, Colleen Hauptman. Colleen Hauptman owned one of the largest...well, the largest utility helicopter companies in the State, and she was also involved with...with the fire department, with a lot of rescue missions and whatnot. She has also been a longtime member of the American Red Cross, and has been deployed to our EOC on many occasions. And so these are all very experienced individuals, and we're very fortunate to have them on board. And then you've...I know you've seen these pictures in the past. And this is our EOC. And in nearly all of our after-action reports, after an incident, we create what's called an after-action report. We discuss the gaps in our processes, and many of our partners identified the lack of space in the EOC as an operational gap. And we agreed, especially when we try to cram 60 to 80 people in a room that measures 1,000 square feet. Our partners asked for a room that is more conducive to collaboration between agencies, especially in the area of information sharing. And this was especially challenging during Hurricane Douglas, due to the COVID environment, which required physical distancing. And so Mayor Victorino and the Maui County Council recognized the need to address this gap this year...last year, and the Council approved the purchase of the Hawaiian Tel [sic] building. Our new home will be able to enhance functionality in a more conducive space for collaboration between agencies. And so I want to thank the Council once again for supporting us in that area. And in fact, the City and County of Honolulu, the County of Hawai'i, and the State Emergency Management Agency will all be building new offices and EOCs for their respective Emergency Management Agencies. So this is a trend that's going on throughout the State. So thank you very much for...for assisting us with that. And this is our...our budget summary. So if I can move on to...to that area now. As you can see, our...over the years, fiscal year 2019, 2020 and 2021, there have been increases in our A, B and C accounts, and I again want to thank the Council for...for your support over the years. And...and I assure you that with these increases, it has also increased the capabilities of our agency, and it has also increased our operational readiness. And so thank you for...for assisting us so we can help our communities more. And you'll also see here, the program...the EPs. In 2019, we had six EPs; in 2020, we had seven; and in 2021, we have nine. And again, this has been most helpful for us. We...when I first came on board as this agency's administrator, the two things that I was told, and that I saw, as a huge operational gap: Number one was our facilities, and number two was our staffing. Those were the two biggest gaps in our agency, and the Mayor's and the Maui County Council addressed both...both of those gaps, so thank you very much for that. This is our...for fiscal year 2020, just to give you an idea of how we've spent our monies in the past fiscal year. This is our

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A Account. As you can see, on the left, the bar...the bar graph on the left is the adopted...what...what monies the Council appropriated to our agency, and then what we spent is on the right. And so as you can see, it's...it's pretty close. The same, you can see here in the B Account. Again, adopted is on the left, and there our expenditures on the right, and as you can see, very close. So we were...we were able to spend monies that were appropriated to us almost entirely. Our C Account, we didn't have a C Account. For many years, we didn't have one because we've been using grant monies to pay for equipment, and so that's the reason why fiscal year 2020, there is no...there is no monies there. In fiscal year 2021, this year...again, on the left is our Adopted figures, and then on the right is our expenditures. So as you can see, we have 54.5 percent budget available at this point. Seven months into the fiscal year, we should have about 42 percent. So we're...we're doing very well. We're...we're on track, on schedule. With respect to the B Account, Operations, again, the graph on the left is the...what was appropriated to our agency. On the right is our expenditures at this point. And again, we're at 45.5 percent budget available and again, at this point...at this point, seven months into the fiscal year, we should be about 42 percent. So again, we're on schedule. And then for the Capital Outlay, this year, we...we asked for a C Account, Equipment Budget, and so it's 11,016 was what was appropriated to us, and we're still...we've only spent \$2,016 at this point. Again, because we've used other, like, grant monies to pay for equipment and whatnot. You know, we...we just got through...it feels like we just...the hurricane season just ended November...in November, but already we're starting to plan for...for hurricane season. And so that starts up on June 1st. That means we have three months to prepare. So we've been preparing for the last month or so, getting...getting our plans ready. We've been reviewing our plans, seeing what needs to be updated and whatnot. These...this here is...is our library, and so you can see all of our...our plans are on here, or in here, rather. And these is a short list of the plans that we have on file, and so...and this comes very helpful. You can see here that there is a pandemic...the pandemic plan, which we used for this pandemic, so...the other thing that we...we also will be doing is having more trainings for our EOC partners. So here, you can see, this is a training that was held at the...at the MACC. Because of our room size, our EOC, you know, we often have to find outside...rooms outside...outside of this facility in order to hold training...trainings. And so here, we were having one at the MACC. And then these are just all the various agencies that report to the EOC. So just to give you an idea, there's quite a bit that come to our EOC. And the trainings that will occur, is the Incident Command System. You know, we...I've...I've talked about this in the past. The Planning P is the planning process for during operational periods, so this is what we go through every time there's an emergency. But these are the things that we...we...we exercise on and we...we train on. And these are training...this is the civilian...the CST, civilian support team, excuse me. That's within the National Guard unit on O'ahu, and so they come to Maui every year. They were just here last month, and they run exercises here. So that's important for us, training and exercises. That way, it keeps us operationally ready. And this kind of briefly goes over various what...what we do, and I...you know, you'll have a copy of this, but these are all what each... each person does. Maka'ala, and that's the County of Maui Emergency Alert System, that's one of our...we...we...we use this to alert the public as to certain emergencies. I hope that every Councilmember has signed up for Maka'ala. And I mentioned earlier, the CERT

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team, the Community Emergency Response Team. So this is...this is part of the team. We have...we've trained just about a thousand volunteers already, but we have about 200 that are active...active volunteers. And so these individuals are trained by the fire department, and they're taught various lifesaving skills because the...the...the thought is, oftentimes we may not be able to get to a community to assist them, you know, and so we train them to help them assist themselves. You know, and I know, Chair King, you've been involved with the...the HARP program, and that's something that's part of this...of that program also...you know, part of the community resiliency. This is the expo that we normally have, but we...we haven't had it because of the...because of COVID, so we're not planning to have one this year, and we're not...we didn't have one last year. And then this is our...one of the grants that we help manage. So we get about, roughly about 800,000 from the Homeland Security Grant program, but we usually use those monies for other agencies, other partners, so typically it's fire, police. In this case here, this is to create a bomb squad here on Maui. And so we recognized that there was a need here, especially when...whenever there was some kind of explosive or, you know, some kind of explosive we think was an explosive device. It will take hours to get a team from Honolulu to come here to...to, you know, deal with the situation. So because of that, we used Homeland Security monies to create a team here on Maui, so that way we don't have to wait for a Honolulu team to come here. And so these are the police officers. We've trained them...I mean not we, but we've paid for their training, and then also, this is the...the robot that's used for in case there's a...there's a bomb. And then one of the things that this...the Council approved was the creation of a recovery specialist. And now the State and other counties are now following suit. They are also now creating recovery specialists. And one of the tasks that, you know, after...after a emergency, oftentimes, like, we're...we're experts when it comes to responses and preparation, but...but when in recovery, we knew that there was a gap there, and so that's where we hired a...a recovery specialist to assist us with that. And the reason why I'm showing this picture, is because this is the...one of the sites that they established at Hale Makana. So there's a testing site, as well as a food distribution site. And so that was all put together by our recovery specialist, and we also have our team members here, and they were out there assisting with coordinating that...that effort. And that's all I have, Madam Chair. If there's any questions, I'm...I'm open to questions.

CHAIR KING: Great. Thank you. If you can end your screen sharing, we can get everyone back on the screen. Great. Thank you, Administrator Andaya. And Members, are you okay to stay on for another 15 or 20 minutes to give everybody one...one round of questions? We'll just take a couple minutes per person. I'm going to...I just have a couple of really quick questions, Director...or Administrator. One is, I noticed that Dr. Joyce had left, and I've been told that. Are we...or are you, looking for another...was he the specialist person? Is that that vacancy, and are you looking for another specialist, you know, the...someone who's a climatologist who could fill that same kind of position?

MR. ANDAYA: So the...what...what Dr. Joyce...he was our hazard mitigation specialist, and his job was to manage our grants and, you know, and also handle our...our hazard mitigation plan, implement our hazard mitigation plan. But just so happened he was

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a climatologist also, and we were very lucky, you know, just so happened that he was also...that he has a PhD in that. So what we did was we hired Gina Albanese, who I mentioned earlier. And so she is now our hazard mitigation specialist.

CHAIR KING: Okay. Okay. So he's replaced. Okay, so thank you for that. And then the other question I have is, how is the move going to the Hawai'i Telcom building? Are you moved in? Are you planning to move in? Is there an expense...estimated expense of what it's going to cost to either build out or just to make that move?

MR. ANDAYA: Yeah. I...I...from what I'm told, I...I've already met with the CIP coordinators, and I understand that there's going to be some renovations that have...that has to be made. I understand also that the Administration will be sending up to Council a budget amendment. Initially, you had appropriated some monies for the renovation of our EOC here, our current EOC, and so my understanding is that there is a budget amendment to now to...so we would be able to use those monies for the...the new site.

CHAIR KING: Okay, so what's your projected move-in date? Do you have one?

MR. ANDAYA: We...I...I...I don't know. It depends on what kind of additional funding we get, and so I know that the Administration is looking at Federal funding for the site. We're...we're looking as well on our end. And then also, the...it depends, like, what kind of work is...is.. will be needed at the new site.

CHAIR KING: Okay. So there's...they still don't have that new...the design for the...okay. All right. I'm going to open it up for questions from the Committee, starting with Vice-Chair Sinenci, and then we'll go the opposite way alphabetically. Vice-Chair Sinenci, you have a question?

VICE-CHAIR SINENCI: Yeah, mahalo, Chair, and aloha, Administrator Andaya. Naimbag nga bigat yo amin apo.

MR. ANDAYA: ...*(laughing)*. . . Wow, that's...that's pretty good. I didn't know you --

VICE-CHAIR SINENCI: For a Hawaiian?

MR. ANDAYA: -- were Filipino.

VICE-CHAIR SINENCI: I just had a question for you. So just for...for your budget totals. Did that include all of the different grants that you receive as well?

MR. ANDAYA: As I...as I...as I explained earlier, the grants that we get, the 800,000 from the Homeland Security grant program, we usually have other agencies take advantage of those grants. You know, so all we do is just manage...we manage those grants. But you know, we...we want to take care of our partners, so that's like police, fire. And the big...the big...as I mentioned earlier, where we're...where we're giving the majority of the monies to is cybersecurity, and so over half of the 800,000 will be going toward cybersecurity, and they have a number of projects there. We did have a...we did have a small amount for our, like, some equipment, and so we did use that

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to purchase some equipment. Oh, and then the other grant is the Emergency Management Partnership...Performance grant, rather, and that grant, it's limited as to what can be spent on that. And we've been using it mostly for, like, to help defray some of the costs. Like utilities or, you know, things like that.

VICE-CHAIR SINENCI: Okay, great. Thank you for that. Mahalo, Chair.

CHAIR KING: Okay. Mahalo, Vice-Chair Sinenci. And then we'll go...we'll start from Councilmember Sugimura and go backwards through the alphabet. You have any questions?

COUNCILMEMBER SUGIMURA: . . .*(inaudible)*. . .

CHAIR KING: You're muted. Oh, still muted.

COUNCILMEMBER SUGIMURA: I...I have a meeting that I need to go to, so I can't stay any...very...very much longer. But good presentation, Herman. I hope one day you show us the pictures of your new staff, so when we see them, they'll...we'll know who they are. I'm particularly interested in the cybersecurity aspect of the funding you get. I think that's maybe another time that you can come back and educate us or let us know, because that's very, very important. And of course with COVID, your impact that you're having as you work together with the Mayor's office, I would, you know, love to hear that.

CHAIR KING: Any quick comments on that?

MR. ANDAYA: No, yeah, the...the...we welcome the invitation to come back and to talk more about those...those areas...those areas.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR KING: Okay. Thank you, Member Sugimura. And then we'll go next to Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Andaya. I was wondering if you could fill us in on the \$50,000 Red Cross grant, what it's being used for? If the disaster team is ready? Any kind of attention on disaster services?

MR. ANDAYA: Will do. So the grant right now, the grant agreement is with Corporation Counsel. We'll be executing that grant shortly. The...the purpose of the grant...so the American Red Cross is one of our partners. Whenever there's an emergency, whenever we have to evacuate members of the community, we call upon them to...to assist us, and so they...they have volunteers, and they assist us with managing the shelter...emergency shelter. So that's...that's part...that's partly it. And you know, especially now with COVID and whatnot, it's becoming more of a challenge for them. And so...but that's...that's the agreement that we have with them.

COUNCILMEMBER PALTIN: So the disaster team is ready to go if there's a disaster?

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MR. ANDAYA: Yes. So in...like, as an example, Hurricane Lane, you... you... you saw the...the... there was...there was a lot of red vests out there assisting with cleanup and whatnot. What they also do for us is damage assessments. So they go to communities that have been affected by disasters, and they do damage assessments, and we use that to apply for public assistance, FEMA public assistance. So if we can show...they can go to every...every home and show what kind of damage that has been done, you know, what kind of damage, the extent of the damage, then we can consolidate all those . . . *(timer sounds)*. . . expenses and everything, and we can then apply for public assistance.

COUNCILMEMBER PALTIN: Okay, time's up. Thanks.

CHAIR KING: Thank you, Member Paltin. Moving on to Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. Good to see you again, Mr. Andaya. Very quickly, in your presentation, you mention MEMA's involvement with a protest action in 2019. Can you just briefly tell us what that was about? And second question is, this is in response to public testimony. A testifier, I guess, wanted clarification about MEMA's involvement, if any, with regards to the houseless crisis. And if you've been...if you have been involved with that, have you collaborated with the Department of Housing and Human Concerns or the State Department of Health to address this crisis? Your thoughts, please?

MR. ANDAYA: So with respect to...if I can answer the second question first, the...with respect to the homeless crisis, do you mean in terms...in the event of an emergency? Like, how do we deal with the...the homeless population? Is that...

COUNCILMEMBER MOLINA: Yeah, if you've been involved. Because to many people, it's becoming a crisis, and especially with the effects of COVID-19, we may see more people out of homes and, you know, it could become a health crisis and possibly emergency crisis. So just trying to clarify what MEMA's role would be with that.

MR. ANDAYA: Sure. So I...I...I can tell you that one of the branches in the EOC is the Human Services branch. And so we have Department of Housing and Human Concerns, Department of...DOE, Department of Health, Red Cross, a number of individuals there. And at times, we have the homeless coordinator there as well. So one of the things that we do, like during a hurricane, so these individuals are already talking to homeless...homeless organizations, and they're already reaching out to the homeless population and letting them know that there is a...a hurricane coming and to, you know, find...seek shelter, and you know, things like that. Also, I can tell you that a lot of people that do end up at the . . . *(timer sounds)*. . . shelter, a lot of them are from the homeless...the homeless population, so...now, we don't often do that. We don't often...you know, like as an example, there was heavy rains, and the reason why is because, you know, because of COVID and whatnot, so you know, we feel that for some individuals, it would be better for them to shelter in their vehicles, as in the case of --

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COUNCILMEMBER MOLINA: Mr. Andaya? Sorry. Sorry if I got to interrupt, I know my time is up, but just a quick answer on the protest action in July 2019, what constituted having MEMA get involved with that?

MR. ANDAYA: You know, I...I... I... I'm sorry, Councilmember, I...I saw that on my list. I... I... I don't know exactly what...what protest that was. Let...I can find out and let you know.

COUNCILMEMBER MOLINA: Okay. That's fine.

MR. ANDAYA: But we get involved --

COUNCILMEMBER MOLINA: Thank you, Mr. --

MR. ANDAYA: Oh, okay, sorry.

COUNCILMEMBER MOLINA: Okay, sorry. Thank you, Mr. Director. Thank you, Madam Chair.

CHAIR KING: Thank you Member Molina. Okay, Member Johnson?

COUNCILMEMBER JOHNSON: Okay, thank you, Chair. Thank you Administrator Andaya. I got just a real quick question. You mentioned that your Staff, Gina Albanese, is...is working on grants for shelters in schools. Well, I just want to advocate Lānaʻi, I went to our...our school shelter during a hurricane, and they didn't allow pets. And that's kind of a problem when we're...in addition to piggybacking on what Councilmember Molina said, is during times of crisis, we want the homeless to come. But if they don't have a place for their dog, they're not going to come. So that's...one thing is that part, but the other part is I really appreciate that you guys are looking for funding for our school gyms because they need it. They need an upgrade, and this is a great way to do it. Thank you.

MR. ANDAYA: Councilmember, actually, we...we identified Lānaʻi as one of those places that...that we would seek funding for for the school. Because we know that the gym, especially the gym, is not...is...is not conducive for you know, like, hurricane shelters and whatnot.

COUNCILMEMBER JOHNSON: Yeah, I was there for one. It was not. So thank you for that.

MR. ANDAYA: Thanks. Most definitely. And then very good point about...about bringing your pets to a shelter, and you're very...you're...you're right. A lot of people will not leave their homes, will not seek shelter, if they can't bring their pets with them. And that's the reason why we work closely with the Maui Humane Society, and they provide kennels for us and everything. They provide services there at the shelter, so that people can bring their pets with them.

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COUNCILMEMBER JOHNSON: Chair, if I may, thank you. I just thank you for that. Remember, that's Countywide, we don't have a Humane Society on Lānaʻi or Molokaʻi, so I appreciate all that. Mahalo.

CHAIR KING: Thank you, Member Johnson. Yeah, all you have is the cat shelter, so you know, we don't have the same services on all the islands. Good point. All right. Well, I...we've kind of come to the end of our meeting, a little bit...gone a little bit over, and thank you, Members, for staying late. And thank you, Administrator Andaya, for staying with us to answer a few questions. We'll...and I understand the constraints you have on Wednesdays which, you know, is unfortunate because our meetings are all on Wednesdays. But anyway, we will defer this issue if there's no objections, and --

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION. (Excused: AL)

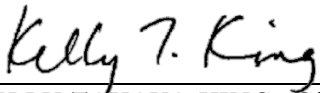
CHAIR KING: . . .*(inaudible)*. . . let you folks go so you can get to lunch. And thank you, everybody, for the presentation and thank you, Members for the...the great questions. Of course, our GREAT Committee Chair always has great questions by nature, and we'll...we'll follow up too, with your needs as we get into the next budget session. So you know, stay...just, you know, let us...feel free to email me or contact me if you want to bring anything else to the Committee, and we'll --

MR. ANDAYA: Thank you.

CHAIR KING: -- we'll...we'll defer the item, and we'll see you folks at 1:30 for the next meeting. All right, so it's 12:11. The meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 12:11 p.m.

APPROVED:



KELLY TAKAYA KING, Chair
Climate Action, Resilience,
Environment Committee

care:min:210217min

Transcribed by: Crystal Sakai, Michelle Balala,
Susan Leong & Kaliko Reed

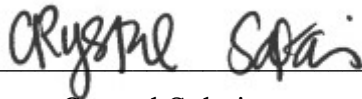
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CERTIFICATIONS

I, Crystal Sakai, hereby certify that pages 1 through 16 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 10th day of March 2021, in Wailuku, Hawai'i



Crystal Sakai

I, Michelle Balala, hereby certify that pages 16 through 33 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.

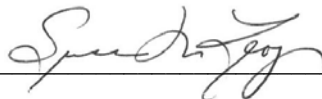
DATED the 10th day of March 2021, in Kihei, Hawai'i



Michelle Balala

I, Susan Leong, hereby certify that pages 33 through 38 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 10th day of March 2021, in Wailuku, Hawai'i



Susan Leong

I, Kaliko Reed, hereby certify that pages 38 through 49 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 10th day of March 2021, in Wailuku, Hawai'i



Kaliko Reed