

# **CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**July 21, 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 Alice L. Lee (out 11:58 a.m.)  
Councilmember Michael J. Molina  
Councilmember Tamara Paltin  
Councilmember Yuki Lei K. Sugimura (in 9:40 a.m.)

NON-VOTING MEMBERS:

Councilmember Keani Rawlins-Fernandez (in 9:40 a.m.)

**STAFF:** David Raatz, Supervising Legislative Attorney  
Richard Mitchell, Legislative Attorney  
Shelly Espeleta, Supervising Legislative Analyst  
Nicole Siegel, Legislative Analyst  
Wilton Leauanae, Legislative Analyst  
Rayna Yap, Committee Secretary  
Lenora Dinneen, Office of Council Services Assistant Clerk  
Jean Pokipala, Office of Council Services Assistant Clerk

Axel Beers, Executive Assistant to Councilmember Kelly Takaya King

Lois Whitney, Executive Assistant to Councilmember Tasha Kama  
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King

Davideane Sickels, Executive Assistant to Councilmember Tasha Kama

Evan Dust, Executive Assistant to Councilmember Tasha Kama  
Gina Young, Executive Assistant to Councilmember Shane M. Sinenci

Stacey Monia, Executive Assistant to Councilmember Gabe Johnson

Sarah Freistat Pajimola, Executive Assistant to Councilmember Rawlins-Fernandez

**ADMIN.:** Makale'a Ane, environmental Coordinator, Mayor's Office of Climate Action, Sustainability, and Resilience

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Eric Nakagawa, Director, Department of Environmental Management (CARE-54)  
Shayne Agawa, Deputy Director, Department of Environmental Management (CARE-54)  
Tamara Farnsworth, Recycling Coordinator, Department of Environmental Management (CARE-54)  
Rowena Dagdag-Andaya, Director, Department of Public Works (CARE-23)  
Karla Peters, Director, Department of Parks and Recreation (CARE-23)  
Chris Kinzle, Park Maintenance Superintendent, Department of Parks and Recreation (CARE-23)  
Richelle Thomson, First Deputy Corporation Counsel, Department of the Corporation Counsel  
Keola Whittaker, Deputy Corporation Counsel, Department of the Corporation Counsel  
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Keisa Liu (CARE-23, CARE-54)  
Lee Evslin, (CARE-23)  
Larry Stevens, (CARE-23)  
Anne Rillero (CARE-23)  
Peter Landon, Natural Area Reserve System Specialist, DLNR (CARE-54)  
Gretchen Losano (CARE-23, CARE-54)  
Leonard (Junya) Nakoa (CARE-23, CARE-54)  
Mike Moran, Kihei Community Association (CARE-23, CARE-54)  
John Fitzpatrick (CARE-23, CARE-54)  
John Blumer-Buell (CARE-23)  
Mark Deakos (CARE-23)  
Autumn Ness (CARE-23)  
David Dorn (CARE-23)  
Jordan Hocker (CARE-23, CARE-54)  
Shelby Serra (CARE-54)  
Lucienne de Naie, Sierra Club Maui (CARE-23, CARE-54)  
Jay Feldman, Executive Director, Beyond Pesticides (CARE-23)

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

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CHAIR KING: ...*(gavel)*... Did you all hear that? It's kind of muted. Good morning, everybody. Will the Climate Action, Resilience, and Environment Committee please come to order. It's 9:00 a.m. on July 21st, 2021. And I hope everybody had a good night's sleep after that long afternoon meeting yesterday. First, some housekeeping. If we can just have everybody silence all their noisemaking devices, and all folks who are not on the Council please mute yourselves until you are called on to be...to testify. My name is Kelly Takaya King, I am the Chair of the CARE Committee. And today we have with us our Vice-Chair...Committee Vice-Chair Shane Sinenci, all the way from East

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Maui. Hafa adai and aloha kakahiaka.

VICE-CHAIR SINENCI: Hey, hafa adai, Chair, and aloha kakahiaka kākou, mai Maui Hikina.

CHAIR KING: All right. Good to see everybody. And next we have Alice Lee, who brought us our greeting for the day, hafa adai.

COUNCILMEMBER LEE: Hafa adai, Madam Chair, and my dear colleagues. This, as you know, comes from Guam, a U.S. Territory in Micronesia.

CHAIR KING: All right. Okay. Next, we have Councilmember from Lānaʻi, Gabe Johnson.

COUNCILMEMBER JOHNSON: Good morning, Chair. Good morning, Members. Hafa adai to all. What an exciting agenda I'm looking at today. I'm looking forward to a great meeting.

CHAIR KING: Yes, and hopefully we could get it done in half a day. Good morning. All right. Next, we have our Councilmember from Pāʻia-Haʻikū area, Mike Molina. Hafa adai.

COUNCILMEMBER MOLINA: Good morning, and hafa adai to you, Madam Chair, to my colleagues, and everyone else viewing in. And like my colleague from Lānaʻi said, looking forward to a very exciting day and a wonderful agenda that you have presented to us this morning. Aloha.

CHAIR KING: Aloha. All right. And we have all the way from West Maui, our resident lifeguard, Councilmember Tamara Paltin. Hafa adai, and bonjour, and aloha kakahiaka.

COUNCILMEMBER PALTIN: Bonjour, hafa adai, aloha kakahiaka kākou, and welcome to the show.

CHAIR KING: All right. Did you get approval yet for going to France?

COUNCILMEMBER PALTIN: Yeah, I got approval, and I just turned in my passport paperwork.

CHAIR KING: Okay. I was going through some coins and I found some old francs. So I might send them over with you and see if you can actually spend them now that they're on euros. I don't know if they're still good, but you're welcome to try. Okay. It looks like we...I don't see Member Sugimura, so we'll...we'll expect that maybe she'll be a little late today, and we have no Non-Voting Members today, although I did hear from Member Kama that she would not be able to make it, and then of course, Member Rawlins-Fernandez is always welcome to join us. Today, Members, we have from the Administration, Makaleʻa Ane, Environmental Coordinator from the Mayor's Office of Climate Action, Sustainability, and Resilience. We also have Rowena Dagdag-Andaya, who's the Director of the Department of Public Works. We have Karla Peters, Director of the Department of Parks and Recreation. We have Chris--sorry about this, I need my glasses--Chris Kinzle, Park Maintenance Superintendent, Department of Parks and Recreation. And we had invited the Department of Environmental Management, but

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we haven't received confirmation on who will be coming from DEM yet. And then of course we have with us Corporation Counsel Keola Whittaker, who actually made the request for our first agenda item today. Other resources that we have today are Jay Feldman, who's the Executive Director of Beyond Pesticides. And then we have our...I'd like to just thank and introduce our Committee Staff, starting with Nicole Siegel, who's our Legislative Analyst, and has done an outstanding job of helping put these meetings together. We also have Wilton Leauanae, our Legislative Analyst; Committee Secretary Rayna Yap; and Lei Dinneen, Council Services Assistant Clerk. David Raatz will be sitting in for our Council Services Attorney, James Forrest, who is taking a well-deserved vacation this week. So the...just a short disclaimer, the online meeting is being conducted in accordance with the Governor's most recent Emergency Proclamation on COVID-19. Please see the last page of the agenda for information on meeting connectivity. And also, I will ask for everyone's patience if in case we do run into technical difficulties. Members, we have three items on today's agenda. CARE-1(5) Climate Change Litigation; CARE-23 Integrated Pest and Environmental Management on County Property, which we inherited from the last term's Committee on the Environment; and CARE-54 Sunscreen. We are going to begin with public testimony. Oral testimony via phone or teleconference will be accepted. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link...well, I'm not going to read it because it's on...it's noted on today's agenda, as well as the phone number for dialing in to give audio testimony, and that's on today's agenda front page as well. Written testimony is also accepted and highly encouraged. Instructions on how to submit written testimony can be found at [mauicounty.us/testify](http://mauicounty.us/testify). Moving on to oral testimony, oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. And of course, you may be asked questions by Councilmembers. When testifying, please state your name, if you are testifying on behalf of an organization or are a paid lobbyist, and please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. If you are here to provide testimony, please be courteous by turning off your video and muting your microphone while waiting for your turn to testify. Once you are done testifying, you will be asked to disconnect from the call; however, you are welcome to continue to view the remainder of the meeting on *Akakū* Channel 53, [mauicounty.us](http://mauicounty.us), or Facebook Live via the Maui County Council page. And I also wanted to just mention that if you are...have been asked to be part of a meeting agenda item, you may stay on the call, of course. Participants who wish to view the meeting only without providing testimony, please also disconnect at this time, and instead view the meeting on *Akakū* Channel 53 or one of the other two, Facebook Live or [mauicounty.us/agendas](http://mauicounty.us/agendas). Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. I remind Committee Members, Administration, and the public to please be patient if we run into technological issues with testifiers because there are some testifiers who are calling in from...you know, we're working on that broadband issue nationwide, and some folks still have problems in the rural areas. Members, I'd like to proceed with oral testimony if there's no objections.

COUNCILMEMBERS: No objections.

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**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay. Staff has been monitoring people joining today's meeting, and it looks like we have about seven testifiers, so we'll be taking everybody up in an orderly fashion. And I think...Nicole, you're going to be calling the testifiers and doing the timing?

MS. SIEGEL: It'll be Wilton today, Chair.

CHAIR KING: Oh, okay, Wilton. All right. Wilton, do you want to call our first testifier and then mention the next one so they can be ready?

**. . .BEGIN PUBLIC TESTIMONY. . .**

MR. LEAUANAE: Thank you, Chair. The first testifier is Keisa Liu, followed by Dr. Lee Evslin.

CHAIR KING: Okay. Good morning, Keisa. The floor is yours.

MS. LIU: Good morning. Aloha, Chair King, Vice-Chair Sinenci, Committee Members, and members of the public. My name is Keisa Liu, and I am here to testify on CARE-23 and CARE-54 in that order. For CARE-23, I'm not really sure what the position is in the Committee for this agenda item. It just seems that you'll be hearing a presentation on the use of pesticides on County lands by a pesticide company executive. If the Chair has time to clarify after my testimony as to why this is being presented and future intentions, I would be happy to say whether or not I am in support of the Committee if asked.

CHAIR KING: Just to let you know, Keisa, there is a bill attached, and it's on Granicus. So that's the bill we'll be reviewing today.

MS. LIU: Okay. You'll be reviewing...thank you. Great, so I'll go ahead and move on to CARE-54. Now, I understand that no action will be taken today, but I wanted to further offer my support in reinstating the ban of oxybenzone and octinoxate. Now, this work isn't about...just about preserving the natural beauty of our islands, it's also about preserving our natural protective barrier. Coral reefs play an important role in keeping us safe from big storms and wave surges. Without them, our tiny, isolated communities would bear the full brunt of hurricane season. Maui County is not prepared for that. We are thousands of miles away from the nearest large land mass. We do not have enough in stores to support the residents in...during a catastrophic event. We do not produce enough of our own building materials, and unfortunately, I sincerely doubt we have the right infrastructure to keep all of us safe in a time of crisis, so our lives depend on us being proactive. Protecting our coral reefs by banning sunscreen with oxybenzone and octinoxate is a great first step, but I encourage you to push further. There is a much longer list of toxic ingredients that harm our coral. Along with those two, there's avobenzone, avobenzene, homosalate, octisalate, octocrylene, and ethylhexyl methoxycinnamate. All of these ingredients are toxic to our reef system, but are being sold as reef safe at large retail stores. I personally went and saw them myself. But the term, reef safe, is not regulated and can be used as a marketing device,

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according to the Pacific Whale Foundation. So even if you ban two ingredients, there are six other ingredients manufacturers can use and retailers can sell in Maui County. And with tourism levels the way that they are, you can smell the sunscreen before you can see the beach. You have to do something. So I urge you, protect our coral, protect our people, and push for stronger legislation. Mahalo for your time and consideration.

CHAIR KING: Mahalo, Ms. Liu. Any questions for our testifier? If not, thank you very much for your statements, and yeah, I urge you to, you know, look up the bill that we'll be considering today for the pesticide issue. Thank you.

MS. LIU: Will do. Thank you.

CHAIR KING: Wilton, our next testifier.

MR. LEAUANAE: The next testifier is Dr. Lee Evslin, followed by Larry Stevens.

CHAIR KING: Good morning.

MR. EVSLIN: Good morning. Thank you, Committee Members, for this opportunity to testify. I'm Dr. Lee Evslin. I am testifying in support of the proposal for a bill for item 23. I am a board-certified pediatrician. I've lived and worked on Kaua'i since 1979. I was the CEO of Wilcox Hospital. In 2014, I was asked to serve on a State-sponsored task force, and we spent 14 months looking at the possibilities of toxicities of pesticide spraying on the Island of Kaua'i to community members and to the environment. The evidence is rapidly growing that we as physicians and our regulatory bodies have greatly underestimated the dangers of pesticides. In 2012, the American (*audio interference*) of Pediatrics came out with two statements. And the basis of those statements is that we...or the opening line really is that there's growing concern about chronic low-level exposure of pesticides. Now, this is a Pediatric Committee, so it was to the unborn, to infants, and to children. And this was actually kind of a groundbreaking change for pediatricians. We were all taught how to deal with acute poisoning, somebody drinks it by mistake or gets sprayed. The idea that there were adverse effects from chronic long-term exposure was a game changer, essentially. It wasn't something I'd even thought about. And if you look in the last ten years of studies, there are hundreds and hundreds of studies talking about this chronic low-level exposure, the things that it can do to children, neurodevelopmental delays plays a role in attention deficit disorders, autisms, and in fact, a fair number of cancers. I'm going to move from just talking about this in general to one herbicide in particular, Roundup, or Roundup-like properties...Roundup-like chemicals. They have that basic ingredient of glyphosate. And so it's interesting, a similar history, we've been told that there are hundreds and hundreds of studies talking about its safety, the fact that it degrades quickly in soil, and that it passes quickly out of our body. It turns out, though, when you look at the literature, that those hundreds of studies, or the majority of those hundreds of studies were done decades ago. They were done with less sophisticated testing than we have these days, and they...they were frequently paid for by the companies that use them, so that they're publicly not available to peruse. If you look at studies in the last five and ten years, there are hundreds and hundreds...sorry, hundreds and hundreds of studies talking about the toxicity of these chemicals,

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toxicities to cell lines, to most living forms such as bees, insects, birds, and marine life. And, you know, we've been forced to think that this...we've made a mistake. So the basis of these studies led to these confluence of court cases, where they looked at cancer causing qualities of this glyphosate, or Roundup-like chemicals. Bayer, as most people know, recently offered \$10 billion to settle the claims of 100,000 claimants who said their spraying of this chemical, or the heavy use of this chemical caused their cancers. And because Bayer lost phenomenally, phenomenally meaning large sums of money in the early cases . . . *(timer sounds)* . . . they offered \$10 billion to these claimants. It's become obvious really that one, there's terrific liability for counties that ask their workers to use these products; and there's certainly danger to people, particularly children in parks; who have greater problems with exposure to pesticides than even adults do because of their small bodies. So I encourage this --

CHAIR KING: . . . *(inaudible)* . . . ask you to wrap up, and I'll see if there are any questions. I actually have a question.

MR. EVSLIN: . . . *(inaudible)* . . . so I am here. I just encourage passing it. I think this is very important legislation.

CHAIR KING: Okay. Great. Thank you so much. Any questions from Committee Members? If not, I have a question because...and you mentioned exactly what I was going to ask you about is, do you have any insight into why, after these large settlements have been...have been actually awarded by courts on the use of glyphosate, why they continue to sell it? Like why are they allowed to continue to, you know, advertise, and sell Roundup?

MR. EVSLIN: You know, I mean, it's a good question. It doesn't...the reason I became so interested in glyphosate is as if I entered a twilight zone of information. Here's all these modern studies showing the dangers of it, and all these old studies that may have shown safety that are way out of date. And I frankly can't understand why it's taken so much time for the concern to mount. It is mounting, and I think that we're going to...history's going to look back and say, where were you when you made these decisions.

CHAIR KING: Okay. Well, I was just wondering what...you would think that if you were...you had to pay billions of dollars to settle claims that you'd stop selling it, you know, because --

MR. EVSLIN: I've heard actually that Bayer is considering to stop selling it as a lawn care products in America.

CHAIR KING: Okay.

MR. EVSLIN: But I don't think...because particularly the suits are here in America. But I...this is a worldwide issue, and it's not going to go away.

CHAIR KING: Right, right. Okay. Any other questions, Committee Members? If not, thank you so much for your testimony, Dr. Evslin.

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MR. EVSLIN: Thank you for the opportunity.

CHAIR KING: Yeah, I appreciate it. Oh, we have a question for you from Member Paltin.

MR. EVSLIN: Okay.

CHAIR KING: Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Dr. Evslin. I just was wondering if Kaua'i has taken this step already.

MR. EVSLIN: No, not to my knowledge. I'm watching you guys because I think you're impressive in kind of leading the way. I do know on Kaua'i, they have done...they're using it much, much less. I have a park behind my house, and I haven't seen them spray out there for two years. So I think just in the way they're doing business that usage has gone way down. But I don't know of any actual legislation.

COUNCILMEMBER PALTIN: And when you do the spraying...oh, there's...I think somebody has their microphone on. But when they do the spraying on Kaua'i, do they...I think the factory label says that they're supposed to stay in the area and put out signs that they have been sprayed. Have you noticed that?

MR. EVSLIN: I have not. And as I said, there was a park behind my house, and certainly up maybe...the last time was maybe 18 months ago, and they...there was no notice at any time, which I thought was not particularly a good practice. And when I asked the guys, you know, do you like spraying this stuff, they said no, we consider this dangerous, we don't like...we'd much prefer to do something else.

COUNCILMEMBER PALTIN: Thank you. I also have a park behind my house and noticed that when they sprayed it, and they put the signs up, they...I think they got a lot of complaints because that wasn't how it used to be done. And I haven't seen the signs up in a while. So it's an interesting situation. Thank you so much for your expertise, and sharing it with us today.

MR. EVSLIN: You know, just one point on that. Some of the studies have also shown that it doesn't degrade that rapidly in soil, that it actually can stay for days, weeks, and there's even a study showing it staying for a year in some soil. So I think the idea that 24 to 48 hours, you're safe, is also misleading.

CHAIR KING: Good to know. Thank you.

COUNCILMEMBER PALTIN: Thank you, Chair.

CHAIR KING: Thank you, Member Paltin. And Dr. Evslin, are you related to Councilmember Evslin on Kaua'i?

MR. EVSLIN: Yes, I am. He's my youngest son. So I'm embarrassed that legislation hasn't



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happened here.

CHAIR KING: Okay. So we'll pass the legislation...if we get this passed, we'll pass it along to your son and see if we can make some influence there too.

MR. EVSLIN: Thank you.

CHAIR KING: Thank you for being here. Okay. Next testifier.

MR. LEAUANAE: The next testifier is Larry Stevens, followed by Anne Rillero.

MR. STEVENS: Aloha kakahiaka, Chair King and Councilmembers. My name is Larry Stevens, and I serve on the Board of the Maui Nui Marine Resource Council, for whom I'm testifying today. I am testifying on the sunscreen bill, and I wanted to give you an update on what our Council is doing, and some thoughts about how the bill might be improved. As an organization working for healthy coral reefs, clean ocean water, and a restoration of our native fish populations, MNMRC supported the passage of Hawai'i's current State law, which bans the sale of sunscreens containing oxybenzone or octinoxate, two ingredients known to harm and kill coral reefs and fish and interrupt their reproduction. We're actively working to educate the public, both visitors and residents, about the adverse impacts of sunscreen on our reefs and coral...and coastal waters, and about the existence of Hawai'i's State law through beach signage, through airport displays, a web page, radio ads, public service announcements, educational outreach events, articles, ads, and print publications, and social media and digital display advertising targeted at visitors and residents on Maui. Our Council is working in partnership with the County of Maui Office of the Mayor to implement a citizen's reporting system, where individual community members can report suspected retail violations of the current law, and provide photos documenting products being sold via the County's COM Connect application on your phones. Follow up will include letters to the retailer, and a confirmation of this follow up to the community member who provided the report. The system will make it possible to gather data on the number of retail violations that are occurring. We suggest the following additions and revisions to the proposed bill. We'd like to ban the use of all aerosol sunscreen products at public beaches, pools, and parks, and include a fine for violations. The spray drift from aerosol sunscreen products reaches not only the person applying the product, but exposes other individuals nearby, creating a potential and needless risk to public health. In addition, the spray drift settles on the sand and gets washed into the ocean at high tide or when it rains. The County ordinance would make it possible for signs to be posted at all beaches, pools, golf courses, and parks, similar to where the no smoking signs. Permit only...the second item is to permit only zinc oxide and titanium oxide as active ingredients in sunscreens. This would effectively ban the use and sale of all other chemicals such as the ones that Keisa mentioned. These chemicals are recognized by Dr. Craig Downs of Haereticus Environmental Labs as harmful to coral reefs. It'll also prevent the sunscreen industry from working with chemists to make slight changes to their harmful ingredients and put them back on the market. Third, direct the County of Maui Department of Environmental Management to create an enforcement plan and budget for this law. Thank you again for this...for your work on this important issue. Our staff and board are completely committed to this, and are

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available to participate in any meetings or planning sessions regarding the bill and its implementation. Thank you very much.

CHAIR KING: All right. Thank you, Mr. Stevens. Any questions for our testifier? If not, thank you. Did you submit your testimony in writing too, Larry?

MR. STEVENS: I believe we did, yes.

CHAIR KING: Okay. Great. Okay. Good information in there. Oh, we have a question from Member Paltin. And Member Paltin, we do have Ann Rillero coming up next, who's the Executive Director of MNMRC too. So just to let you know. But you have a question for Mr. Stevens?

COUNCILMEMBER PALTIN: Thank you, Mr. Stevens, for your testimony. So that one that you were talking about, the County of Maui Connect and the reporting app, currently there's not a penalty, it's just a warning and a request to stop the sale. Is that...you feel that's good enough?

MR. STEVENS: Well, no. We encourage the adoption of a fine, a penalty for violation of this ordinance or law because enforcement is an issue not only in this area, but in so many other areas of better managing the environment. We just lack a consistent methodology and plan and resources for doing...help enforcement.

COUNCILMEMBER PALTIN: Thank you for that clarification. Thank you.

CHAIR KING: Okay. Thank you, Member Paltin. Thank you, Mr. Stevens. We'll go on to our next testifier.

MR. LEAUANAE: The next testifier is Anne Rillero, followed by Peter Landon.

CHAIR KING: Good morning.

MR. RILLERO: Aloha everyone. Good morning, Chair King, Vice-Chair Sinenci, and CARE Committee Members. I'm Anne Rillero. I'm the Communications Community Outreach and Development Manager at Maui Nui Marine Resource Council. And we want to thank Vice-Chair Sinenci for introducing the bill to establish Chapter 2.50, the Maui County Code, relating to pesticide and fertilizer use on County property. So I'm here to testify on behalf of our support of this bill. Unfortunately, our neighbors have decided to trim their trees today, so I hope you don't hear that buzzing sound in the background. We believe that this bill is critical, as the County is the owner of numerous coastal properties. For example, I just counted 18 County owned beach parks in South Maui, and 10 in West Maui. And so the County is a major coastal landowner, and it has the responsibility for caring for its lands in a manner that protects the health of our near shore coral reefs, marine wildlife, ocean water quality, and also the health of the people who enjoy the ocean, who use it for fishing, recreation, cultural connections. We believe the proposed ordinance takes a very reasonable approach to restrict the County's uses of pesticides and fertilizers. It's referring to the list that's allowed on the USDA's national list of allowed and prohibited substances, and provides some prudent

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exceptions, such as allowing the use of pesticides to control fire ants, or termites, and harmful invasive species. We support the proposed ordinance because it's a mistake for the County to use pesticides and herbicides on County property that contaminate our soil, our groundwater, and our coastal waters, and are linked to factors that undermine the health of our reefs. For example, causing coral bleaching, a reduction in coral's ability to reproduce, feminization of marine organisms, increased fish diseases, reproductive and developmental effects in marine organisms, neurotoxicity, and endocrine disruption. Herbicides also inhibit organisms from photosynthesizing, which is how corals and phytoplanktons get their food and energy to grow, and how they combat stressors, like climate change. So without phytoplankton, which is a major food source for fish, rays, and mollusks, our marine food chains would just crumble. Synthetic nitrogen-based fertilizers are a problem because they're carried in our coastal waters...carried into our coastal waters, and they contribute to excessive algae growth that can harm coral's abilities to produce food for themselves and reproduce. So this proposed bill comes at a time when there are more and more alternatives to toxic chemicals that are being made available. Maui County's made some great strides. For example, the Department of Public Works has been moving away from herbicides and instead converting to weed mats, and steam machines, and other methods of weed control. Recognizing the large amount of land that the County of Maui owns and maintains, particularly along our shorelines, it's time to . . . *(timer sounds)*. . . step up and finalize nontoxic land care.

CHAIR KING: Okay. Mahalo, Anne. Any questions for our testifier? No questions from the Committee? Okay. Thank you so much for your testimony, and thank you *(audio interference)* organization *(audio interference)* as well.

MS. RILLERO: Mahalo for the opportunity to testify and all the work you do. Thank you.

CHAIR KING: Thank you. Next testifier?

MR. LEAUANAE: The next testifier is Peter Landon, followed by Gretchen Losano.

CHAIR KING: All right. Aloha kakahiaka.

MR. LANDON: Good morning to everyone. Thank you for the opportunity. My name's Peter Landon. I am the Manager of the 'Ahihi-Kina'u Natural Area Reserve in South Maui. And I share the same concerns as those before me--Keisa, Larry--they did a good job of listing the chemicals, the concerns. And I just want to expand a little bit upon what they've already said. The first point I want to make is we're not only talking about the corals in the reef ecosystem. These chemicals, the whole list of them, are also very harmful to fish in their larval stages. They mention the researcher, Craig Downs, he operates under the handle oxybenzone free worldwide, and you can see that on most of the social media platforms. And he posts, you know, the peer reviewed journal articles and things like that. And you can look at some of this stuff and see really scary deformities, and lesions and, you know, the like in the fish larval stages, along with severe coral bleaching that we know that this contributes to. The other point that I wanted to expand upon is...I think Larry made is that yeah, there is a list of known chemicals, but that list can easily be changed, as we've experienced. You know, the

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State bans octinoxate and oxybenzone, but the sunscreen chemical companies can just go and rearrange the hydrocarbon a little bit, patent a new chemical name so that it's not oxybenzone or octinoxate, right, and put that back in your sunscreen and legally sell it to you, whether it's good or bad, right? So trying to keep up with the...you know, the list of chemicals I just don't think is a worthwhile endeavor. I think the best thing we can do is limit to the things that you can use to being those that are sun blocks, right, the zinc and the titanium is really like rubbing mud on your body. It blocks the sun's rays. That's why it's like white and clumpy and people don't really want to use it. But that's what really works, right? The other chemicals, you know, you'll probably find most of your opposition in people that, you know, are sensitive to the sun, have had experience with melanoma, or even the skin doctors, dermatologists, right, like they're the ones that want to fight back on this. But there's a lot of lies in the sunscreen industry. The oxybenzone, the benzene derivatives, right, you put this stuff on your skin, it's absorbed into the body, into the bloodstream, into your skin cells. And that's where the...you know, the chemical reaction takes place, right, and you absorb all the sun's rays, right. But these things are like little filters, and they keep you from burning. But you're still getting all the same cancer-causing sun exposure that you would as if you weren't wearing any sunscreen because all the sunlight is going into your body, into your skin, right. It's not . . . *(timer sounds)*. . . reflected off of you or anything like that. And like everybody should know, you know, light comes in wavelengths and even UVA and UVB has multiple wavelengths. And each one of these chemicals on the list is, you know, a little bit better, a little bit worse at filtering some of those wavelengths, but not all, and then it breaks down really quickly. You know, another thing that I think Larry touched on --

CHAIR KING: Mr. Landon --

MR. LANDON: -- you know, if you're using this stuff anywhere upslope --

CHAIR KING: -- I just need to...I just need to ask you if you could wrap up because we passed the three-minute mark. But if --

MR. LANDON: Okay. Yeah, the last point I just wanted to make is it doesn't matter whether you're spraying or putting it on, it all ends up in the ocean eventually. So the best thing we can do is support a ban.

CHAIR KING: Okay. Thank you so much for being here. And Committee Members, if there are no objections, I would like to designate Mr. Landon as a resource person. He has some more information that I would like him to share later on when we get to the third agenda item on how 'Ahihi-Kina'u is handling through Administrative Rules, and actually confiscating the harmful sunscreens at the site. So if there are no objections, I would like to designate him as a resource person. And we'll give you a call, Mr. Landon, when we get closer to that item so you don't have to hang around for the first two items if you don't want to. But you're welcome to observe...stay, and observe.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay. Great. Thank you so much, and we'll get back to you if you're willing to

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come back when we're in discussion.

MR. LANDON: Okay. I'll just hang on. I mean, I probably won't be at the computer the whole time. But when it gets close, ping me.

CHAIR KING: Okay. Great. Thank you so much. Okay. Next testifier.

MR. LEAUANAE: The next testifier is Gretchen Losano, followed by Junya Nakoa.

CHAIR KING: Okay. Good morning. Oh, I haven't seen you in a while.

MS. LOSANO: Aloha kakahiaka. I know, I'm like nervous, which is so funny. But that's how long it's been, I think. So I really appreciate the Committee bringing up these really important issues this morning. I wanted to first state that I'm in support of CARE-23 and CARE-54 as well. I haven't really looked at the other one. I actually came just prepared to speak a little bit on CARE-23, but I wasn't aware of all the agenda items. So CARE-54 is certainly very, very important, especially for the West side, and I think that it would be wonderful if we could have some sort of a confiscation plan for Honolua Bay in the future. So I'm going to start taking notes on that if Peter Landon is going to stick around and be a resource person. Anyway, I'm here as a representative of West Maui Green Cycle, and I wanted to express my appreciation for Dr. Evslyn's...his testimony, which was a little terrifying. But as I think some of you know, I used to be heavily involved in this, in these pesticides issues, particularly on West Maui. And in the recent years, I've had to kind of, you know, stay in my lane just to get this compost facility up and running. But this is such an important issue, and his testimony made me really appreciative of the fact that we've been pretty diligent on the West side as far as the roadside spraying is concerned. But Parks is a whole different thing, especially since our kids are running around and they're...you know, they're not only young and able to absorb these things through their skin, but also without proper signage, you know, they might be actually breathing in these chemicals as well if we're unaware of, you know, the time that they spray or how long ago they sprayed. Because you really can only tell about two weeks after they've sprayed when all of a sudden, like, the rings start appearing around the trees and, you know, along certain lines. But I'm here, you know, to say that the sustainable turf management solution that I've seen...Jay Feldman's presentation before is a really excellent presentation. It's a really excellent way of long-term turf management, and I think it does need some support from compost. And starting in December, we will be able to assist with our compost facility with providing some compost for the implementation of these new sustainable turf management practices. So I just wanted to offer my support as our compost facility will be able to help with this . . . *(timer sounds)* . . . it's very important. So I'm done. Thank you.

CHAIR KING: Good timing, Gretchen. Any questions for our testifier today? If not, thank you so much for being here. It's good to see you again.

MS. LOSANO: Thank you. Good to see you guys too.

CHAIR KING: Interesting that you're still being nervous even when they're on the screen when

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they...I know the podium was nerve racking, but I thought this was an easier format. But we'll see you soon.

MS. LOSANO: Oh, I don't know. I think COVID...okay.

CHAIR KING: Thank you.

MS. LOSANO: A hui hou.

CHAIR KING: Mr. Leauanae...I don't know why I have such a hard time with your last name, Wilton, but can you call our next testifier?

MR. LEAUANAE: Thank you, Chair. Our next testifier is Junya Nakoa, followed by Mike Moran.

MR. NAKOA: Good morning.

CHAIR KING: Good morning.

MR. NAKOA: You guys can hear me?

CHAIR KING: We can. We can hear you.

MR. NAKOA: Okay. Poor thing, you guys got to see me, but you guys got to hear me. But what you call, first one is the sunscreen, come to it, I didn't testify before on this one. You know, us guys, we coach paddling, yeah, and...which is awesome 'cause we...every club, they buy the rash guards li'dat, you know, for protect their kids. And also, we can show our colors, yeah. But, you know, when you fat and ugly like me, it's good for wear the rash guard, yeah, you no need show the...your ugly body, and the buggah protect you from all dat chemicals and the sun. You no get sunburn li'dat. So yeah, and then, you know, 'cause I think...like I say the last time, it's the Costco's and the Walgreens, and the Walmarts dat you...all this other chemicals and Archie Kalepa been advertising on the radio about getting the...you know, the reef safe one. So good you guys taking action on dis, and let's make this shit...oh, let's make this stuff happen, you know what I mean, and protec' our reefs and all dat kine stuff. Okay. Now I going talk about the pesticide one in our parks. Okay. Bruh, I experience this a lot, and I glad the Parks and Recreation is on dis BlueJeans because I coach up here in Nāpili Park every...you know, plenty, plenty, plenty for the last how many plus years, I no like tell you guys, but plenty long. And I experience when they had signs, and us guys, we all piss off because, you know, again, we get limited amount of days for practice, especially with the rain out here. So, you know what I mean, but then, you know, and you get some days that no more signs, but me, I was one certified pesticide operator for Kapalua Land Company. So I know...you know, I know what fertilizer look like, and I know get the REIs, you know, the return whatever, you know, you got to return, re-enter, the interval and all that kine stuff. And bruh, I coach these kids, and I coach like 20-some kids a day, on a day, every two hours because sometimes I got to coach four hours to six hours because sometimes, we get three teams. And bruh, we got to do sit-ups and pushups and they got to lie on this grass and all that kine stuff. So,

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you know what, protect these kids because we stay out there keeping 'em off the streets, keeping 'em busy. So Parks and Recreations, protect our kids, yeah. Make sure...kind of you should list what kind chemicals is being used, you know, so we can know the REIs and all that kind stuff. And I know the highways was...they're using the kind, the safe kind stuff. So Parks is where our kids actually play...

CHAIR KING: Oh, we lost...are you there, Junya? We lost you.

MR. NAKOA: Yeah. So okay, shoots, thanks.

CHAIR KING: Okay. Thank you for your testimony. Any questions? Oh, we have some questions for you starting with --

MR. NAKOA: Okay.

CHAIR KING: -- Member Molina, and followed by Member Johnson.

MR. NAKOA: Shoot.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Mr. Nakoa, and thank you. You hit on some really good points that I can connect to with regards to the sunscreen. First of all, you know, like you, at a young age, I had what was called the beach body. But now at my age, I get what's called the beach body turned into a beach ball, if you know what I mean. So --

MR. NAKOA: Yeah.

COUNCILMEMBER MOLINA: -- I like the rash guard concept, yeah, instead of having to use sunscreen. Would you suggest like as part of the education process to the tourist, maybe we put up some type of signage and kind of discouraging the use of, you know, certain types of sunscreen? Do you think that would help in educating the tourists?

MR. NAKOA: Thanks, Mike Molina. But just like everything else, how we can educate this tourism is the airports, you know, and the baggage claims. You know, the hotels...when I when go crew for the COVID, bruh, the hotels had all the stuff for COVID, so why not put 'em for the sunscreen. Why not take advantage of that, what I wen learn from the COVID, you know? So yeah, plenty literature need to be done, and yeah, 'cause these buggahs, dey don't do dey research before they come here. So we got to kind of small kind scold them. And we going in a new future, a real new future.

COUNCILMEMBER MOLINA: Okay. Mahalo. Thank you, Junya. Thank you, Madam Chair.

MR. NAKOA: Mahalo.

CHAIR KING: Okay. Mahalo, Councilmember Molina. And Member Johnson, you have a question?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Junya. I really appreciate

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your perspective in regard to the pesticides being sprayed on your fields as a coach. Now, I'm a parent. If my daughter wanted to go play sports, and she has to do pushups, sit-ups, and everything in a recently sprayed field, I would have concerns. So as a coach, and in your league, would you...I have often...I've seen this done before in the past where the kids and the teams, they pull weeds. Maybe five minutes before, ten minutes before, whatever, they pull weeds so that way they don't...they have to spray that field, and that way it takes a little bit of ownership...yeah, it's your home field, and you guys are the ones pulling it, and then that way the kids [sic] don't spray. And, you know, it brings people together. Can you speak to that, as a coach in your league, would you be interested in doing that?

MR. NAKOA: You know what, we kind of do 'em already, to tell you the truth. Even the tata that work up in the Nāpili parks, he see us guys, you know, making our kids take care. Because what we tell the kids is, you know, when you get one ground ball, you get one bad bounce, you get bad bounce, you get all...you know, so we tell the kids take care your area. As a short stop, go around to hey, pick up da weed, pick up da rock, you know, put 'em on the side. So we do do that. At the same time, we educating dem it's to better their performance at the same time they are cleaning it. Because you know what, I going tell you right now, you tell kids go pull weeds, whoa, dey make like you twisting their arm or something li'dat, you know what I mean? So if you make them little bit more da kine, yeah, more good fun and, you know, more challenging li'dat, then them...their mindset is changed from work to actual go benefit and when help 'em out. So I totally agree with that, Gabe Johnson, and yeah, we do 'em, we going make the kids protect their pitching mound, everything. We try to do 'em the best. And you know what, I give my coaching staff for all four teams that we coach good credit 'cause out here in Nāpili, we take care, we scold people when dey no take care of our parks.

COUNCILMEMBER JOHNSON: Yeah. As a parent, I think I would be joining my kids to help pull weeds. And then I think maybe the neighbors in that field would probably want to help, maybe if it prevented pesticide spray. So thanks for that clarification, Junya. Thank you, Chair. I have no further questions.

CHAIR KING: Okay. Thank you. That was a really good point. It reminds me of the *Karate Kid* and Wax On, Wax Off. Okay. Wilton, next testifier? Oh, I'm sorry. Before we go to the next testifier, I wanted to recognize Councilmember Sugimura, who joined us from Upcountry. Thank you for being here.

COUNCILMEMBER SUGIMURA: Good morning, everybody.

CHAIR KING: Good morning. Our greeting today is hafa adai, which as you remember is from Guam. And we're going to go...Members, we have seven more testifiers that have signed up since. So if we could just really keep our questions concise so that we can get to the meat of our agenda, that would be great. So Wilton, you want to go to the next testifier?

MR. LEAUANAE: The next testifier is Mike Moran, followed by John Fitzpatrick.

MR. MORAN: Aloha, Chair King, and Committee Members. Mike Moran for the Kihei



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Community Association. I will try to be brief. Yes, the testifiers are piling up. We're on both CARE-23 and 54. On 23, I just wanted to offer a personal...a bit of historical perspective. My first awareness was as a pretty unscholarly student way back when, and Rachel Carson came out with *Silent Spring*. And I struggled to read it, it was really so important, but it wasn't the kind...I was looking for the light reading. But I did push myself, and that was not like me as a student to get through it and see what she was talking about. And once I realized it, and then it was publicized, and boy, she was ostracized and attacked by the big money industries. But I honestly naively felt oh, now people are aware, now this will change. And we see all these decades later that yeah, we've made some progress. But this is a good example of how we're still fighting this battle. And why are we fighting it? I think too often we hear that term convenience...oh, it's much more convenient just to spray this stuff instead of doing the labor, what Junya was just talking about, and Gabe as well, of pulling weeds. Nah, it's much easier, just spray this stuff and not worry about what's going on because it's more convenient, it's easier for the humans, and neglecting what it's doing to the environment, to nature. And as we kill the ocean and kill the world, eventually those will survive, but us humans won't. So I just commend you for continuing this ongoing battle and yes, we're making progress. And shamelessly thought we had our KCA meeting last night, and quite often that came up what...how Maui County was often the leading the way in environmental issues as been mentioned already this morning. So we commend you for continuing that battle. And on the other item, 54, I purposely wore my reef shirt, but I've already been...the prior testifier, again, Junya, beat me to it. This is one of the many advantages for us older out of shape guys. Not only do you don't have to worry about the sunscreen, but you don't have to worry about sneaking, you know, stripping down and quickly getting in the water before anybody sees the body. But on a serious note, it really is so much of the answer of, you know, we...doing this, and you avoid all those other issues. And one more brief historical perspective. I can remember as a...going way back as a small child going to the beach, and seeing a lifeguard with...asking your parents, "how come the lifeguard has this white pasty stuff on his nose?" And that was when I first thought of getting a lesson of what zinc oxide was, and well, how come...and then from there, you saw society going off the wrong way with the...you know, the...Coppertone was the one we heard, but I mean, it's all the brands, and why...well, this is much more convenient, see, it's invisible, you don't see it. So everybody's happy to use it without looking beyond the...the appearance and the (*audio interference*) issue. So yes, thank you for continuing to fight this battle as well, educating people, and...and I too...on Maui, that was my most recent realization was seeing what was happening several years ago down in...in the preserve, and I saw that big 55-gallon drum, and they were using it for two reasons, showing how much sunscreen was piling up every day coming off people's bodies, although they only use a little bit, you know, but here's what it equates to on a daily basis. And using it as a drum to...to ask people, "would you not use what you have, and we'll hand out really...this safe product." So we commend those guys...the rangers and you. I see you're keeping one of them as a resource today. So thank you very much for the opportunity. I was attempting to be brief, but that's not my nature. Aloha for the opportunity.

CHAIR KING: Okay. Aloha Mike, thank you so much for your testimony. Any questions for our testifier? If not, we'll...we'll thank you very much for your testimony. And at this

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time I'd like to recognize Member Rawlins-Fernandez, our Council Vice-Chair, who has joined us a Non-Voting Member. . . .*(timer sounds)*. . . Thank you for being here when you don't have to.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka....aloha kakahiaka, Chair, my Moloka'i nui a Hina, and hafa adai kākou.

CHAIR KING: All right, hafa adai. Okay. So next testifier, Mr. Leauanae.

MR. LEAUANAE: Next testifier is John Fitzpatrick, followed by John and Christy *(phonetic)* Blumer-Buell.

CHAIR KING: Okay. John are you there...Mr. Fitzpatrick?

MR. FITZPATRICK: Yes, so I...I don't know how to do this.

CHAIR KING: You're on, I can see and hear you.

MR. FITZPATRICK: Sweet.

CHAIR KING: Aloha.

MR. FITZPATRICK: Aloha. I know, this is my first time testifying, and aloha Councilmembers, it's great seeing all your beautiful faces, all right? Thank you guys so much for saving up this platform so we can testify from our homes, and we don't have to sit in a Council meeting. I'm also a teacher, so I'm excited, maybe I can get my students to come testify on things that they might be passionate about in the future.

CHAIR KING: Absolutely.

MR. FITZPATRICK: Thank you guys so much for testifying. We won't have to drive a bus and do all that kind of stuff, and I appreciate Councilmember Lee's background because that's why many of us are here. That's not why I was originally here. I was here because Autumn Ness asked us to testify about the pesticides, and banning all the pesticides from the...from all our parks and stuff which, like the Maui Nui Marine Resource Council reminded us, most...a lot of our parks are right next to the ocean, so...and the pesticides do affect marine life. So I support both CARE-23 and CARE-54 very, very strongly because Autumn has worked really tirelessly since I think--what, 2014 when that was--to find all these different solutions and educate us, and bring them as pilot projects to Hawai'i...or actually to Maui, and she showed that they can be effective. So I really hope we take those up and we use those instead of spraying poisonous pesticides. As a teacher, we know these pesticides really affect the neurological development of our keiki, so it's really important that when they're playing on playgrounds that they're not...not exposed to these things. And also while woman is before birth...or when she's carrying her baby, it's important for the baby not to be exposed to these pesticides through the bloodstream because that affects their development as well, so that...we can do whatever we can as a Council...or at the community level to prevent these pesticides from being exposed to our people. As a

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boat captain, I really like the spray...or like the sunscreen one because it's really important we educate people about the reef safe sunscreens. Some of the boats I work on actually give out the reef safe sunscreens for free, so it's really nice when we do that, right? I...I would like to...I don't think the spray one is included, but I do agree with the spray ones, if we could ban those, that would be really amazing because as people that work on the boats, everyone's trying to spray and we breathe it in and it's...it's really toxic for our employees on the boat. So...if you can add that, that would be great. And then also, I agree with changing it to the...like to zinc and things that are...we know are safe for the fish so that the chemical companies can't just change it a little bit and use a different one. So...I...I support both of these, and thank you guys so much for all your hard work, and it's wonderful seeing your beautiful faces.

CHAIR KING: All right. Thank you so much. Good to see you too, John. Any questions for *(audio interference)*.

MR. FITZPATRICK: And I hopefully I was briefer...more brief than Mike's one.

CHAIR KING: Okay. Thank you so much for being here. Call our next testifier.

MR. FITZPATRICK: Aloha.

CHAIR KING: Aloha.

MR. LEAUANAE: Next testifier is John and Christy Blumer-Buell, followed by Mark Deakos.

CHAIR KING: Deakos.

MR. BLUMER-BUELL: Aloha, Chair King, can you hear me?

CHAIR KING: Yes, we can.

MR. BLUMER-BUELL: Okay, I'm going to leave my screen off. We have a problem with bandwidth out here and occasionally get off. So I'll just leave it off. I'm calling in very strong support of the...the bill regarding the pesticides, and I want to thank Elle Cochrane, and Autumn Ness, and Shane Sinenci, and Beyond Pesticides, and lots of people for this. It's long overdue. A little background, I've been an organic gardener for more than 50 years. I *(audio interference)* completely involved with the illegal spraying of 2,4-D...2,4,5-T Agent Orange in Hāna more than 45 years ago, and I've worked with Vietnam veterans and lawyers, and it's still...you know, the things like 2,4,5-T are still being found in the shellfish...were still found in shellfish in Vietnam 20 years after the war. And we have illegal spraying of Agent Orange in Hāna. And so, you know, those...that ended up...it hasn't been tested, but it was ending up in the 'opihi. Guaranteed it's never been tested, so we...we're really at a point we understand the precautionary principle, and let's move on this. One suggestion is, I'd like to see a list as part of the bill of...once it's...that the...that are being approved for use. I think that's important because I do not trust the Department of Agriculture at all, and they have a very bad record on these things, so let's try to develop a list. Second suggestion...I think you can do that with Beyond Pesticides. The second thing I would

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suggest is please make the County...anyone that leases land from the County and your County parks, please require a report...an annual report. Let's start keeping track of what people are using, and how much is being used. I think that's real important, and that's a great precedent for the State. I used to have problems with the...you know, friendly problems with the County and State illegal spraying next to the streams, exactly where they weren't supposed to spray. So I'm just saying, let's have some accountability as part of the bill, and you know, we'll get there. And thank you for your efforts.

CHAIR KING: Okay, mahalo for your testimony.

MR. BLUMER-BUELL: You're welcome.

CHAIR KING: Seeing no questions, we'll go our next testifier.

MR. LEAUANAE: Next testifier is Mark Deakos, followed by Autumn Ness.

CHAIR KING: Okay. Aloha kakahiaka.

MR. DEAKOS: Hafa adai, everybody. Thank you, Council, this is Mark Deakos. I'm a marine biologist for West Maui, and for the past 24 years, I've seen the impacts of the poor water quality from toxic chemicals on our reefs, and I'm in full support of CARE-23 and CARE-54. I think the science is pretty clear. Regarding landscaping of County lands, or any managed lands for that matter, I strongly endorse natural permaculture designs that not only restore some of the natural ecosystem functions, but it can be extremely low maintenance, and does not require the need for chemicals...it rebuilds the soil, captures carbon, all that good stuff (*audio interference*).

CHAIR KING: Go ahead.

MR. DEAKOS: . . .(*inaudible*). . . heard it two times. I'll keep it short. I'll just end at the weeds and the pests we don't want, they love that...that dead soil stuff, so it can help eliminate unwanted pests. So I'll leave it there, I'll let Autumn speak on this topic, who knows a lot more than I do. So mahalo.

CHAIR KING: Okay. Thank you so much for being here, always great to get your input. Any questions for our testifier? Seeing none, okay, we'll call our next testifier.

MR. LEAUANAE: Next testifier is Autumn Ness, followed by person with phone number ending in 9749.

CHAIR KING: Aloha, good to see you.

MS. NESS: Aloha. Thank you. I just want to thank the Committee and Councilmember King for bringing this up. This has been almost a decade...progress...as you've heard. So thanks, I'll try fit that decade of work into three minutes. First of all, I'd like to clarify that although I work part-time for Councilmember Gabe Johnson, I'm not here in that capacity today, and I am not on the clock. For about four years, I've been the Director

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in my full-time job of the Hawai'i organic land management program for Beyond Pesticides, I'm here in that capacity today. I've been working on County and State policy to regulate pesticide use, and to fund and support the alternatives, both in open spaces and farmlands since about 2014. You can see the written testimony I submitted on this item previously as number 46 and 47 in Granicus. We've been working on pesticide-free County land since Elle was here. When Elle was first presented a bill similar to this one, the response from Parks was they didn't know how to manage our parks without pesticides, which was fair at the time. So instead of pushing for a law, we focused on education. The Parks Department chose four pilot sites and signed an agreement with Beyond Pesticides that they would receive free training and a specialized management plan that would guide them in the transition to organic management on those four sites. An important part of the agreement with Beyond Pesticides was that we would create a plan that worked within the current operating budget of the Department, and that's what we did. When the plan was given to the Parks Department, I could tell they were going to need more support in its implementation, which is also fair, this is new for all of us. So I recruited Duane Sparkman, a local organic landscape expert, to assist the Department, and found grant funding to support his work, so none of it was paid through the County. He was literally on call for them for one year, so they could call him with any questions about products, problems, anything at all. At the same time, over the years we've been working with large landowners and the DOT, the public in various capacities on Maui, Kaua'i and the Big Island. We conducted experiments using steam trucks instead of Roundup trucks, found funding for weed mats and aeration machines where needed. Some of the work has been wildly successful, and some not so much. The most important ingredient that makes this work successful is motivation. Where there is motivation, there is success in transitioning to organic practices...full-stop. When there isn't, no amount of funding or resources will result in success. There isn't a silver bullet, there's no one substitute for a pesticide, but motivation to apply various solutions as appropriate in different conditions, there is success. Sometimes it's as basic as being willing to think outside the box. When Kihei Little League parents got mad that their field was being sprayed...like Junya said, we went down and taught the parents how to pull weeds. And in a matter of like 15 to 20 minutes, the job was done for the whole season. If we wanted to, we could make that a condition of field use. If your Little League team or your soccer team wants to use the field, you got to pull weeds. It's good for the kids too. If I had more time, I would address comments from the Parks Department submitted to this Committee, including the budget estimates since some of them (*audio interference*) responses to questions. I do want to point out that the Public Works . . . (*timer sounds*). . . presented to this body a while back...okay, sorry, I'm out of time.

CHAIR KING: Okay, thanks, Autumn. Are you...would you be available to be a resource person if the --

MS. NESS: Absolutely.

CHAIR KING: -- Committee would like you to stay on? Is there any objection to having Ms. Ness . . . (*inaudible*). . .

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**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay, so stand by for us and we'll probably call you up when we get to that issue.

MS. NESS: Okay. Thank you very much, appreciate you guys.

CHAIR KING: Thank you. Any...any other questions...dire questions...or we can ask later on. Okay, Committee Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Real quick, mahalo, Ms. Ness, for all your work with Beyond Pesticides. Last year, you hosted Mr. DeWayne Johnson, and I was just...a...a quick update on that case.

MS. NESS: He...from what I understand...actually, I don't know the legal update. I will tell you that his family was back on Maui a couple of weeks ago, and he's doing well...as healthy as can be. That's the only update I have right now.

VICE-CHAIR SINENCI: All right, great. Thank you.

MS. NESS: Yeah.

VICE-CHAIR SINENCI: Mahalo.

CHAIR KING: Okay. Thank you, we'll see you in a little bit. Okay, next testifier?

MR. LEAUANAE: Next testifier is a person...

COUNCILMEMBER SUGIMURA: Chair, can I have a question for Autumn?

CHAIR KING: I'm sorry...I'm sorry. I didn't see your hand.

COUNCILMEMBER SUGIMURA: Yeah. So Autumn, are you still here?

MS. NESS: Sure am.

COUNCILMEMBER SUGIMURA: Hi. Can you just finish your sentence?

MS. NESS: Yes, oh, thank you. Yeah, because this is a good...I really wanted to give a shout out to Public Works. They presented to this body a while back that they've reduced their herbicide use from 2013...I have a little graph here that I could email you guys. From 2013 to 2020, they went from around 100 gallons per year of use down to 3.1. In 2020, their use was 3.1 gallons at a really minimal cost. I think their 2020 cost was \$185. I think that doesn't include the funding that was given to them for weed mats...upfront, you know, costs for stuff like that, but I just want to hold them up as an example of what is possible. What they thought when Elle was *(audio interference)* this bill up that it was impossible to get off herbicide use, and with motivation and creative problem solving skills, they've really done it. So yeah, I just want to put them

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out as a...as an example of what's possible.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair.

CHAIR KING: Thank you. And we will have Public Works on *(audio interference)* announced earlier. Okay, next testifier is someone with the phone number 9749...ending in 9749. That person here? Not *(audio interference)* see the next testifier?

MR. LEAUANAE: Next testifier is Jordan . . .*(inaudible)*. . .

MR. DORN: Hello, can you hear me?

CHAIR KING: Oh, okay.

MR. DORN: Hello, this is David --

CHAIR KING: Okay --

MR. DORN: -- the 9749.

CHAIR KING: Yeah, go ahead.

MR. DORN: Oh, hello, okay. My name is David Dorn. I'm here to testify in favor of the bill to ban pesticides and chemical use in the parks. I'm working with the Save the...South Maui Save the Wetlands group, who's doing a study. I've been involved for half a year studying all aspects of the drainage infrastructure, the natural streams, kahawai, and the wetlands...māla wai, and also their effect on protecting the reefs. And so we know that everything is integrated and the watershed is connected, so all chemicals sprayed on parks and roads find their way into streams, stormwater run-off, and ultimately the groundwater, then into the ocean. So these chemicals have the potential to damage our streams, groundwater, and the sea...sea life, especially damaging to protective coral reefs. So I'm not sure of the...you know, the finite details of this bill, but this bill should for sure include the banning use of all the top herbicides including glyphosate, and all of the other bad ones. And there was a study in the Great Barrier Reef in Australia that showed that glyphosate can persist in sea water for up to 315 days. So if you spray any of these herbicides on your park and it goes into the groundwater, it survives especially well in the dark, which is the groundwater, it transports out, and it can survive in full sunlight in the ocean for 47 days. So you have a mechanism where this...toxic substances are going directly to the coral reef, and the reef is made of animals and plants, and coral is a plant-dependent animal because of its symbiosis. So you kill out, you know, the...all of the beneficial algae, you bleach the reef, you kill the reef, and then we lose all those protective, you know...it's sad and it's not right, but you also lose all the benefits of the coral reef protecting the shoreline. So this is a terrible thing. So we really need to support this bill, and get rid of these toxic chemicals, they have no business being in our natural environment if we have any say in it, and use all of the natural alternatives because, you know, until recently, we're spraying our entire island with aerial...helicopter spraying of glyphosate every two years onto the sugar cane crops to kill the crop, and all of that is in the ocean now. So that's why I

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was saying that's a rapid decline in the near shore reef health. So it's bad on any part of the watershed, it all ultimately flows to the ocean and you know, kills the marine life. So let's stop, and let's support this bill. Thank you.

CHAIR KING: Okay, thank you, Mr. Dorn. Seeing no questions, we'll move on to our next testifier.

MR. LEAUANAE: Next testifier is Jordan Hocker, followed by Shelby Serra.

MS. HOCKER: Aloha, CARE Committee Members. Thank you so much today, I'm very excited for both CARE-23 and CARE-54. You've heard a lot of information about how these chemical pesticides and synthetic fertilizers are detrimental to our environment, so I'm just going to...I'm going to put a personal touch on my testimony today. So I live in Keokea, and Keokea Park is a really beautiful park that's right down the road. And if you're familiar with the park at all, there is actually quite a bit of food growing in it. There are peach trees along the upper side, as well as a very persistent bramble that has like the blackberries on it. There's an avocado tree on the perimeter, not to mention plenty of invasive weeds that are actually edible. So I don't know if you have any experiences with picking berries with your family, but it's a really sweet experience, and the bush one day was going off. It was going off, just like completely weighted, and if you know...if you live Upcountry...if you've seen Upcountry, these brambles can form impenetrable thickets, right, so it's really...it's beneficial for us to eat them as opposed to the birds eating them and them spreading. And so, you know, my family and I, we got like this little yogurt container full of them, and then as I started to look around more, I realized, oh, these...these bushes...because if you look at things like bramble that have been sprayed, when it begins to grow back, it actually has this reddish color. You can really...you can tell by the regrowth as to what...whether or not things have been sprayed. And so as I started to look around, I realized, you know, these actually probably aren't safe to eat. And during a time of food insecurity, as well as the natural habitat being overrun by invasives that are actually edible, it seems like there is an aspect of food security that we're missing, which is that there is a ton of food that could be eaten if it wasn't being sprayed, and it is. You know, whether it's up along the roadside or whether it's in our parks, I think it's an overlooked resource. And really, I would just love to...for my child to be able to pick clover or blackberries and not have to worry about her neurological function being impaired, and so that's just a little story. I would love to pick blackberries in the park with my family and be able to eat them and not have to worry about anything, and I would love for other families to be able to do that as well. And if you're familiar with the work of Sunny Savage, she's actually outlined a lot of these plants that are edible and useful to us that are currently being sprayed. So if you're interested in what can I eat, what can't I eat, you should look into her work or just come talk to me, I'm happy to tell you, you can eat that, you could eat that, you could eat that. But then I'll speak to...you know, I was born in Missouri. Monsanto started in St. Louis, and so I really grew up in the age of...we sprayed everything. One time I went to my grandmother's house and she gave me a cabbage and I said, "hey, grandma, did they spray anything on this?" and she goes, "oh no, honey, it's okay, just a little bit of Sevin." And I'll just finish this up real quick. And if you're familiar with Sevin, it's actually a blend of seven pesticides, and to her it was no big deal. And I've done a bit of research, specifically into how glyphosate affects the



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neurological development of children, and you know, because there is so much conflicting information and because, you know, it's hard to say whether or not what the companies are putting out is actually accurate, there was one large piece of evidence that couldn't be denied, and that's that pesticide exposure...herbicide exposure to children increases their likelihood of neurological problems. Specifically, like...things like hyperactivity and ADHD. And coming from a generation that we just ate all of that and everything was heavily sprayed, you know, we are facing a lot of neuro-divergent issues. So I would just really thank you for the Committee...urge you in passing in this on. As far as sunscreen goes for CARE-54, we really need it to apply to everything, not the next latest...or not wait for the next chemical formula to come up to circumnavigate our Legislature. So I think there may be two sunscreens that we know aren't super harmful to the reef, and those really should be the only ones allowed in Maui County, period. So thank you so much for your time today.

CHAIR KING: Okay, thank you so much, Jordan. Are you...when you speak about the two, you're speaking about the zinc oxide and titanium oxide...the minerals?

MS. HOCKER: Correct.

CHAIR KING: Okay.

MS. HOCKER: Yeah.

CHAIR KING: Okay, great. Thank you. Any other clarifying questions? Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thanks. Nice seeing you, Jordan. So you're saying that Keokea Park has a pesticide problem...by your story, is that what you're saying?

MS. HOCKER: Yes. I'm saying that...actually, here's the thing. From what I've seen, it appears that things have been sprayed. There's a lot of clover in the park, so...and because we kind of prioritize grass over clover because of the bees and everything, I'm just assuming that that's been done, and based on...if you go and look at those brambles, they have the signs of being sprayed. So really, whether I know or don't know, that's kind of the problem too, right, is that we should know that no land that our children are on or that our families are on is any way toxic or detrimental to them.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: Okay. Thank you, Member Sugimura. Move on to our next testifier. Oh, I'm sorry...I...I just saw Member Paltin. Jordan, are you still there? Okay. Member Paltin, you have a question? Member Paltin? Oh, I think you might be frozen. You want to try...oh, are you back? Try unmuting yourself and talking and see.

COUNCILMEMBER PALTIN: Hello, can you hear?

CHAIR KING: Now we can hear you.

COUNCILMEMBER PALTIN: Oh, okay. Thank you. Thank you for your testimony, I just was

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wondering have you ever seen signage or you've never seen signage that pesticides have been sprayed?

MS. HOCKER: I've never seen that signage. I do see signs along the road with people asking not to spray, but I've never seen anything posted. Yeah, never, actually.

COUNCILMEMBER PALTIN: And...and you've seen sometimes, like, you know, after a couple weeks that it's been sprayed. You've seen the...the...like brown-colored grass?

MS. HOCKER: Yeah, or...so specifically, it's sort of a red sheen. I...I know another person who is big into wild foragables on the mainland, and he actually has resources to identify whether or not things have been sprayed when you're sort of wild foraging or in...in parks or public spaces. Frequently, you'll get a lot of either red growth or...or it will be somehow sort of curled, a lot of fasciation. Once something's been sprayed and it grows back up, you can...there are tell-tale symptoms, and so we didn't eat the blackberries that day because it didn't look super healthy. But yeah, when you see like an entire crop is dead and then you come back two weeks later and it's sort of coming back to life, you know, I know it wasn't acidic acid that was sprayed there, so we just left the area.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: Okay. Thank you, Member Paltin. Mr. Leauanae, our next testifier...I think we have two more testifiers.

MR. LEAUANAE: Next testifier is Shelby Serra, followed by Lucienne De Naie, who is currently the last one signed up.

MS. SERRA: Aloha, Council. My name is Shelby, I'm testifying on behalf of Pacific Whale Foundation. I want to support CARE-54, of course, and also like to point out that...and it's not just the oxybenzone and octinoxate that are causing additional stress on coral reefs. The laundry list of other chemicals...avobenzene, avobenzine [sic], homosalate, octisalate, octocrylene, ethyl hexyl methoxycinnamate...we educate our supporters on learning about these ingredients and essentially, not to buy sunscreen that has any ingredients that you can't pronounce, and not to trust the stickers that say reef-safe sunscreen. Not a regulated term, and can be used as a marketing device. On our boats, Pac-Whale Eco-Adventure boats, prohibits the use of any of these sunscreens, and we encourage protective clothing over sunscreen use, and provide these reef-safe sunscreens if need be. I'd like to thank the Council for bringing this forward, and we continue to support any measure that works for the health of our oceans. Mahalo.

CHAIR KING: Okay, thank you so much for your testimony. Any questions, Members? If not, we'll move on to our next and final testifier who signed up, Lucienne de Naie.

MR. LEAUANAE: Final, final...

MS. DE NAIE: Aloha and good morning, Chair and Committee Members. My name is Lucienne De Naie, I'm currently the Chairperson of the Sierra Club Maui group, and

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we're testifying in strong support of both Item 54 and 23. We would very much appreciate if this Committee would move forward on the efforts to limit the use of pesticides in our public parks. This would be a great step forward. Sierra Club has been writing letters and testifying on this. There's things in our files that go back to the '70s because it's something that we...we've known for a long time that pesticides do have an effect down the chain of life, and they...they...they do have alternatives now that are safe, that are not expensive, that can keep our parks looking nice. And they are being used on major golf courses, they are being used on large pieces of property. We...we have choices. So it is time to allow our County to take a step forward as...as a leader in sound practices and adopt some of these new strategies. As far as the...our...our...our sunscreen efforts here, I...I...I mean, our...our reefs really are our life here, and we...we know that there are many sunscreens that just are not good for our reefs. Many of our Hawaiian practitioners...the first thing they'll mention when they're concerned about...they go out fishing, and they say all I see is this oily screen on the water from all the tourist's sunscreen. It's like you can't have both. You can't have healthy reefs and healthy waters, and continually infuse substances that are potentially poisonous into these waters. So we do have our State bill, but anything we could do on the County level to really speak to those things that are unique to our County and have more accountability at our *(audio interference)* level would be greatly appreciated. So on behalf of Sierra Club, we...we deeply appreciate the Committee considering both of these bills, and hope that they are passed and sent to the full Council. Mahalo.

CHAIR KING: Okay, thank you so much for your testimony. Any questions? Okay, seeing no questions, we'll say aloha and thank you very much for your testimony, Ms. de Naie. So Wilton, do we have any additional testifiers signed up at this point?

MR. LEAUANAE: Thank you, Chair. There are no other testifiers signed up.

CHAIR KING: Okay. Thank you. Any...any...anybody else who's on and wishes to testify, speak now. Okay, no...no additional testifiers. Members, if there are no objections, I'd like to close testimony and accept written testimony into the record.

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay, thank you.

**. . .END OF PUBLIC TESTIMONY. . .**

**CARE-1(5): CLIMATE CHANGE LITIGATION (RULE 7(B))**

CHAIR KING: All right, and we'll move on to our first item. Our first item is the climate change litigation update, CARE-1(5). So Members, we have Keola Whittaker, Deputy Corporation Counsel, here with us today to give a presentation and update us on Maui County's lawsuit filed against the fossil fuel companies, as well as similar cases of

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climate change litigation filed by other governmental entities across the country. From the Administration, we also have Makale'a Ane, Environmental Coordinator from the Mayor's Office of Climate Change or...yeah...Climate Change and Sustainability and Resilience here with us today to provide comments and answer questions Members may have relating to climate change litigation. All right, if there's no objections, I'd like to designate Mr. Whittaker and Ms. Ane as resource persons pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay, great. All right. Are you here, Mr. Whittaker? Ready...oh, there you are. Okay, are you ready to do your...give a brief presentation update, and then we'll follow with comments from Makale'a Ane, and questions by the Committee. The floor is yours. Do you...do you have a PowerPoint, do you need to share screen? Oh, you're...you're...looks like you're muted...sounds like you're muted.

MR. WHITTAKER: Can you hear me now?

CHAIR KING: Yeah, now we can hear you okay.

MR. WHITTAKER (*PowerPoint Presentation*): Fantastic. These speakers are 50/50, so I'm glad we figured that out. Yes. Good morning, Madam Chair and the Committee. I'm Keola Whittaker, Deputy Corporation Counsel, and I provided Committee Staff with a copy of my presentation, and they generously agreed to share it while I speak. Are you able to load that now, Nicole or Wilton? Fantastic, thank you.

CHAIR KING: Okay.

MR. WHITTAKER (*PowerPoint Presentation*): I'm really excited to provide you with an update on our climate change litigation this morning. I wanted to do that because of the importance of this case, but also, because you made the important decision to move forward with this landmark litigation. I asked Chair King to allow this brief presentation as part of our duty to continue to update you at key points during this litigation, and this in part also helps us communicate and educate the public about climate change and its causes, so thank you for that. I should mention that Corporation Counsel Moana Lutey and First Deputy Richelle Thomson are also working on this case, and of course, our excellent outside counsel at Sher Edling. We provided the Committee with a copy of the complaint, it's also available online for members of the public. It's long, but contains a lot of fantastic information, some of which I'll touch on today. Could we go to the next slide please? To give you a quick overview of what I'm talking about today, I will touch on the climate change cases happening nationwide, talk about what makes our case unique, the early victories in our case, and finally, what we expect to happen next. Move on to the next slide please. You are well aware of the dire situation we are in and the immense cost of climate change. And these costs, of course, include both monetary costs and unquantifiable loss of life. And this is not something that's happening sometime in the future, but something that's

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happening now. And the facts on this slide come directly from NASA, and it discusses that climate change is already occurring, and the sea level is already rising. Next slide please. Another thing we're learning through this litigation is that the fossil fuel companies covered up what they knew because they had access to the science and knew that their products--fossil fuels--are causing adverse impacts on the earth's climate and sea levels. The quotes on this slide come directly from the complaint that we filed on behalf of the County, and what you see...these quotes are really the heart of the argument in this litigation, that fossil fuel companies sought to undermine public support for greenhouse gas regulations so that they could make more money. It's as simple as that. Some people say our case is similar to the litigation filed against tobacco companies that covered up the health risks associated with smoking. I also included here an advertisement. It's on the left side of the screen, and it's pulled directly from our complaint. It was an ad run by the fossil fuel industry group...try to cover up the serious consequences of...of climate change. On a related note, you may have seen news today that Shell Oil is appealing a ruling by the Dutch Court that was issued in late May, requiring that company to cut carbon emissions faster. The plaintiffs in that case also argued in part that Shell had been aware of the dangerous consequences of carbon emissions, so this fight is not just nationwide, but really, worldwide. Next slide please. So I want to put our litigation in context of what is happening nationwide. Twenty-six public entities had filed climate change related lawsuits that made claims that are at least partly based on a failure to warn and deception. There are five states and the District of Columbia that have filed cases; but also, like us, there are multiple municipalities that have filed cases...eight in California, three each in Maryland and Colorado, a few other locations. And here in Hawai'i, it's our case and the City and County of Honolulu. Next slide please. So there are a couple of big fights that the defendant fossil fuel companies are engaging in right now to prevent these various cases from moving forward. The first key fight is a fight over the forum of where these cases will be heard. The defendants want the cases in Federal court and for Federal law to apply because they've already some successes in that forum, and they believe that there in Federal courts, it'll be a quick victory for them. Generally, the various states and municipalities have had success in keeping the cases in state court and applying state law. A total of four appellate courts and eight district courts...Federal district courts...have all rejected attempts to remove cases from state court to Federal court. However, our case makes the claim solely under this state common law, and we thankfully have a great opinion from Ninth Circuit in a related action, which we feel confident will be applied to our case, and it will stay in the State court. Second thing the defendants are doing now is to seek a stay of the case so that it will not be adjudicated on the merits. They don't want plaintiffs to have their day in court to conduct discovery and to pay for the damage that they cause, so they want all cases to stop until they get a ruling they like. Six cases...well, several cases are moving forward on the merits right now in state courts. There's our case, the Honolulu case, as well as cases brought about by Baltimore, Rhode Island, and Boulder. Although you see there that Baltimore and Rhode Island State Court cases have been stayed until...pending decisions from other courts. Okay, next slide please. So the next piece of information that I'd like to provide to the Committee relates to what makes our case unique in terms of the impacts of climate change that we detail in the complaint. And this is important because in addition to achieving a good result on the merits, we hope that this litigation will help educate the public about the consequences of climate

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change, and exactly what the fossil fuel companies did to deceive the public. And we hope that these Maui specific impacts will be part of that education effort. Next slide please. (*Audio interference*) of course is sea level rise, and while sea level rise will impact everyone on earth, the impacts are uniquely severe for islands. Maui County, and especially Maui Island and Moloka'i, much of the development is near the coast or in low-lying areas. We allege that \$3.2 billion in assets are at the sea level exposure area based on an estimated 3.2 feet of sea level rise. This graphic, which was reproduced in our complaint, is from the Hawai'i Climate Change Mitigation and Adaptation Commission Report in 2017. In addition, one thing that our complaint goes into more detail on than even the Honolulu action is the impact to Hawaiian communities, including Hawaiian homelands within the sea level rise exposure area and historical and cultural sites, including 26 cultural sites on Moloka'i alone. The cost of displacement of peoples and destruction of these sites is immense, and in some ways difficult to quantify in dollar amounts alone. Next slide please. We also discussed the unique ecosystem of Maui County. As we know, Hawai'i is known as the endangered species capital of the world, and as we say in our complaint, while we comprise less than one percent of the United States land mass, literally a third of the species listed as endangered or threatened in the United States are in Hawai'i...about 500 species, and that's nearly double the next highest state, California, which has about 300 endangered species. To make these impacts tangible, of course, is not sufficient...just talk in the abstract about loss of plant and animal species. We named some of them. There are three species specifically mentioned in the complaint that find their home in Maui, and we've listed them there. The kiwiku or Maui Parrotbill, 'Āhinahina or in 'ōlelo...Pelekane Silver-Sword, the T'iwi or Scarlet Hawaiian Honeycreeper, and the court details how each of these species are facing extinction partly due to climate change. In addition, there's immense coral bleaching due to climate change. We cited a 2019 study in which it was discovered that 50 percent of the coral at Molokini was bleached or paling heavily. Next slide please. Finally, what makes our case unique is we discussed the Maui County specific costs we are already incurred and the planning we are doing, which will add to the cost. This includes the Baldwin Park remodel due to the loss of the old pavilion, repairs to roads near the shoreline, construction costs relating to the Wailuku-Kahului wastewater reclamation facility, and planning costs which are ongoing, which includes what the Administration is doing to plan, but also this body, and this Committee specifically. Next slide please. I'm happy to report that we've had some early victories to push back on defendant's desire to get this case in a forum that they want to stop their delay tactics. As I mentioned earlier, the big oil defendants tried to remove our case from State to Federal court. We were successful in persuading the Federal District Court that there is no basis for Federal Court jurisdiction, and that decision is being appealed now, and we expect the Ninth Circuit to uphold that decision and keep the case in...in State Court. We also prevented the case from being stayed in State Court, and thus far, none of the motions that had been filed in our case for a stay have been granted. The case is moving forward on the merits. We're very happy about these two victories because it means that we can start to adjudicate our claims against big oil companies. Next slide please. Finally, I'd like to share with you what's coming up next. At the request of all parties, our case was transferred for pre-trial purposes to the State First Circuit Court in Honolulu in front of Judge Crabtree, and this will help prevent duplication and save costs because we can coordinate discovery and some briefing with the City and County of Honolulu (*audio*

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*interference*). The next thing to look out for is defendant's motion to dismiss. That will be filed later this summer, and the fossil fuel companies will try to get the Court to dismiss the action even before any discovery takes place, and we expect them to argue that Federal law preempts State laws that might regulate their industry, even State common law. But we're confident that they will fail to persuade Judge Crabtree that none of our claims should move forward. Finally, once we're past the motions to dismiss, we will begin the discovery process, and expect to obtain additional information about big oil's deceptive practices by looking at the documents and information that are not yet public. We hope that this will reveal additional evidence that the fossil fuel companies engaged in deceptive practices and should pay for it. Of course, it's too early to say exactly what a win on the merits might look like, but we hope that at minimum, fossil fuel companies will contribute to the immense costs that this County will incur associated with our efforts to combat and deal with climate change. Next slide please. This is the end of my formal presentation, and if you don't mind me inserting a brief personal thank you, I'd like to say mahalo for what you're doing...for doing what you can as policymakers to prevent climate change. This photo on this slide is a photo of students at...in Hāna school that are concerned about the warming planet and sea level rise, and this case is for them and other future generations. So we all have a part to play, and I as a lawyer can devote my efforts to this case, and other environmental cases. But no matter what our job, all of us can help educate each other about climate change. So thank you for your support, for allowing this presentation and supporting this unique, but very important litigation. Thank you, and turn it back to you, Chair King.

CHAIR KING: Okay, great. Thank you so much for that presentation. Wow, those kids...the signs that those kids were holding gave me chicken skin. So Members, we're...we're bringing this presentation to the HSAC Committee tomorrow and asking for an amicus brief to be signed on by the Executive Committee there, so I don't...I won't ask any questions in the interest of time, but I'd like to...so if you have a question, I'd like to try to keep it to two minutes if you can, just so we can move...move through the agenda today, and we'll start with...I'll just go through who has their hand raised. I'll start with Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you Mr. Whittaker. My question was...you know in the...some of the costs that you listed, I just was wondering if you were including the cost of lost revenue. Because regardless of tax classification, the properties that are on the shoreline that are exposed to either coastal erosion or sea level rise bring in the majority of our revenue. And once those properties become worthless, then that's a huge loss to our revenue. And I just was...I didn't see that listed in your costs, and I think that's probably one of the most major impacts because it affects our ability to, you know, provide the basic services of fire, police, roads, wastewater, water...all the things that the Department has done is provided for by those revenues, and the majority revenue income is the coastal properties.

CHAIR KING: Mr. Whittaker?

MR. WHITTAKER: Thank you for your question, Member Paltin. I can't recall if it's mentioned explicitly, the loss of tax...property tax revenue from those properties, but it's certainly

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implied. And this case will evolve and we will make sure that those costs are addressed when we get to the damages stage of litigation. So thank you for that.

COUNCILMEMBER PALTIN: Okay, thank you. Thank you, Chair.

CHAIR KING: That was a great question, Member Paltin. And also to follow up on that, we...we...we...we don't necessarily have to lose buildings to lose that revenue because the devaluation of those buildings as we...as sea level rises is going to result in lost revenue as well. So Members, any other questions for Mr. Whittaker? And you know, we can...we'll be getting another update, I think, as things heat up with this case too, but...we have a question from Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a quick question, and mahalo, Mr. Whittaker for (*audio interference*) presentation, and congratulations on the early victories. That's great news. So my quick question is regarding the 26 cultural sites on Moloka'i. We have over 80 loko i'a along our south shoreline, and so I was just curious as to what made you only (*audio interference*) 26. If it's only the...you know, fully restored or partially restored loko i'a...fishponds.

CHAIR KING: Mr. Whittaker?

MR. WHITTAKER: Thank you for that question, Vice-Chair Rawlins-Fernandez. We pulled information from various sources, and I can't recall exactly where that 26 number came from, but I...if we could communicate offline to obtain documentation of all of the cultural sites, that would be extremely helpful. Because we will move into a damages space in which that information will be very useful, so thank you for that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Wonderful. I'd be happy to meet with you offline. Mahalo. Mahalo, Chair.

CHAIR KING: Awesome. Okay, and I see Makale'a Ane is here with us now. I'm...I'm going to let...take a little pause in our questions and see if you would like to give some remarks (*audio interference*) Ane?

MS. ANE: Hi. Aloha, good morning, Council, thank you for having me. I just wanted to say mahalo to Keola for giving us a wonderful update. And...and the picture at the end with the kids and the keiki are...definitely, you know, hit home and this is why we do what we do, and to preserve our 'āina and our kai for our keiki and making sure that, you know, they have a future and that we're not stealing anything from them. And that's the tragedy in this whole case is that people knew what they were doing and greed got in the way. And so mahalo to the Council for really taking it...this on. And it's a huge case to...to take on as a County, and I think it's really important that Administration and the Council is working together on this issue. So mahalo to everybody for, you know, being leaders in this...in this sector. So I just wanted to...I guess, going off of Keani's question, I wanted to let you guys know that the Department of Aquatic Resources is currently...Uncle Skippy Hau is currently inventorying a lot of the loko i'a in Moloka'i, so he'll have really good up-to-date information and can...and can supplement, you know, on the ground and state inventory on that. And then also,



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we wanted to make sure that we...and I know...Corp. Counsel knows the work that Admin is...that Administration is doing. But our work on the Countywide...we just signed our contracts to do a Countywide vulnerability assessment, and this will take into account all of the Department's vulnerability assessments that are really specific to sea level rise and inundation, but also all the other aspects of climate change and impacts to...from like wildfires, increased storm events, and on and on and on. So there's...hopefully we'll have a lot of...more information based on this data for...for all of us to use as we create policies in planning, and also in this litigation. So mahalo for...for taking on this important endeavor.

CHAIR KING: Okay, great. Thank you for those remarks. Members, any other questions of either Ms. Ane or Mr. Whittaker? Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. Just one question for Mr. Whittaker. You know, obviously, this is going to be a long legal battle over time, but should the...the counties prevail over the oil industry, where would the money go, any...you know, any compensation...will go into some type of special fund that goes to the State or administered by the State and dispersed to the counties. Is that how it would work? Sort of like the tobacco industry lawsuits?

CHAIR KING: Mr. Whittaker?

MR. WHITTAKER: Thank you, Member Molina. That is a million dollar question. Hopefully, a multi-million dollar question. The answer to that will depend on how the case is resolved. So the case could be resolved through a settlement agreement, and if it's done that way, then the settlement agreement may...and is likely to indicate where any money would go. It could be resolved through a court order. The court order may also indicate where...how the money should be spent. But let's say this is the scenario in which we just get, you know, several million dollars to address climate change, then it would be up to this body, of course, to determine how those funds are spent.

COUNCILMEMBER MOLINA: Okay. Thank you for that. Thank you, Madam Chair.

CHAIR KING: Thank you, Member Molina. So just...Members, remember this is a County case, so it's not a Statewide case. The Big Island and Kauai have not signed on, so it will not be like a State...like the tobacco lawsuit was a State...the State getting into it, so this is different and specific to Maui County, and then the City and County of Honolulu. So yeah, we...we'll get there. You know, if we're still on the Council by the time this gets settled, we'll all be sharpening our pencils and trying to figure out where to put that into the infrastructure. Okay, so if there are no other questions, I want to thank you so much, Mr. Whittaker, for...for requesting this meeting to update us all on what's happening with this, and also let my colleagues on the...with the GREAT Committee and the Budget Committee that if there's, you know, an interest in following up through those two avenues too, that you won't...feel free, you're not stepping on my toes if you feel the dire need to bring them to your committees as well. And thank you, Makale'a, for joining us. And we'll...we're going to take a short break and then come back and see if we can get through CARE-23, which is...which does involve decision-making. And if there's no objections, I'll...I'll defer this matter?

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COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Great, so it's 10:44, if we can come back at 10:55 and get started on our next agenda item, I will...if I can find something to use as a gavel. All right. So the CARE Committee...the Climate Action Resilience and Environment is now in recess until 10:55. . . .*(gavel)*. . .

**RECESS: 10:45 a.m.**

**RECONVENE: 10:55 a.m.**

**CARE-23: INTEGRATED PEST AND ENVIRONMENTAL MANAGEMENT ON COUNTY PROPERTY (CC 16-37)**

CHAIR KING: . . .*(gavel)*. . . Okay, will the Climate Action, Resilience, and Environment Committee please come to order. It is 10:55. Thank you for that recess, Members. And we're going to jump right in...oh, you have a question, Alice? Chair Lee?

COUNCILMEMBER LEE: Chair, I have to jump off the call at 12:00. So what's your intention today with the three items?

CHAIR KING: Okay, we're...the three...the...the next item, CARE-23, we're hoping to get a motion and possibly pass this bill out, but I want to get to the vote on this. And then the third item is...is only up for discussion because we're trying to figure out the best way to move forward. Member Paltin was working on a bill, and...and she's pulled it back to work on it some more, and then we've had a lot of input from folks. There's also the previous bill that we looked at and should be posted on Granicus today...the one from Elle Cochran that was analyzed by OCS. So the third item is just going to be a discussion for today so we can figure out what to . . .*(inaudible)*. . .

COUNCILMEMBER LEE: Okay, just to let you know that on item CARE-23, I would be asking for an exemption for Waiehu golf course.

CHAIR KING: As an amendment?

COUNCILMEMBER LEE: Yes.

CHAIR KING: Okay.

COUNCILMEMBER LEE: But I may not be here. I may not be on the call, so I just letting you know in advance, okay? Thank you.

CHAIR KING: Okay, we're...we're going to move forward on this item now, Members. We have with us...looks like we have one, two, three, four, five, six...all seven Members are back.

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Okay. Thank you, Members. We have before us County Communication 16-37 referring to the matter of integrated pest and environmental management on County Property. We also have correspondence dated February 4, 2021 from Councilmember Shane Sinenci transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 2.50, MAUI COUNTY CODE, RELATING TO PESTICIDE AND FERTILIZER USE ON COUNTY PROPERTY." The purpose of the proposed bill is to determine the categories of pesticide and fertilizer allowed for use on County property. I'd like to start by giving the floor to Councilmember...to Committee Vice-Chair Sinenci, who submitted the proposed bill being considered today, but we also have with us Jay Feldman, Beyond Pesticides Executive Director, who will give us a brief presentation. And with the body's approval, he will be designated as a resource person to give us a presentation relating to pesticide use and fertilizer's impact on the environment and provide comments on the proposed bill. And Members, we also already designated Autumn Ness as a resource person. From the Administration, we still have Makale'a Ane with us from the Environmental...from the Mayor's Office of Climate Action, Sustainability, and Resilience. We have Rowena Dagdag-Andaya, Director, Department of Public Works, and from the Department of Parks and Recreation, we have Director Karla Peters, and Park Maintenance Superintendent Chris Kinzle. We also have our...our Deputy Corp. Counsel, Keola Whittaker, here with us today to provide comments and answer questions Members may have relating to the proposed legislation. So Members, if there's no objections, I would like to designate Mr. Feldman, Ms. Dagdag-Andaya, Ms. Peters, and Mr. Kinzle as resource persons, pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objection.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR KING: Okay, great. So we have them plus Autumn Ness. And so right now, I'd like to turn the floor over to Committee Vice-Chair Shane Sinenci and...yeah, who worked on this bill and it was referred over from his previous committee in the last...in the last term, and I believe they worked on it since then to make amendments and improvements to the bill. So take it away, Mr. Sinenci.

VICE-CHAIR SINENCI: Mahalo, Chair. The Integrated Pest Management item, now CARE-23, has been in Committee since 2016. Since then, a lot has changed with land management practices. The Monsanto glyphosate court documents and rulings show the dangers of chemical pesticide use and the threats to the physical safety of our employees, residents, keiki, and visitors. Last year, we had Mr. DeWayne Johnson, the plaintiff in...in one such case, and he spoke to us about his cancer and how it could have been prevented. While he was on the island, Mr. Johnson also hosted the showing of the movie, *Ground War*, which showed the dangers of chemicals on golf courses for those who play and live near golf courses. My office began working on this issue in 2019. We met with concerned community members, Beyond Pesticides, the Department of Public Works, Parks Department, and Corporation Counsel for most of 2019 and 2020. The bill was also transmitted to all County Departments that manage lands to ensure we understand who would be affected as we truly want the bill to work for our County Departments and for the public. Chair, I did want to point out a few

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important aspects of the bill. The restrictions only apply to land owned by the County of Maui, it does not apply to private property. Individual landowners are not affected, nor is property owned by the State of Hawai'i. All other landowners besides the County may do what they wish with their own property, provided they follow State and Federal laws. This bill exercises the County's right to manage their own property as it sees fit. The bill does not apply to County agriculture parks or County property used for agricultural purposes. Our intent is not to regulate agricultural operations, but this restriction is put in the definition section under County property, which excludes properties subject to a State Executive Order or County agricultural parks used for agriculture. This bill allows for waivers, and the waiver process asks for proposed locations of usage and a summary of the existing plants, soils, and conditions of the proposed sites, as well as the different types of fertilizers or pesticides being used. The bill uses a well-established extensive Federal list of allowed products. The bill also allows for a longer phase-in for high intensity fields, including the Waiehu golf course, the baseball stadium, and the War Memorial complex. And lastly, Members, the bill is a new version as was originally proposed in Chapter 20 in the environmental section. It is now an administrative bill placed in Maui County Code, Chapter 2.50, with the intent to exercise the County's proprietary function as a property owner and manager, and by determining the categories of pesticide and fertilizer allowed for use on County property. I think the signed bill that we have today is the result of listening to the public, all the different departments to Corporation Counsel, our Council Services Staff, and to all the past Committee Members. So again, mahalo for my opportunity, Chair.

CHAIR KING: Okay. Thank you so much, Mr. Sinenci. We have a question from Chair Lee.

COUNCILMEMBER LEE: Thank you, Member Sinenci. I can see where a lot of work has been put on...worked on this...this bill administratively and with Councilmembers, but I don't think we've had enough public input because this...you know, we haven't had this much discussion on this bill this year, and I don't think last year. So I think the public has...has a right to...to know what's going on on this, and especially people...we have thousands of people that golf at Waiehu golf course. I know that they're not aware. So I think at some point, we're going to need to have some kind of public hearing on this if...if the body decides to move this out of Committee today. Thank you.

CHAIR KING: Okay. Thank you, Chair Lee. So right now what I'd like to do is give Mr. Feldman the floor, and then we'll go to our...our departments for comment. And Mr. Feldman, are you here? There you are.

MR. FELDMAN: Yes, I am.

CHAIR KING: Okay, so do you have...how long is your presentations?

MR. FELDMAN: Well, I...I think you wanted me to keep my comments to ten minutes, so I'll --

CHAIR KING: If we can keep it to ten minutes...

MR. FELDMAN: -- but I'm going to honor that. Let...let me start with a few remarks that summarize my comments, and then I'll share my screen if that works?

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CHAIR KING: Okay.

MR. FELDMAN (*PowerPoint Presentation*): Aloha, I'm Jay Feldman. As you mentioned Chairman King, I'm Executive Director of Beyond Pesticides. And you've already heard from Autumn Ness, who is Beyond Pesticides' Hawai'i Director of our organic land management program. Mahalo for the opportunity to speak to the Committee. I'd just like to frame some introductory remarks before sharing my screen and the PowerPoint presentation. There are really three elements...things we want to discuss today. The first thing is protecting health and the environment. You've already heard from Dr. Evslyn and...who gave you a great overview, and others testifying today provide extremely knowledgeable input to the deliberations which really have been going on for at least five years on Maui and throughout other islands. The bottom line is that we need to stop the use of hazardous chemical pesticides and synthetic fertilizers and replace them with a different approach. The bill talks about an organic approach, or establishes an organic approach to land management. The hazards of pesticides are real, both the health and the environmental effects. You've already heard testimony in our previous testimony submitted into the record, establishes a scientific citations. We're always happy to update those, as we do daily on our website. The second issue is inadequate regulation. Many of you have...are familiar with and have mentioned today glyphosate. Classic example of inadequate regulation. We know that pesticides are not adequately regulated, and CARE-23 really says to the community that the elected representatives here are in touch with the need to protect their health and the precious local ecology. And the third issue here that we're discussing is whether we need pesticides, whether it's for a golf course or a playing field or a right of way roadside maintenance. And the answer is we do not need toxic pesticides to achieve our community goals for aesthetic or safety in the parks, playing fields and sports fields, and along the roadsides. We are not talking about product substitution here, keep that in mind. We're not talking about replacing one weed killer for another, we're talking about a systems change in how we managed...or how we managed the beloved island of Maui, the land and the environment. By the way, this context is not new to the Department of Parks and Recreation. In 2017, with donated resources from Beyond Pesticides and the benefactors, our foundation supporters, who believe that Hawai'i has a special opportunity and responsibility to move away from petroleum-based pesticides...and that includes herbicides like weed killers and synthetic fertilizers. After evaluating the soil biology, current practices and conditions, we provided the Department with an organic systems plan for sports fields' management with a focus on four pilot sites and conducted training of the staff at the War Memorial Little League field #1, Luana Gardens, Mahana Park, South Maui Regional Park Soccer Field. We presented practices and cost numbers, and I can tell you that the products and practices we're suggesting do not increase costs over time. I've seen some recent budget estimates from the Parks Department, which quite frankly we disagree with, and from our perspective do not align with the organic program we proposed in our plan, and plans that are being carried out across the United States. A word about cost. When you sit down to calculate costs, you need to look at what is being done currently, and then what the expectation for the sites are. You'll find that the higher the expectation for aesthetics, the higher the cost. So whether we're talking about chemical-intensive practices currently practiced, or current practices...we call those chemical-intensive

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land management practices...say at War Memorial or the baseball stadium or organic land management...the costs rise when you talk about more intensive practices and higher aesthetics. Lower aesthetics, lower costs, whether you're talking about chemical-intensive or organic. I can run through the actual recommendations and the report if you'd like later...

CHAIR KING: Mr. Feldman, so we have about six and a half minutes left for you...

MR. FELDMAN: Right, so I'll run through the slides in this context, and that's exactly...thank you for that. So let me...let...can you see that screen at this point?

CHAIR KING: Yes, now we can.

MR. FELDMAN: Okay, good. Okay. So basically, you know, we...someone today mentioned...Rachel Carson, *Silent Spring*, and that...that is the basis of our...our plan to the Parks Department and the County, you know, we're really talking about complex biological systems. When you throw chemicals at...whether we're talking about humans or the environment, especially the environment of Hawai'i, you're affecting living communities. And when you're talking about pesticides, you're talking about a complexity of interactions of chemicals. If you just pick up a pesticide label, you'll see a listing of active ingredients, but really that product is a formulation of all kinds of ingredients that include dioxins and include all kinds of contaminants and breakdown products. But when we evaluate the range of effects, we're really looking at carcinogenic effects...you've heard that discussed today...endocrine disruptors, which are not fully evaluated by EPA...birth defects, et cetera... and the vast majority of what's being used on playing fields falls into one of these categories. You heard about neurological effects, there's kidney damage, there are rashes and so forth. And the same thing with commonly used pesticides in terms of groundwater contaminants, water waste, toxicity to bees and birds, fish, and other factors. So what are we talking about? We as an organization track adverse effects. We track the scientific literature daily, and I can...if you get on our site and look at pesticide induced diseases, it's quite frightening what we see in terms of cancer, Parkinson's, Alzheimer's, birth defects, learning disabilities, diabetes and respiratory diseases like asthma...broad deformities, impacts on pollinators and...and butterflies. You know, Hawai'i is intimately aware of the trend lines that we've seen historically. Heptachlor contamination Hawai'i, DVCP contamination in Hawai'i, we're still seeing these legacy chemicals. We need...and...and the same things going to happen with the glyphosate and the neonicotinoids, but as leaders of the community, we can stop this trend line. We also need to understand that there are mixtures, synergistic effect, inert ingredients, endocrine disruption...on and on. And so what we're proposing and have proposed to the County, and what is embraced by this legislation is an approach that works with nature. It's a systemic solution. The...the allowed materials cited in the statute are organic compatible materials, and they take into account the range of adverse effects. And the benefits are vast, you know, from savings on energy to biodiversity protection. This chart on the right shows you these leaves that are much bigger than the leaves on this side, and this is an agricultural setting. And so what this means is that we have benefits in terms of reducing costs...ecosystems, services, the workers are protected, and we see minimization of residues. This, yes, applies to food, but it is applicable to

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landscapes. So now, just one minute left on what we're already doing on Maui, and this is what's been discussed in others' testimony...wrote, these weed mats are being used already. Vegetation is being controlled mechanically with mowing, the steamers are in use now on the...on Maui, and...and then let's move over to parks and landscapes and managing turf. This is where we produce this plan that I mentioned. We did look at the soil texture, we looked at soil chemistry. But here's the important thing, and here's where the systems change comes into effect. We're looking at soil biomass and the biological activity in the soil. This is not a product replacement plan, and nothing in what I've seen in terms of response to the plan has really...I shouldn't say nothing, but the vast majority of the recommendations have not been carried out by the Parks. And just applying a product substitution approach does not get at the systemic change that we need to see in our land management practices, and that includes aeration...these are called cultural practices as you probably know...irrigation, cultivation, overseeding and mowing. So it's this sort of combination of practices and products, but if we ignore the soil biology and the type of fertility...that's why the bill is so important in aligning itself with organic management practices that take out synthetic fertilizers and forbid the use of materials other than those compatible with organic systems. And that's what the ordinance does...point one relates to the allowed materials vis-à-vis the national organic standards, which is the USDA standard adopted by Congress and the United States Department of Agriculture, and the minimum risk pesticides, which are exempt from registration because they're generally recognized as safe under the minimum risk standard of EPA. So final point, this bill represents a precautionary approach. If we sit around and debate all these issues, we will never resolve the question, do we need these chemicals to achieve our pest management goals, achieve the esthetic-managed playing fields, and do this in an economically viable way. Even the U.S. Interior Department...Fish and Wildlife Service has adopted this concept of precaution. It was rescinded under the last Administration, but this is coming back as a standard when we're looking at climate, diversity, public health protection...this bill, CARE-23, really embraces a precautionary approach and organic standards to achieve that. Thank you for your attention on this, and for your willingness to hear this matter and...and move this toward passage. Mahalo, thank you.

CHAIR KING: Okay. Thank you, Mr. Feldman, exactly ten minutes. Good timing. Can you stop sharing your screen so we can just get the Committee back on.

MR. FELDMAN: Yes, I'm sorry. Yes, I will. I am doing that right now.

CHAIR KING: Okay. And then while we're working on that, what I'd like to do next is call the Departments up for comments, starting with the Mayor's Office, Makale'a Ane from the Climate Change, Sustainability, and Resilience Office to make comments. Do you want to start and give us some brief comments on the bill and/or the presentation.

MS. ANE: Sure, I was actually waiting to hear from the Departments first, and I kind of have heard their positions, and I...the Mayor's Office would like to support the work that they're doing in their endeavors to phase out chemical use in their departments already, and I...and I see that there were a few different communications provided by

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the Parks Department. So I would actually rather hear what the specific Departments wanted to (*audio interference*) to the Council first.

CHAIR KING: Okay, we can move on to the Department of Public Works. Rowena...Director Dagdag-Andaya.

MS. DAGDAG-ANDAYA: Good morning, Chair, and good morning, Committee Members. Yes, thank you for having us today to discuss the proposed bill for an ordinance. We did provide comments dated July 19th earlier this week, and we had just a few comments, and perhaps some suggestions for improving the bill. The first one being like more...providing a broader definition of County property and not just referencing the definition of County property in another section of...of the Maui County Codes. So if you could include language in this section to clearly define what County property is, that would hopefully avoid some confusion on where prohibitions are applicable. The next one relating to Administrative Rules, I know in previous versions of the bill, I...I believe another Department, perhaps the Management Department, was identified as the agency to be responsible for adopting and implementing administrative rules. And in this version of the bill, it places that responsibility on the Department of Public Works. We had some concerns about that because...well, I guess the question is will the new Department of Agriculture for the County of Maui have a role...be able to have a role in administering this chapter. I think that could be a more appropriate body for overseeing and implementing this chapter of the Code. The other comment that we had was relating to pesticide and fertilizer use on County property. County property could also mean leased property maintained by non-profit organizations, and also the shoulder areas that are maintained by adjacent property owners. In the Maui County Code, Chapter 12.02.020, it requires that every property owner that...whose land abuts or adjoins the County street shall continuously...continually maintain, keep clean, passable, and free from weeds and noxious growths the sidewalk or shoulder areas. So I think in this...in this version of the bill, perhaps that section needs to be revised or reviewed as to how it would affect property owners whose land abuts County property because they do have a responsibility, in accordance with the Code, to maintain the shoulder areas. We also noted that the national list of allowed and prohibited substances is referenced in this section. When we looked at this list, it relates mainly to organic food production, and I understand...I mean, it could be applicable. I mean, this could still be applicable in this Code, but I know in reviewing ordinances from other jurisdictions, they reference other tools or provide a more...you know, other documentation, or reference other documentation. So perhaps there's other ways to identify what can or cannot be allowed in accordance with this section of the Code. Our other comment was relating to the waiver process, and we would...or the Department would like to ask that this Committee consider addition of language that would allow at least minimal application of chemical controls in hard to reach areas where mechanical control of vegetation is difficult to accomplish, provided that we follow guidelines under State Department of Agricultural rules and regulations. There are areas that are really hard to reach. We have used...as mentioned in the presentation earlier, we have used weed mats under guard rails, but sometimes the vegetation does still creep up in the cracks, and in the joints, and you know, these are areas that are really difficult to maintain with a weed eater, or with any of our mechanical equipment. There's also pavement preservation areas where, you know,



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the application of chemical controls would be helpful because you can't really weed whack on a road that has cracks on it. I mean, you could, but that makes it difficult for the Staff as well. So we're...we would want the Committee to at least consider language that would allow us to use at least, you know, minimal application of chemical controls. We also...our other comment was relating to the development of Integrated Pest and Vegetation Management Plan. We've looked at other jurisdictions that have implemented plans like this, and it's a combination of chemical and mechanical controls to maintain vegetation. I included in my comments, my written comments, an example from Lynnwood...the Lynnwood Public Works Department in Washington State...of a integrated pest management plan that they have been utilizing. Other jurisdictions, such as Santa Clara County, have also been using integrated pest management plans and have had...I guess they have a yearly report as to how they've been successful with their integrated pest management, using both mechanical and chemical control. So I hope that perhaps there's a way we can, you know, create a program like that. As mentioned earlier by Autumn, we did, and have been, monitoring our herbicide use since 2013, and we had...in 2013 we used 98 gallons of concentrate herbicide; 2014, 111. And as the years went by, you know, we've reduced that number to the point where we...in 2020, we only utilized 3.1 gallons of herbicide. So we have been...we are committed to reducing our herbicide use for our roadside vegetation management program. There are, however, instances where would we need to...you know, we still feel that we need to use herbicides to control vegetation, especially in areas that are...could be hazardous, areas that, you know, just the overgrowth makes it difficult and becomes a challenge for our Staff. Places that are sight...have sight distance issues also like would be areas where we would apply chemical controls. So with that, I mean, we're...I can answer any questions that the Committee has. If there aren't...there are questions that I can't answer today, we'd be more than happy to answer them in a letter by written correspondence. Okay. Thank you.

CHAIR KING: Okay. All right. Thank you, Director. We're going to go next to the Director of Parks and Recreation, and...if you're here, Director Peters. And you also have...think you have with you...I'm trying to find the...Chris Kinzle, is that...are you both in the same room together? Okay. Great. So you want to give any comments that you have before we go to the Committee for questions?

MS. PETERS: Yes. Thank you, Chair King, and thank you, Committee Members. So the Department of Parks and Recreation also provided some written correspondence and comments to the proposed legislation. And we are actively working on organic alternatives within our parks. So we support the efforts of the reduction or elimination of the herbicides and fertilizers within our County parks. And the primary use of these products is in our high intensity playing fields and at the Waiehu Golf Course. Our Department has over 3,000 acres of land in parks inventory. Within these parks, the herbicides and fertilizers are utilized on less than 10 percent of the properties. We are also no longer using any of these herbicides or fertilizers at our beach parks and most passive parks. In July of 2019, we eliminated the use of glyphosphate or Roundup within all of our parks. And we are also appreciative of Mr. Feldman's and Ms. Ness' assistance in the Organic Land Management Plan that we did that pilot program with Beyond Pesticides. You know, we had some challenges in getting the soil samples over to them. We had some challenges with obtaining the products that they recommended

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in the 100-plus page document that did a overview of...and summary of what the plan should be. We worked with Mr. Duane Sparkman, who then came out and did provide us with a plan for products that we could purchase here on island. And we've also received some information from Mr. Sparkman just this week in regards to some organic fertilizer that he will be bringing in that we will be piloting at our parks. With that, I'll turn it over to our Park Maintenance Superintendent, Chris Kinzle, to just give a brief overview of our current cultural practices within the parks.

MR. KINZLE: Hello, Chair. So yeah, our...we have...like the Director said, we have eliminated most of our pesticide and fertilizer use down to less than 86 acres within the parks. The golf course does have a little bit more, so we do use our chemicals at the parks...or at the golf course. And that golf course has 175 acres. So like Director just said, we have 3,000 acres within our Department that we manage. And we've gotten it down to where we're only spraying, you know, about 10 percent of anything. And then we don't spray anything at the beach parks. So...and if we do have a park that we spray anything at, it's only on the high intensity playing fields. We don't go onto the side areas where spectators would be sitting. It's directly on the playing fields, because our fields are used basically 300 days out of the year. We're lucky if we get a month or two here or there to shut our fields down. Our fields are used for practice and games, and sometimes we have games and practices on the same days. At the golf course, we also adopted the minimal use policy. So we're not over minimal...minimum limits of sustainable nutrients. So basically, we just give the grass and the nutrients to the soil just enough to keep it there. We're not adding additional things that we don't need. So we go around and we check. We do soil checks once a month to make sure that we're keeping that perfect balance. So we're not putting too much where we have runoff or other things like that. Some of the other cultural practices that the golf course has done is we've done the verdient [sic] grass along most of the beachfront along the holes. And that verdient [sic] grass actually acts as a filter that catches all kinds of things...maybe not from the golf course, but any other thing that's coming down. It's actually helped reduce some of our erosion issues, and we've gotten some land almost back from adding that verdient [sic] grass. And I didn't miss anything. Oh, and then also to add to the Beyond Pesticides program that came out, we had been using it, and I believe we still are at Field 1, but we do have issues with certain types of weeds like the sand burrs. So if your child was to be out there playing and they were to dive for a ball, these sand burrs will scratch. They're very irritating. So we are having to hand take those out, but when we take something like that out of the ground, you leave a hole. So normally when they do something like that on our other fields, we'll put down some Ronstar, which will kill the seeds. So that gives our grass a chance to grow back in over where we had just taken it out. Then also, too, some of the costs they talked about...they think...they assessed that we would need to be...we needed more funding. So just to start with, if we were to go and not...in just our playing fields that we have...that we have in our...don't use pesticides or we use fertilizers on, we would need additional Staff to make sure that we're able to maintain the fields in a safe and playable condition. And then not only that, but our standards that our public...the public holds us to...the comments that we get is like we have the best fields in the State when people come to play on our fields. And we want to keep that. So...and like the slide that was shown, he mentioned that we needed to keep the grass at three inches in height. We cut everything at about a inch and a half. The golf course is a completely

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different story. There's no way we can have a green that is at three inches. If we were to have that, you guys would have phone calls 365 days a year. You...it would not be nice. But those fields that we do have the organic products that we're using, we do aerate; we do all the additional things that they're asking. So with those four, it's a lot of work to keep those into the organic program. If we were to go with the rest of the parks, that's where we're going to need additional Staff; we're going to need additional heavy equipment operators to be able to run aerification machines. You know, this is just for the parks. This isn't the golf course. The golf course is a whole 'nother animal. Thanks.

MS. PETERS: Thank you. Thank...I just have a couple more comments to share too, in regards to some of the testimony. So we did look at other...our other parks, like Chris said, and you know, I know one of the testifiers mentioned Keokea Park. There...we do not put product on there. So the products that we are...that we have been applying are on our active playing fields and at the golf course. Also, you know, the...Member Johnson --

CHAIR KING: So you can eat the berries?

MS. PETERS: Yeah. I don't fully...you know, and a lot of times we're not at the park 24 hours a day. So if a community member went and, you know, by chance had dropped something out of their bag or, you know, whatever they had, and it fell on some of the areas within the park, you know, we can't control that type of activity. Also, you know, Member Johnson did mention about pulling of the weeds, and you know, we are working on a new partnership agreement with all of our leagues. So we can include that for sure in there. You know, we agree too, that it does allow for buy-in and for our keiki to appreciate the playing surfaces that they have, and to keep it safe. So we just...you know, we want to promote healthy, safe turf at all our playing fields and at the golf course. Let's see. And I want to echo Director Dagdag-Andaya's comments regarding the list that is in the proposed legislation. We too were unable to navigate through that to find alternative products for those that we have. So if we're replacing products, we would definitely want to ensure that we have a accurate and easily-identifiable list. And then also, the waiver process...so the waiver process for us is mainly with the golf course. If there is a disease that is identified on the course, it can be a matter of hours without treatment that we would lose part of the greens. And so that...the waiver process was what we had thought, if we could work on changing or revising that a little bit to be able to address these, you know, types of situations, primarily at the golf course. Thank you.

CHAIR KING: Okay. Thank you very much, Director Peters. So Members, I'm going to go ahead and open it up for questions of either Department, or Mr. Feldman, or Ms. Ness if you would like. And we'll try to, just in the interest of time, keep it to three minutes. I want to start with our Committee Vice-Chair Sinenci, if you want to address any of the issues or ask any questions, and then we'll go to Chair Lee and work our way down my list from there.

VICE-CHAIR SINENCI: Mahalo, Chair. And I just want to add that I believe we do have OCS Deputy Director David Raatz on the line as well, so...to answer some of the legal

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questions, as well as Ms. Chen of the Corporation Counsel, who signed off as to form and legality. Yeah, just for responses from Rowena, the bill does not apply to agriculture. So I don't think the new Ag Department would have any oversight. And so our intent was that the administrative rules come from the Department that would be implementing the bill. And then of course, right, the...we understand that all the different challenges in some of the areas that still needs to use some type of products. So again, the waiver...there is the waiver process that you can...you can always apply to the waiver. I think this bill does not automatically say no. We are just saying that if you need to use synthetic products, then ask for the waiver and explain why, how much you need to use, how much will it cost. The bill provides for more transparency as County workers so that synthetic...so that people know if synthetic products are being used and where. So just adding more flexibility. The process is not difficult, and our request is that we take it on a case-by-case basis so that we can help us understand an overall land management that we can, again, inform the public. So thank you for those comments.

CHAIR KING: Okay. Thank you, Member Sinenci. And just...Members, in Section 2, just to remind everybody, the ordinance takes effect one year after the...its approval, except for pesticides and fertilizers used at the Waiehu Golf Course, which...War Memorial Complex, and the Ichiro "Iron" Maehara Baseball Stadium, which take effect two years after this...the approval. So it gives them two years to get on board with the program. So going next to Chair Lee for questions.

COUNCILMEMBER LEE: Thank you, Madam Chair, for the opportunity. I'm not sure who this goes to, but I just want to go on the record saying if it's not possible to exempt Waiehu Golf Course, at least give the course one extra year to work on finding substitutions and so forth, because it appears that the Department has diligently tried to reduce the use of pesticides and chemicals on all parks and including the gold course. So...which is quite an accomplishment because the golf course--I know you guys aren't familiar with golf courses that much--is not the same as a park. You know, you can't have grass at three inches tall, or even two inches tall. Every section has a certain length that...requirement, like you have the rough area, you have the fairway area, you have the apron area, you have the green area. So it's not like a regular park where it's all one size. So that's the reason why the special consideration, I believe, should be given to the golf course to make the adjustments with regard to chemicals. And then the other thing that bothers me is...seems to be a contradiction. When farms, agricultural activity --

MR. FELDMAN: Yeah. Yeah, I've got...yeah, I've got my website up. I don't know if she'll let me share a screen.

CHAIR KING: Let me mute him. Okay. Sorry about that.

COUNCILMEMBER LEE: Okay. Okay. The contradiction is when farms and agricultural activity are exempt. Why would they be? Because they produce food, which we consume. On the golf course, we don't eat the grass, you know. So...and then plus, it's an all open area. But why would you exempt farms and agricultural activities? There must be a reason for that. Okay. Thank you, Madam Chair.

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CHAIR KING: Okay. Do you want a response to that last question from Member Sinenci, who offered the bill?

COUNCILMEMBER LEE: Well, okay. From Member Sinenci or someone with the...Beyond Pesticides.

CHAIR KING: Okay.

COUNCILMEMBER LEE: Whichever. Whichever makes sense.

CHAIR KING: Member Sinenci, do you want to answer that or should we...should we ask Mr. Feldman?

VICE-CHAIR SINENCI: I know the list...thank you, Chair Lee. I know the list with allowable...the code for Federal regulations. That is, as Rowena mentioned, more for agriculture, but again, I believe it was for more...organic option. Maybe Mr. Feldman could --

CHAIR KING: Yeah. So her question...her question was why we aren't including agriculture in the bill.

VICE-CHAIR SINENCI: Right. And some of it was due to the oversight from the State.

COUNCILMEMBER LEE: Not on County agricultural area...parks. County agricultural parks?

CHAIR KING: Well, we have...we have...looks like Ms. Chen, who has popped up, maybe wants to answer that question. Ms. Chen.

MS. CHEN: Thanks, Chair. And yes...and thanks for the question, Chair Lee. So that part of this ordinance was based on State and...State regulation of agricultural activities, specifically Chapter 165 of Hawai'i Revised Statutes, which specifies which...it's also known as the Right to Farm Act. So it already details what is allowed as far as agricultural uses, and it protects the use of pesticides so long as they're used in the appropriate manner, according to regulations, which are Federal and State.

COUNCILMEMBER LEE: So the State allows the use of pesticides and chemicals on State-controlled activities and lands?

VICE-CHAIR SINENCI: Yep.

MS. CHEN: Right. Well, it's not just on State-controlled, it actually protects certain usages of pesticides related to agricultural activities even on private land, and which would also expand to County-owned.

COUNCILMEMBER LEE: Okay. Somehow that doesn't make sense to me, but thank you.

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MS. NESS: Chair, this is Autumn. Can I try to answer that?

CHAIR KING: Well, let's see. I think we got an answer from...do you...are you satisfied with that answer, Chair Lee?

COUNCILMEMBER LEE: No, I'm not satisfied, but it seems like we might be...we might be talking apples and oranges, the State and County.

MS. NESS: Yeah, I think...I can try to do it really succinctly if it's necessary.

CHAIR KING: Okay, if you have something you want...you would like to add real quickly.

MS. NESS: I mean, just quickly...to quickly, I guess, clarify, there is a big debate right now between State and County. That was the basis of the law suit when Monsanto sued the County of Maui, right? Does the County have the right to regulate what agricultural producers are doing on their own crops? So in order to kind of get around that...and that's a very gray area. That's still up for debate. The State still maintains that pesticide law, HRS 149(A), it applies to everything agriculturally. So as a community who was advocating for these laws on Maui, Kaua'i, and Big Island, we've decided to kind of separate, for clarity's sake, the two activities. This bill, in my mind, and a lot of people's minds, in a lot of attorneys' minds as well, regulates what the County does with its own Staff and its own funding and its own equipment on its own land. So it's a policy that we're making about how we manage our lands --

CHAIR KING: Well, let's move on to...yeah, Ms. Ness...so...but it...but what we just heard from Ms. Chen is it's not necessarily just our land, it's agricultural because it's...because the HRS Right to Farm regulates agricultural activity.

MS. NESS: Yeah. So we decided to separate that out. When there's County-owned ag parks, you have privately-operating farmers on County-owned land, and then that gets really muddy. So we decided to deal with that separately and exempt the ag park and get into that later, if that helps. So --

CHAIR KING: Yeah. Can we...can we move on? Because I want to make sure that all the Members have a chance to ask questions.

MS. NESS: Okay. Thanks.

CHAIR KING: But thank you for that input. And then the other issue for you, Chair Lee, is that you'd like to see the Waiehu Golf Course have three years before this takes effect? That's what you were asking?

COUNCILMEMBER LEE: Yes.

CHAIR KING: Okay.

COUNCILMEMBER LEE: Yes.

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CHAIR KING: Okay. And moving on next to Member Johnson for your three minutes, your questions.

COUNCILMEMBER JOHNSON: Sure. Thank you, Chair, for this opportunity to ask the Departments a question in regards to the integrated pesticide management plans. Now, back in the day when I was a farmer--wasn't that long ago--we did integrated pest management, and there's three types: there's chemical, biological, and mechanical. And organic farming and organic ways and the cleanest ways is mechanical, but that is labor intensive. So there are certain chemicals, like for example, neem oil, and certain things like that, that are organic. So when the Department says certain chemicals they want to implement in their integrated pesticide management plans, would you be looking for the certified organic types of chemicals?

CHAIR KING: And what Department would you...are you asking?

COUNCILMEMBER JOHNSON: I think...was it Parks and Rec, or was it Dagdag-Andaya who was talking about it? I want to say it was Dagdag-Andaya who were saying that.

CHAIR KING: Okay. So Public Works, Director Dagdag-Andaya.

MS. DAGDAG-ANDAYA: Yeah. Thank you for the question. So we have...we've tested several products that have had organic labels on them. I can't remember the names of them, but we piloted a few test projects back in, I believe it was 2015 or 2016, and we didn't get any good results from them. We had...it showed that once we applied and sprayed, or you know, applied the chemical, it worked maybe for just a few days, and then it grew back up again. So it wasn't very effective. And we have also been looking at other types of equipment. Recently we purchased weed steam equipment. We have one currently out in Lāhainā where we've been using it for the past, I want to say, about a year and a half now. And then just recently we had a weed steam equipment delivered to Moloka'i. So it's currently at our base yard right now. And the other one for Makawao District is on its way on the barge. So you know, we're looking at those kinds of tools as well. But as far as organic, I mean, we've tried things like, I think, salt, you know, using salt or even just soaps, different kinds of soaps. We were told that you could use that, but the type of vegetation we have is very woody, and it grows really fast. So it...the...those compounds or those chemicals that we tried just didn't...you know, we...and they're expensive too. So it wasn't...it's not something that we'd want to use. The Staff always keeps their eye out for new types of herbicides that do have those chemical compounds. So that's not something that, you know, we're not going to look into. We're always looking for new products that we can try that would be safe and appropriate.

COUNCILMEMBER JOHNSON: That's the key, isn't it, that it's safe and appropriate. And that's the debate we're having is some of these chemicals are definitely not safe and appropriate. . . .*(timer sounds)*. . . So that's the concern that I have. All right. Thank you. I don't have much time. So thank you for answering my question. Now, the next one is --

CHAIR KING: Oh, that was actually three minutes, Mr. Johnson. So sorry.

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COUNCILMEMBER JOHNSON: Oh, okay. All right.

CHAIR KING: My alarm's not very loud, but maybe I'll ask OCS to...if they can do a timer. But we'll see if we can get another round out of this.

COUNCILMEMBER JOHNSON: Oh, okay.

CHAIR KING: Next we have Member Molina, followed by Member Paltin.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. I don't know who can answer this one, but I'll put it out there. Section 2.50.050 Waiver of the Bill states agencies may apply to the Council for a waiver from Section 2.50.040 prior to the use of a prohibited pesticide or fertilizer. Now one, how long do you estimate this waiver will take to get approved or denied? Of course this, as this states, it goes to Council. If there's an emergency, how would this be handled? For example, if there's an extreme...this is an extreme scenario. Let's say there's an infectious species of insect making people sick, and the pesticide known to eradicate these bugs is not on the list of approved pesticides, what would happen? And in addition to that, another question, quick question is, it's going to be the Council to make this type of decision to grant a waiver. Now, is there an agency that we can use to validate our decision-making? Because I'm not a chemical expert, yeah. So if we're going to put this in the hands of the Council to grant a waiver, who will we use as an agency to validate our decision-making? I guess I would assume maybe our future Department of Agriculture or Department of Health. So I don't know. I just put that out there for response, Madam Chair.

CHAIR KING: Would you like a response from Ms. Chen, who worked on the bill?

COUNCILMEMBER MOLINA: Yeah. Sure, we'll start with her.

CHAIR KING: Maybe can you...are those questions you can answer?

MS. CHEN: Thank you, Chair. And thanks for the questions, Member Molina. Could you repeat the first one, please?

COUNCILMEMBER MOLINA: Okay. The first time was how long would you estimate the waiver will take place to get approved or denied? I guess --

MS. CHEN: Oh, okay.

COUNCILMEMBER MOLINA: Well, that would be up to...because it has to come to the Council. I guess it would be us. So it would be, what, I guess a two-week process, then? Go through Committee, and then one or two readings at the Council; is that how it would work?

MS. CHEN: Right. I think...and I think that's within your purview. You could say that it could be approved by resolution. I believe that's something we could look into,



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including if you wanted it to be a faster...you know require one reading as opposed to two. And then, also, it's...I mean, the waiver...the waiver provisions are already based on sort of exigent circumstances or emergency applications of the...of the products. So...such as, you know, under 2.50.050(C)(1), the Council may approve a waiver or waiver extension--oh, that one does include by resolution--upon finding the following: if a situation exists that threatens the public's health and safety. So in that situation, for an emergency type thing, it would require one reading.

COUNCILMEMBER MOLINA: Yeah. For me, it's the time factor if you have any emergencies.

MS. CHEN: Right.

COUNCILMEMBER MOLINA: That's why I was asking how long...you know, minimum time it would take to get a...grant some waiver, yeah. And of course this concern is brought about by Parks Department and Public Works about wanting some exceptions, yeah. So...but anyway, as far as the agencies that we could validate our decision to make a waiver, would I rely on the Department of Agriculture? Our own Department of Agriculture, I presume, as well as maybe Department of Health. Because again, we're not chemical experts, yeah.

CHAIR KING: So I think that question is...and the time is up. I'll let you answer his last question. So what would be the advising agency or Department?

MS. CHEN: So...well, as far as counseling Council on, you know, sort of the assessment of the waiver request; is that the question?

COUNCILMEMBER MOLINA: Yes.

MS. CHEN: You know, I'm not sure I'm really able to answer that question. That's been one of the conversations, the ongoing conversations through the many iterations of this bill is, you know, how will the Departments navigate sort of what may and may not be used. Because this...the Federal list of allowable substances does change as science advances, and so one thing we've discussed is hiring consultants, you know, to help assist the Departments in complying with this ordinance. And I'm not sure what information would be helpful to the Council in making that determination. So I'm not sure I can provide a really good answer to that. I'm sorry, Member Molina.

COUNCILMEMBER MOLINA: Maybe something in writing in the future, Ms. Chen and Madam Chair.

CHAIR KING: We can send that in. I did get a message from OCS that says the agencies can make their case to the Council for the waiver. So maybe the agency would bring whatever experts they needed to prove their case for the waiver. So next, I'd like to go to Councilmember Paltin for questions.

COUNCILMEMBER PALTIN: Thank you, Chair. My questions in the allotted time would be for the Parks Department. And I just wanted to clarify, when we're talking about high intensity fields that still use these harmful chemical applications, by high intensity,

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you mean there are a lot of kids playing on these fields being exposed to these chemicals; is that correct?

MS. PETERS: So thank you, Chair. Thank you, Member Paltin. So that would mean all of our sports fields. And again, we're not putting down product every day. So it's selective. It's to eliminate like --

COUNCILMEMBER PALTIN: And in time, yes or no would work.

MS. PETERS: Pardon me? Sorry?

COUNCILMEMBER PALTIN: I have a limited time. Can you answer in a yes or a no?

MS. PETERS: Maybe. You know, I don't...our fields...it's all of our sports-playing fields. That's the definition. So all of our sports-playing fields are what we consider the areas in which we are utilizing these products, yes.

COUNCILMEMBER PALTIN: Okay, thank you. And by your interpretation of sand burrs and the situation with that, am I to understand that the non-test fields where traditional product is used, there are zero sand burrs in those fields?

MR. KINZLE: So no, there are sand burrs in the other fields, and basically it comes down to is like if we get enough complaints, we have to go and take care of those. A perfect example of that is Kenolio Park. There's a lot of sand burrs in there, but we can't go do things in there. We do not unless we get enough complaints. Then we have to react. So they can't go pull enough of those sand burrs out of there to make a difference.

COUNCILMEMBER PALTIN: So they can't pull them.

MR. KINZLE: They...no, they can pull them, but there's so many of them, by the time we pull a weed out, it leaves its seed. So we'll pull one, and then we'll have three seeds drop in. And if we don't put something else on top of those, like I said the Ronstar, which kills the seed so it doesn't come up, it will have three more weeds coming in.

COUNCILMEMBER PALTIN: Okay. And then when you use these chemicals on the high intensity sports fields, are the proper signage being displayed and people staying in the area per the application instruction?

MR. KINZLE: Yes. . . .*(timer sounds)*. . .

COUNCILMEMBER PALTIN: Okay. My time's up. Thank you.

CHAIR KING: Looks like that's the end. Okay. Thank you, Member Paltin. Next we have Member Sugimura, followed by Member Rawlins-Fernandez.

COUNCILMEMBER SUGIMURA: Thank you. So I just wanted to add to the bill--thank you, by the way, Mr. Sinenci, for putting this together and spending the time--for your 2.50.030 Administrative Rules. I believe I heard the Director of Public Works mention

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that in a previous iteration, I think it should be Managing Director because just by listening to the discussion today...oh, I'm starting to come up with Administrative Rules to implement this Chapter. It should be a broader Department rather than only one, because it sounds like it's not only Public Works, it's not only Parks. But I think maybe the Managing Director could embrace the Departments that should be included. So that's my one thought on that. I like the idea of having a public hearing. Just by listening to the testifier talking about Keokea Park and, you know, people not knowing that we don't use pesticides at the parks. Well, maybe that...it's a good time to educate the community and talk about the good things that we've been doing before, or even during maybe, that we implement this. And then, I think a testifier said that we --

CHAIR KING: Member Sugimura, do you have questions for the Departments? Or...we're not in deliberation.

COUNCILMEMBER SUGIMURA: I'm just...I'm just telling you the different things that I believe are important, and that I heard the Departments from what they said. And then the list of the national lists allowed and prohibited substance, I think more though or more information maybe needs to be shared with...not only within the bill, but with us, I guess, from...and the Departments. So more depth, I guess, can be, you know, shared about that. So...okay. That's it.

CHAIR KING: Okay. Thank you. So Member Rawlins-Fernandez, do you have questions? We've gone through all the voting Members.

COUNCILMEMBER RAWLINS-FERNANDEZ: I did see Committee Vice-Chair Sinenci's hand go up. I don't know if he wanted to respond to any of the concerns before I speak, yeah.

CHAIR KING: Oh, did you? Thank you. Committee Vice-Chair Sinenci, did you want to make any responses to the last comments?

VICE-CHAIR SINENCI: Yeah, just a real quick response for Member Sugimura. Under 2.50.030, it does say the Director of Public Works may adopt Administrative Rules to implement this chapter. So it's not saying that she has to or we need to follow it, but we do have that option.

CHAIR KING: Okay. Thank you for that. Okay. And then we'll go to our non-voting Member Rawlins-Fernandez. Oh, did you freeze?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: Go ahead. You still get three minutes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, can you hear me? Oh, thank you. Can you still hear me? I mean, can you hear me now?

CHAIR KING: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I wanted to just first make a comment

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about, "we don't eat grass." So it's not only about eating anything that is exposed to pesticides, but it's also about the runoff that goes into our drinking water, it goes into our streams, it goes into our shoreline, it affects stream and marine life, as we heard about the endocrine disrupters and the vapors that can be breathed in in high intensity playing fields. So my question is for Jay--sorry, I forgot your last name...oh, there--Mr. Feldman. Okay. Mahalo for your presentation. My question is about the national list. Will you please explain the importance of referencing the national list?

MR. FELDMAN: Yes. Thank you for your question. The national list--and I served on the National Organic Standards Board for five years under the Obama administration--really works within an organics system plan. And that's sort of what's missing in this conversation today. For instance, we say we're using Ronstar and if you go to EPA's site, it's listed as a likely carcinogen. Do we want children playing with that? So the list was created to...with stakeholders, really. That means...that means people that manage land, environmentalists, health professionals, certifiers. And they sit around, and they look at the standard in this law, and they evaluate materials that are used in land management. Now they...it is true that these...this list is created in the context of agriculture, right, because that's the land area that's being evaluated under this statute. However, this is about organic systems, and the organic systems, whether we're growing grass or we're growing food, relates to the inputs that are protective of the environment and human health, and wouldn't allow a Ronstar because of its carcinogenic properties and its impact on children and its impact on the liver and so forth...the liver and our body. So we created this...a concept--and by the way, it was just adopted by New York City unanimously by the city council on Earth Day--created this list so that municipalities and counties did not need to hire their own expertise to evaluate organic-compatible materials. And on our website, we have a page--I'm happy to share that just to show you--which is called Products Compatible with Organic Landscape Management. And we've gone through fertility, fungicides, herbicides, insecticides. These are all the tools that are used in agriculture to manage soil and create resilient plants. And don't forget, grass and anything we see in the landscape is a plant. So we have to rely on inputs that meet these standards. You know, I realize that --

CHAIR KING: Mr. Feldman.

MR. FELDMAN: Yes.

CHAIR KING: Mr. Feldman, yeah, we just got to the end of the response . . . *(inaudible)* . . .

MR. FELDMAN: Okay. Thank you. Thank you very much.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KING: So...thank you for that. Did you get the question answered...and then some?

COUNCILMEMBER RAWLINS-FERNANDEZ: I did. Mahalo, Mr. Feldman. Mahalo, Chair.

CHAIR KING: Okay, great. That was really good information, but I just want to make sure

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we are fair to all the Councilmembers. And so right now, where we're at, you know, we've given three minutes to all the Committee Members. Mr. Sinenci, are you...what's your pleasure on this bill? Are you wanting to go forward with a motion, or are you wanting to take this back and work on it some more with the Departments? We can't hear you.

VICE-CHAIR SINENCI: I know that there's been some amendments that want to be proposed. So I can make the motion and then work on some of the amendments that people want...Committee Members want to propose.

CHAIR KING: Okay. Is everybody okay with staying another half hour to work on this bill? Oh, it looks like we're going to lose some Committee Members. So we may be...we may be down to a bare quorum with, I don't know if Mr. Johnson, Mr. Molina can stay until 12:30. Mr. Johnson can stay. Mr. Molina?

COUNCILMEMBER MOLINA: I got to leave at 12:15. I have some personal errands I got to take care of before the next 1:30 meeting.

VICE-CHAIR SINENCI: I mean, Chair, I just...I just have one amendment to extend the golf course for another year. That was the only other amendment I was --

CHAIR KING: Okay. If you're...if you'd like to make the motion to pass this bill, and we'll just see how long Members can hang on. And if we have a quorum, we can still consider it.

VICE-CHAIR SINENCI: Sure.

CHAIR KING: Then go ahead and make the motion, and if you want to include that amendment, or make the amendment after the motion.

VICE-CHAIR SINENCI: Okay. Thank you, Chair. I move to pass a bill for an ordinance establishing Chapter 2.50 Maui County Code relating to pesticide and fertilizer use on County property.

COUNCILMEMBER JOHNSON: Second.

CHAIR KING: Okay. Moved by Member Sinenci...Committee Vice-Chair Sinenci, seconded by Member Johnson, to pass the bill under CARE-23. And Mr. Sinenci, we'll go back to you.

VICE-CHAIR SINENCI: Yeah, it's...we did hear from Chair Lee that she was requesting that Waiehu Golf Course get another year. So at the end, I believe...move to amend --

CHAIR KING: Section 2.

VICE-CHAIR SINENCI: -- there, Section 2. This ordinance takes effect one year after its approval, except for pesticides and fertilizers used at the...and we can do War Memorial Complex and the Ichiro "Iron" Maehara Baseball Stadium, which takes effect two years after its approval, and the Waiehu Golf Course three years after its approval.

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CHAIR KING: Okay. So it's been moved to make that...those changes. Is there a second? Seconded by Member Paltin. Okay, this discussion on the amendment. If there's no discussion or questions, then...oh, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah. You know, I wish Member Lee was here. We're taking this up, it was her amendment, and I did get testimony from the former Russell--I forget his last name--anyway, who is concerned about including the Waiehu Golf Course in this pesticide bill because of the implications of what it would do and all that's involved with a golf course versus, you know, a park. So I wish we would take this up when she was there. So for that reason, I'm not going to vote for this because I really believe I need her voice, and I need to understand, you know, from Parks, if they can. I don't think we asked them that question, can they do this conversion? And the golf course has spent a lot of time and has become this most beautiful golf course, and I would like to hear from the golf course superintendent as to what this will do, you know, if we change this. So I'm not going to vote for this, and not because I don't support it, but I think that the right voices have not been heard. Thank you.

CHAIR KING: Okay. Thank you for that. I think the right voices have been heard, that's why we're proposing this amendment, because it was something that was requested by Chair Lee. So you know, I think that we are doing this amendment out of respect for her concerns. You know, I'll support the amendment. And I think it's important too, that we start looking at what we've heard so much about today as far as the effects of some of these chemicals that we're putting on our parks and our areas where people go, you know, where there's children or adults. We're seeing these kinds of effects, health effects, and runoff. And of course, the golf course is right next to the ocean, which is one of the things that makes it so beautiful. So part of what we're doing is protecting our ocean too, by encouraging this kind of chemical management. So if there's no other comments or questions, I'll call for the question of the...all those in favor of the amendment, raise your hand and say "aye."

**COUNCILMEMBERS VOICED AYE.**

CHAIR KING: Okay. Four ayes. All those opposed, raise your hand and say "no." Okay, two. Four in favor, two opposed, Member Sugimura and Member Johnson. Measure passes. So the amendment will go in to allow three years for the Waiehu Golf Course to engage in the...or stop using the pesticides.

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CHAIR KING: Okay. Any other comments? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just want to remind the Committee Members that during budget, if a proposal comes in while we're in budget session, you know, we don't have Committee meetings during budget session. So I mean, I think Member Molina's suggestion is a good one, but I would suggest that we make it closer to something like 180 days, you know, because of that reason.

COUNCILMEMBER MOLINA: Okay. I'm amenable to that. Member Rawlins-Fernandez would like to amend it, amend the amendment.

CHAIR KING: Okay. Amend the amendment, 180 days. Okay. Member Paltin.

COUNCILMEMBER PALTIN: I just had a question. Would something like that need to go through Committee, or could it just be a resolution on the floor? If we are in budget, then you just have the resolution on the floor. We've passed plenty of resolutions on the floor.

CHAIR KING: Yeah, that would...that's another way we could do that, for sure, that waiver. Just...it...I think it would just be a matter of what...of how much discussion it needed. You know, if it was a...if it was a frivolous waiver and we felt like we needed more discussion or more scientific proof that the...that the waiver was needed. But you know, certainly, since it's done by resolution, it could certainly be done...be passed on the floor at Council. Member Molina, any thoughts on that?

COUNCILMEMBER MOLINA: No, I'm fine with that. And like the potential scenario that I brought up, what if it was a request related to an emergency that you have...you have an infectious species of insect, and that this pesticide that may or may not be on this...or may not be on the list of approved pesticides, and the Departments want to implement this, then that's, you know, something that may have to be dealt with in a more timely manner. So yeah. I guess, the three of us...I think it would be...I like that flexibility where we could be just act on it on the Council floor if deemed necessary.

CHAIR KING: Yeah, it does say it's by resolution. So it could go...and we are having Council meetings during budget. So we could do it that way too. But --

COUNCILMEMBER MOLINA: Yeah.

CHAIR KING: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah. So I understand we could take it up during Council. And if we needed to expedite we could, but by giving us only 60 days, then if we wanted to take it to Committee, we wouldn't have that flexibility. So that's all. Like, it's just...timelines like that, it makes...make me very leery, just like the Charter-mandated timeline for PSLU when we get, you know, proposed zoning changes or recommendations from the Planning Commission. I just...I think, you know, people forgot about budget session, and we're busy, you know, doing that. So



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that's all.

CHAIR KING: Okay. And you know, we could...we could do a compromise and make it 120 days, which is the same amount of time that the Planning Commission has to put some...one of our things on their schedule. But you know, up to the motion maker. So right now it's at 180 days.

COUNCILMEMBER PALTIN: Okay. I've got to go. Are we voting?

CHAIR KING: Okay. Are we ready? Let's vote on that amendment. All those in favor of the amendment, raise your hand and say "aye."

**COUNCILMEMBERS VOICED AYE.**

CHAIR KING: Okay. So the amendment passes, six ayes, one excused, Member Lee.

**VOTE:        AYES:    Chair King, Vice-Chair Sinenci, Councilmembers  
                                 Johnson, Molina, Paltin, and Sugimura.**

**NOES:       None.**

**ABSTAIN:    None.**

**ABSENT:     None.**

**EXC.:        Councilmember Lee.**

**MOTION CARRIED.**

**ACTION:      APPROVED AMENDMENT.**

CHAIR KING: Any other amendments?

COUNCILMEMBER SUGIMURA: I do.

CHAIR KING: Member Sugimura.

COUNCILMEMBER SUGIMURA: So I want to amend it so 2.50.030, the Director of the Management Department, or Managing Director, may adopt Administrative Rules to implement this Chapter. So eliminate Public Works and change it with the Managing Director's Office.

CHAIR KING: Okay. Motion's been made. Is there a second? Okay. No second. So the amendment dies. Back to the main motion. Any other amendments? Okay, Members. We're back to the main motion on the floor with the amendments, and we're also including that motion, filing the Communication, and any nonsubstantive changes. So

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any other deliberation? Are we ready to vote? All those in favor of passing the...we have a main motion, passing the bill for the ordinance establishing Chapter 2.50, Maui County Code, relating to pesticide and fertilizer use of County property, with the...as amended in the Committee, raise your hand and say "aye."

**COUNCILMEMBERS VOICED AYE.**

CHAIR KING: One, two, three, four, five ayes. All those opposed, say "no." Any opposed? Okay. I guess measure passes with six ayes and one excused, Member Lee.

**VOTE:       AYES:   Chair King, Vice-Chair Sinenci, Councilmembers Johnson, Molina, Paltin, and Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Lee.**

**MOTION CARRIED.**

**ACTION:     Recommending FIRST READING of bill and FILING of communication.**

CHAIR KING: All right. Thank you, Member Sinenci.

**CARE-54:       SUNSCREEN (CC 21-305)**

CHAIR KING: And we are going to defer...before you leave, Member Paltin, we're...you know, the intent was to have a discussion on the sunscreen bill because you had been working on it, there had been some leftover legislation. And Members, I did ask Member Paltin if she would be willing to take what we heard in discussion today--which we have a lot of discussion in testimony--and apply that to the next version of the bill that she's been working on. And I thought it was most appropriate to have our sunscreen bill come from our resident lifeguard on our Council. So just given what our discussion was with testifiers, are we okay with bringing another version back to this Committee once we get the updated version? Are you okay with that, Member Paltin?

COUNCILMEMBER PALTIN: You know, from every lawyer, there's a new opinion. So I think it would be great to have another discussion. I have been in contact with Craig Downs, and he said we can also get U.S. NOAA scientist Cheryl Woodley to address questions from Councilmembers, but we'd have to put a request in to U.S. NOAA, and it would take a month to process, but it's possible. So there's a wealth of like resources that

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specialize in this available. Maybe we can communicate the next time that it's scheduled and try to get them all on board for this.

CHAIR KING: Okay. Well --

COUNCILMEMBER PALTIN: Because the three attorneys that I've heard from all have different opinions, and that's, I guess, the problem with attorneys maybe. I don't know.

CHAIR KING: Okay. So what...so what I'm hearing is that you...your preference is to schedule another meeting for discussion before we actually get to another version of the bill. Is that what I'm hearing?

COUNCILMEMBER PALTIN: Yeah. Otherwise, we're just going to pick one random attorney and listen to them, and then the other two attorneys are going to be all like whatever, you know. So that's how the bill started out with all these attorneys giving conflicting informations.

CHAIR KING: Okay. And is there...can you...when you're...when you're in discussion, if you're going to go follow through with these attorneys, can you also discuss the possibility of a bill that just names what is acceptable, versus naming all the chemicals that are not acceptable? That may have to be --

COUNCILMEMBER PALTIN: Okay.

CHAIR KING: -- maybe a very long list that may have to be added onto. That would be my request.

COUNCILMEMBER PALTIN: Okay.

CHAIR KING: So okay. We'll defer the...we'll defer the CARE-52 and we'll...is that the number of it?

COUNCILMEMBER PALTIN: CARE-54, Chair.

CHAIR KING: CARE-54, yeah. We'll defer that issue for now, if there's no objections, and then we can adjourn our meeting.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR KING: And I really want to thank you, Members, for staying a little bit longer so we could address the pesticide bill that has been hanging on for three terms now. So I actually, personally, don't feel like it's a new item that people haven't heard about because we've been discussing this for at least five years that I know of. So I appreciate the Members being willing to move it along and, you know, the...every Council meeting that we have is a public hearing, basically. So we'll move this out of Committee now and go to first reading. Thank you very much, Members. It is 12:21, and we are adjourned. . . .(gavel). . .

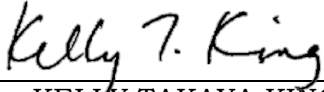
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**ADJOURN:** 12:21p.m.

APPROVED:



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

care:min:210721min:bc

Transcribed by: Marie Tesoro,  
Jaylene K. Hamilton & Brenda Clark

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CERTIFICATION

I, Marie Tesoro, hereby certify that pages 1 through 17 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.

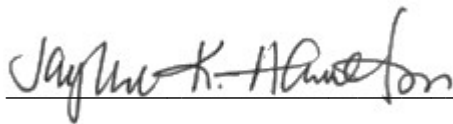
DATED the 13th day of August 2021, in Wailuku, Hawai'i



Marie Tesoro

I, Jaylene K. Hamilton, hereby certify that pages 18 through 41 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 13th day of August 2021, in Wailuku, Hawai'i



Jaylene K. Hamilton

I, Brenda Clark, hereby certify that pages 41 through 61 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 13th day of August 2021, in Wailuku, Hawai'i



Brenda Clark