

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

Council of the County of Maui

MINUTES

September 1, 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 9:40 a.m.)
Councilmember Michael J. Molina
Councilmember Yuki Lei K. Sugimura
Councilmember Tamara Paltin (in 10:48 a.m., out 11:15 a.m.)

EXCUSED: VOTING MEMBER:
Councilmember Tamara Paltin

STAFF: David Raatz, Supervising Legislative Attorney
James Forrest, Legislative Attorney
Richard Mitchell, Legislative Attorney
Nicole Siegel, Legislative Analyst
Wilton Leauanae, Legislative Analyst
Rayna Yap, Committee Secretary
Lenora Dineen, Office of Council Services Assistant Clerk

Axel Beers, Executive Assistant to Councilmember Kelly Takaya King
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King
Lois Whitney, Executive Assistant to Councilmember Tasha Kama
Stacey Moniz, Executive Assistant to Councilmember Gabe Johnson
Jordan Helle, Executive Assistant to Councilmember Yuki Lei K. Sugimura
Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson

ADMIN.: Makale'a Ane, Resilience Officer, Mayor's Office of Climate Action, Sustainability, and Resiliency
Alexander de Roode, Energy Commissioner, Mayor's Office of Climate Action, Sustainability, and Resiliency

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Rowena Dagdag-Andaya, Director, Department of Public Works
(CARE-55)

Jordan Hart, Deputy Director, Department of Planning (CARE-55)

Eric Nakagawa, Director, Department of Environmental
Management (CARE-55)

Shayne Agawa, Deputy Director, Department of Environmental
Management (CARE-55)

Keola Whittaker, Deputy Corporation Counsel, Department of
the Corporation Counsel

OTHERS: Mike Moran, Kihei Community Association (CARE-55)
David Dorn (CARE-55)
Robin Knox, Project Manager, South Maui Save the Wetlands
Hui (CARE-55)
Michael Reyes, Senior Ecologist and Principal, Maui
Environmental Consulting, LLC (CARE-55)
Johann Lall

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

CHAIR KING: . . .(*gavel*). . . All right. Thank you. Will the Climate Action, Resilience, and Environment Committee of September 1, 2021, please come to order. I can't believe it's September already. But thank you to everyone for being here. May I please ask Members and anybody watching to silence your cell phones and other noise-making devices. So Members, in accordance to the Governor's most recent emergency proclamation, if you are at a nonpublic working...workplace, when your name is called please identify by name who is present with you in the room, vehicle, or workspace. For the time being, *Akakū* online is channel 53, and the cable is channel 54, so we're...you can view...if you're viewing...if you're viewing the meeting and don't want to testify, you can go to channel 54. My name is Kelly Takaya King, I'm your Chair of the Climate Action, Resilience and Environment Committee. And today we have with us our Committee Vice-Chair Shane Sinenci, aloha. Actually, we'll...I'm going to ask Chair Lee to give us the greeting, then we'll go back to Member Sinenci.

COUNCILMEMBER LEE: Okay, Madam Chair. The greeting is from Micronesia. And it's ran anim, ifa usum? Ran anim, ifa usum?

CHAIR KING: Okay. Thank you for that, and thank you for being here, Chair Lee. I know you're under the weather and you may have to leave soon, but I appreciate you hopping on to get us going. And we'll go to Committee Vice-Chair Shane Sinenci for reiteration of that wonderful greeting from Micronesia.

VICE-CHAIR SINENCI: Mahalo, Chair. Aloha and ran anim, ifa usum? And aloha nui kākou makahikina.

CHAIR KING: Okay. Aloha kakahiaka and ran anim, ifa usum? All right. Next we'll go to Member Yuki Lei Sugimura from Upcountry, where the wonderful Jacaranda trees.

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COUNCILMEMBER SUGIMURA: Yeah. Good morning, everybody, from Upcountry. And I am at my home. My husband is downstairs and...but not in the same room. Ran anim, ifa usum? Is that good morning, have a good day? Thank you, everybody. And I look forward to this meeting. Thank you, Chair.

CHAIR KING: Mahalo, and I don't...did you want to say...Committee Vice-Chair Shane Sinenci, did you want to say who was in the room with you?

VICE-CHAIR SINENCI: I'm by myself at the moment. Thank you, Chair.

CHAIR KING: Okay, great.

COUNCILMEMBER LEE: And me too. Me too.

CHAIR KING: Okay. And so everyone's alone. Home alone. And last but not least, we'll go to...all the way from Lāna'i, Member Gabe Johnson. Ran anim, ifa usum?

COUNCILMEMBER JOHNSON: Good morning, Chair. I just noticed Councilmember Molina had joined us on the call, so let me start off by saying ran anim, ifa usum to everyone in this lovely morning. Aloha.

CHAIR KING: That is excellent. I think Micronesia's your language along with Japanese. Okay. And thank you for joining us, Member Mike Molina, from under your virtual bridge. Ran anim, ifa usum?

COUNCILMEMBER MOLINA: Hey, ran anim, ifa usum back to you, Madam Chair, and to my colleagues. I am broadcasting alone in the house. Although I have my virtual bridge behind me, and my wife and pets in the other room. Thank you.

CHAIR KING: Okay. Thank you. Oh, and Member Johnson, you wanted to add that?

COUNCILMEMBER JOHNSON: Yeah, I forgot to mention I'm home alone as well.

CHAIR KING: Okay. And I am as well. Well, I'm in my room alone, my husband's upstairs. So thank you, everybody, for coming today. We have Member Tamara Paltin excused. She's probably landing in Paris as we speak. And we also may be losing Member Lee pretty soon, you know, because I know she's not feeling too well, and we really appreciate you showing up for the first part. We...I haven't heard from our Non-Voting Members, so we're going to be operating with a little more than a bare quorum and appreciate everybody being here because this wetland issue has been a long time coming. So today, folks, we have with us Deputy Corporation Counsel Keola Whittaker. We have Energy Commissioner from the Mayor's Office of Climate Action, Sustainability, and Resiliency, Alexander de Roode. Makale'a Ane, who's the Environmental Coordinator from the same office. We have Rowena Dagdag-Andaya, who's the Director, Department of Public Works. Jordan Hart, the Deputy Director, Department of Planning. And I believe we have Eric Nakagawa, who's the Director of Department of Environmental Management or we'll have Shane Agawa, Deputy

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Director. And for resource people, we have Robin Knox, who's the Project Manager of the South Maui Save the Wetlands Hui, and Michael Reyes, Senior Ecologist and Principal of Maui Eco Consulting, LLC. Committee Staff, I really want to thank you for all your work on the bill and this issue. Nicole Siegel, our Legislative Analyst; Rayna Yap, our Committee Secretary; James Forrest, our Legislative Attorney; and Lei Dineen, Council Services Assistant Clerk. Thank you, everybody, for being here. This is...today...on today's agenda we have...oh, I'm sorry. I have to go through the disclaimer. This 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. So today, Members, we have four items on the agenda. We have CARE-55, Wetlands Restoration; CARE-60, Whole Systems Solution, Assessing and Analyzing Carbon Emissions and Creation of Data Gathering Analysis and Visualization Tools for the County of Maui's Joint Climate Action and Resilience Plan, and that is a contract review, C7432. And we have CARE-61, another contract review, Whole Systems Solutions Countywide Vulnerability Assessment, which is contract C7431. And we have CARE-64, County of Maui Joint Action and Resilience Plan, contract C7436. So those three, the three items that come after the wetlands issue will be contract reviews, and then we'll be going to file them after we do the review unless there's some major issues. So right now, if there's no objections, I'd like to begin with public testimony.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: TP)

CHAIR KING: Do we have any testifiers signed up?

MS. SIEGEL: Yes, Chair, we do.

CHAIR KING: Okay. All right. Testifiers wanting to provide video testimony should've joined online meeting via BlueJeans meeting link, which is on...noted on today's agenda. Testifiers wanting to provide audio testimony should have participated via phone conference by dialing 1-408-915-6290 and entering meeting code 470076045. Written testimony is highly encouraged. Instructions on how to submit testimony can also be found at mauiocunty.us/testify. So moving on to oral testimony, oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will ask you to kindly complete your testimony. And when you're testifying, please state your name. If you're testifying on behalf of an organization or are a paid lobbyist, please inform the Committee. Please be mindful of the use of chat during the meeting. Chat should not be used to speak with other testifiers during the meeting or chat...or provide testimony. And if you are here to provide testimony, please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you are done testifying, you will be asked to disconnect from the call and are welcome to continue to view the remainder of the meeting on *Akakū* channel 53 or 54, mauicounty.us, or Facebook Live via the Maui County Council page. Participants who wish to view the meeting only without providing testimony, please inform our Staff that you don't want to testify and they'll take you off the list. Only Councilmembers, Staff, and designated resource personnel

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should be connected to the video conference meeting once testimony concludes. So folks, please be patient if we have technical issues. Those happen from time to time and are out of our control. And Members, without further ado, I'd like to proceed with oral testimony. Staff has been monitoring the testifiers, and we'll do our best to take each person up in an orderly fashion. Okay, Nicole, are you going to be calling the testifiers?

MS. SIEGEL: Yes, Chair.

CHAIR KING: Okay, thank you. Would you like to call the first testifier?

. . .BEGIN PUBLIC TESTIMONY. . .

MS. SIEGEL: The first person signed up to testify is Mike Moran, to be followed by David Dorn.

CHAIR KING: Okay.

MR. MORAN: Good morning, Chair King and Committee Members. Mike Moran for the Kihei Community Association. Thank you for the opportunity to testify. And mahalo to this Committee for your continued proactive stance, and to this full Council as well in this session. You can't undo, you know, what the lack of action or poor actions of past Government officials in our County. And Chair King, I'll start with your words this morning. This is a long time coming for all wetlands and unfortunately, particularly in South Maui and other parts, we see what little wetlands is left. And we see that even before, you know, climate change was considered, most anyone was aware that if you...the plan was to fill in the muliwai and erect buildings there that you were destroying the wetlands. I mean, the Kanakas knew this for centuries. So...but, you know, you can't undo that, so you...all you can do is what you're doing now is try to preserve the last few specks of it that we have in South Maui and try and prevent any more damage. And when I said you can't undo the work that was done before, you also can't control what other entities in County Government are doing. And when I see that the action today is to move this on to the Maui Planning Commission, and we see one of their most recent actions was not only trying to stop development in wetlands, they're saying go ahead and proceed building in a river bound [*sic*]. So, you know, again, it's very unfortunate, but we admire you for this Council and this Committee particularly for trying to do whatever you can do to protect it and try and preserve. And a few actions that may be a little bit beyond this is we all see this boundary of the SLR-XA. Well, let's not try and build right up to the edge and say, well, okay, across the street is the boundary, so we'll build on this side of the street. No, let's try and continue to be proactive and try not to build anything. And we all know it's tough when it's affordable housing, but this Council has said no to some affordable housing when it's being built in the wrong place. So I'm trying to be upbeat about what you guys are doing, but I had to show the contrast of what was done before and what is (*audio interference*) and . . .(*timer sounds*). . . happening in other parts of County Government. Well, thank you for the opportunity to testify. Aloha.

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CHAIR KING: Thank you, Mike. I really appreciate those words. And of course, we lived through the years when Kihei was the fastest growing community in the State of Hawai'i for at least a decade, and your words ring true. Any questions, Members? If not, thank you for your testimony. And next testifier?

MR. MORAN: Aloha.

MS. SIEGEL: The next person signed up to testify is David Dorn, to be followed by Robin Knox.

MR. DORN: Hello, can you hear me?

CHAIR KING: Yes, we can. We can't see you though.

MR. DORN: . . .*(inaudible)*. . .

CHAIR KING: Can you turn on your video?

MR. DORN: Never mind. Hello, everybody. My name is David Dorn, and I've been working with the staff of the South Maui Save the Wetlands Hui, and actually studying wetlands full time for the last year, and I have various insights. And I have read the proposed bill, which I am mostly in support of. But I think it needs a few tweaks if it's actually going to serve the purpose that...for which we wanted to do, which is actually preserve Maui's wetlands. And the thing is on Maui, especially South Maui...in fact, all Maui, we don't have an inventory of all our wetlands. It's very hard to get this information because naturally, there's several different classifications for wetlands. The Fish and Wildlife, they're concerned with fish and wildlife, so they'll classify their own ways. But we really need...at the core of this is our own County-wide classification for wetlands because our wetlands are unique. And this is actually in the wetlands classification world, they say make up your own definitions that suit your environment. And the Hawaiian wetlands of their own subgroup, and we need our own definitions. And it needs to take into account that a lot of our wetlands in Maui, and South Maui I can speak to particularly, have been degraded over time. They've been neglected because there has been no . . .*(inaudible)*. . . protection. What happens is you'll have maybe someone clearing a firebreak and clearing the vegetation, or someone doing an...you know, an ad hoc drainage ditch, which changes the hydrology temporarily. And you've got the invasive species of kiawes, which is sucking the water out. So, you know, our wetlands are not that wet in the dry season when there's a drought. And what will happen is that we'll slip out of that very narrow definition for wetlands temporarily. And, you know, we're going through on the mainland what's a 20-year drought and however long the drought is on Maui. So we need that definition to expand to include these degraded wetlands because in...for most cases, they can be restored quite easily back to a fully functional status. And I think we can all appreciate that wetlands are absolutely necessary for our drainage infrastructure, for our, you know, climate resilience, and all of those things I submitted my written testimony separately. But specifically what the loopholes in this bill that I can see is that if we leave it at...like Mike said from

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KCA, we leave it up to the Planning Commission, you know, their performance is not good in environmental protection issues, so I have big reservations about leaving it up to them. I think we need to form our own committee for wetlands and perhaps watershed management. In the olden days, you'd have a konohiki in charge of all these kind of issues and there would be an overseer, so, you know . . . *(timer sounds)*. . . nothing would compromise the water. Oh, is that my time?

CHAIR KING: Okay. Thank you for your testimony, Dave. Oh, just to be clear, the Planning Commission...the legislation has to go to the Planning Commission for review, but it comes back to the Council for...you know, for final working and approval. So they're...they actually will just...it's a format that's required...it's a process that's required by our Charter whenever we do something that affects Chapter 19. So any questions for our testifier today, Members? No? Thank you for being here, David. And thank you for your work on...you know, on our South Maui issues.

MR. DORN: Thank you.

CHAIR KING: Oh, we have one question for you from --

MR. DORN: Okay.

CHAIR KING: -- our Committee Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Thank you, Chair. I guess the question is for you. I know Mr. Dorn did send in some testimony, but are...did you want to...were you going to just send the bill to the Planning Commission, or did you want to look at --

CHAIR KING: We are...

VICE-CHAIR SINENCI: -- it in its current form?

CHAIR KING: Yeah, we are going to review the bill before we...you know, the goal is to send it to the Planning Commission, but if we want to make changes...if we...and especially if there's significant changes, we should make them in Committee before we send it out so that we don't...you know, we don't bring it back and make significant changes and then we have to send it back to the Planning Commission. So if there are --

VICE-CHAIR SINENCI: Okay.

CHAIR KING: -- if there are...if there are suggested changes that you feel strongly about, today's...you know, this morning is the time to make those changes.

VICE-CHAIR SINENCI: Okay. Is it possible to have Mr. Dorn, since he's part of the Wetlands Hui, to be...stay on as a resource, Chair?

CHAIR KING: Sure, if there are no objections to adding Mr. Dorn...are you available, David, for...okay.

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MR. DORN: Yeah.

CHAIR KING: If there are no objections, we'll add David Dorn to the list of resources.

VICE-CHAIR SINENCI: Thank you.

MR. DORN: Yeah, I'm available.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: TP)

CHAIR KING: Okay, great. Thank you for that, Committee Vice-Chair Sinenci. All right, we'll see you later. Hang on. Okay, thanks. Okay, I think I saw on the list our next testifier was listed Robin Knox, but Robin is actually going to be doing a presentation. Did you still want to testify, Robin? Are you there?

MS. KNOX: (*audio interference*) testify on behalf of the Hui in addition to the --

CHAIR KING: Okay.

MS. KNOX: -- the presentation. So I did submit...first of all, thank you, Chair and Committee, for hearing this very important issue. I think it's actually urgent or an emergency situation, given what's going on. And I did submit detailed written testimony, and I'll just hit some of the highlights. And I'm testifying on behalf of the South Maui Save the Wetlands Hui. This bill is urgently needed to protect the wetlands that are at risk of development. These wetlands provide valuable ecosystem services, they function, especially important in South Maui, to...as part of our drainage system. They are our natural infrastructure. And even though we do currently have flooding problems, that's largely due to the past development of wetlands; and to allow the remaining wetlands to be developed would really just exacerbate our current situation that puts people and their homes at risk. We all need affordable housing, but to build affordable housing in wetland is really an equity issue and an environmental injustice. And this has been recognized with climate change discussions nationally, that the solutions have to be equitable for everyone in our society. Beyond that, we need a larger scale...larger than the current emergency urgency situation. We need a larger scale long-term ecosystem and watershed scale management because the wetland is not isolated. It's an integrated part of our island's water systems. The definition needs to be broader and more inclusive of our various somewhat unique situations with wetlands, especially on the leeward side. Dry, arid wetlands are different than the average wetlands that the Federal and the County...you know, the County picked up the Federal definition, so...and we've seen from the past that that definition and the Clean Water Act have not protected Maui's wetlands, especially in Kihei. And then lastly, with regard to...or not lastly...second to last. With regard to mapping, we think that there needs to be a County-wide inventory and criteria set for what you would select to be wetlands in the overlay. This is something we learned through the work that we've been doing with David

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Dorn is the...you know, and it goes back to the definition too. We really have to decide what we want. And then the final determination we think should not be just the Planning Director alone, that there should be some sort of commission or committee or, you know, a council of konohiki, whatever you want to call it, but that the community gets to weigh in on that final decision making, not just at the Planning Director's discretion. And that's all I had. Thank you.

CHAIR KING: Okay. Thank you, Robin. Appreciate that, those comments. And you said you sent those in in written format?

MS. KNOX: Yes, a much more detailed version. . . .*(laughing)*. . .

CHAIR KING: Okay. And did you send it in by eComment? Did you send it in in Ramseyer format?

MS. KNOX: I'm not...

CHAIR KING: Changes --

MS. KNOX: No.

CHAIR KING: -- to the bill?

MS. KNOX: But I did cite the sections that I was commenting on so that you could tell where in the ordinance I was commenting. But I'd be glad to be available to provide additional...

CHAIR KING: But you are a resource because you're going to be doing --

MS. KNOX: Yeah.

CHAIR KING: -- the presentation --

MS. KNOX: Yeah, I...

CHAIR KING: -- we'll have you on.

MS. KNOX: Yeah, I'll be glad to help you with the crafting of the exact wording.

CHAIR KING: Okay, great. Any questions right now for Robin? Okay, Member Johnson.

COUNCILMEMBER JOHNSON: Chair, do you want me to wait until after the presentation, my question might be answered then, or should I go forward now?

CHAIR KING: Yeah, that would probably be good. Wait until the presentation.

COUNCILMEMBER JOHNSON: Yeah.

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CHAIR KING: Thank you, Member Johnson. Okay, if there's no more questions...and if there's no questions of the testifier, we'll move on to...I think we have one more testifier signed up, Nicole?

MS. SIEGEL: Chair, we have two. We have Johann Lall, to be followed by Mike Reyes. He indicated in chat he'd like to testify as well.

CHAIR KING: Okay. Johann Lall. Oh, she said she's not testifying, she's only viewing.

MS. SIEGEL: All right. So Mike Reyes is our last testifier.

MR. REYES: Hi everyone, I just had just some brief comments. I just wanted to say, you know, under Army Corps of Engineers' methods for delineating isolated wetlands there's three requirements. There's...to define a wetland, it's...you need to have, like, a predominance of aquatic vegetation, hydric soils and indicators of hydrology, and a lot of the wetlands in South Kihei, as an example, don't necessarily meet all three of those requirements, which is why they, unfortunately, aren't protected by the Clean Water Act and aren't given jurisdiction by the Army Corps of Engineers. And it's not uncommon for counties and other municipalities to just make a stricter rule by basically stating that only two of those requirements are needed for it to be considered a wetland. And so that's a very easy and common way that local governments are able to claim wetlands that wouldn't be claimed by the Federal Government. And so it's something that, you know, I think should be considered. And the other point I wanted to make just quickly was that wetlands...it's a misnomer. I want us to distinguish between wetlands and flow-through systems because flow-through systems are delineated using ordinary high water mark, and not the three indicators I just went over. So in those instances, you know, flow-through systems aren't going to have hydric soils, they're not going to have a predominance of hydric vegetation, and they're not necessarily going to have some of those characteristics. They're based off of ordinary high water. And the Army Corps of Engineers only protects currently intermittent and perennial systems, ephemeral systems aren't protected, and there's this huge ruling on this on Monday. A Federal Arizona judge threw out the current law, and so everything's kind of in limbo right now. But I just wanted to say most of leeward Haleakalā and leeward West Maui Mountains have ephemeral streams that are not currently protected. So that's something that we should work to include in this bill as well. And that's all I have to say.

CHAIR KING: Okay. Thank you, Michael. We have a question for you from Member Sugimura.

COUNCILMEMBER SUGIMURA: Oh, Mr. Reyes, thank you very much for being here. And I'm just wondering, could you possibly...is he a presenter for your first item?

CHAIR KING: He's one of our resource people for the first item.

COUNCILMEMBER SUGIMURA: Yeah, he is? Okay. I was going to ask him to be, yeah. Thank you.

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CHAIR KING: Okay. Any other questions? One of the things that we maybe could just do right now, Michael, is just explain for the public the difference between intermittent and ephemeral that you've been talking about.

MR. REYES: So ephemeral systems only flow in response to a rain event or a stormwater event, whereas intermittent and perennial systems, usually they have flow that's in response to groundwater discharge into the system.

CHAIR KING: Okay.

MR. REYES: And so not to get into the minutia of it, but basically the Army Corps of Engineers is only looking at intermittent and perennial systems as having significant nexus with traditional navigable waters.

CHAIR KING: Okay. All right. Thank you for that because I think when we...sometimes we tend to use those words and not realize that people don't understand what we're talking about. So...but I really appreciate you being here too, especially after working with you on some of the watershed issues. Okay, Members...Nicole, do we have any other testifiers?

MS. SIEGEL: No, we have nobody left on the testifier list. If anyone else would like to testify, please unmute yourself and let us know.

CHAIR KING: Okay, any other testifiers? Seconds...wanting to testify? Members, if there are no objections, I'll close oral testimony and receive written testimony into the record.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: TP)

CHAIR KING: Okay. So ordered. All right. And just want to remind those that would like to join on *Akakū* channel 53, Facebook Live, or maucounty.us to view the remainder of today's meeting. It's also on channel 54, I believe.

. . .END OF PUBLIC TESTIMONY. . .

CARE-55: WETLANDS RESTORATION (CC 21-358)

CHAIR KING: Okay, Members, moving on to our first item of the day, Wetlands Restoration, CARE-55. Today we have before us County Communication 21-358 from me, your Chair, relating to Wetlands Restoration. We also have correspondence dated August 26, 2021, from me transmitting a proposed resolution entitled, "REFERRING TO THE PLANNING COMMISSIONS OUR [*sic*] PROPOSED BILL RELATING TO WETLANDS RESTORATION AND PROTECTION." The proposed resolution would refer to the

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Lānaʻi, Maui, and Molokaʻi Planning Commissions a proposed bill entitled, “A BILL FOR AN ORDINANCE AMENDING TITLES 18, 19, AND 20, MAUI COUNTY CODE, RELATING TO WETLANDS RESTORATION AND PROTECTION.” The purpose of the proposed bill is to establish a program for wetlands restoration and protection. I appreciate the many comments the Committee received on the proposed legislation, and we’ll forward those to the planning commissions as well for part of their review. The Maui County Code does not include the establishment of a program for wetlands restoration and protection, and the State doesn’t have a statute to restore and protect the wetlands. Guidance and justification for County Wetlands Program can be seen throughout the County-wide policy plan, Maui Island Plan, Lānaʻi Island Community Plan, and Molokaʻi Island Community Plan. The National Association of Counties also recommends the enactment of wetland ordinances, as many wetlands are not protected under Federal laws and may fall under the responsibility of local Government. If the reef is our first defense against erosion, the wetlands are our first defense against flooding. In South Maui alone, we’ve had major reduction to about 10 percent of our original wetland inventory. And this is from the South Maui watershed report, which states that according to the data presented by Terrell Erickson, Hawaiʻi has lost tens of thousands of acres of wetlands. U.S. Fish and Wildlife Services estimated 31 percent of the coastal wetlands were lost during the 1970s through 1990s. Wetlands in Kihei were determined to have decreased from 199 acres in 1965 to 83 acres in 2001, including 7.3 acres of mitigation. And there...today in 2021, it’s estimated to be a lot less now. We usually hear the estimation of around 24 or 25 acres that we’re down to of the original 199 acres. So this is...you know, we’re in a race against time on trying to preserve and maybe restore some of our former wetlands. Today we have with us Robin Knox, Project Manager, South Maui Save the Wetlands Hui, and Michael Reyes, Senior Ecologist and Principal of Maui Environmental Consulting, LLC, as well as...we just agreed to bring in David Dorn, who’s also with the Save the Wetlands Hui from Kihei. From the Administration we have Alexander de Roode, Energy Commissioner, and Makale`a Ane, Environmental Coordinator for the Mayor’s Office for Climate Action, Sustainability, and Resiliency. We have Rowena Dagdag-Andaya, Director of Department of Public Works; Jordan Hart, Deputy Director of Planning Department; Eric Nakagawa...I’m not sure which one...if it’s Eric Nakagawa or Shane Agawa who’s the Deputy Director of Department of Environmental Management, and...oh, Eric’s there. Okay. Thank you. And we have Keola Whittaker, who’s our Deputy Corporation Counsel, here with us today to provide comments and answer questions the Members may have relating to the proposed legislation. With the body’s approval, they will be designated as resource persons to provide comments and answer any questions Members may have relating to the proposed bill. So here’s my plan. Robin Knox will give us a presentation telling us about the work South Maui Save the Wetlands Hui is doing. And with the support of the Council, as you recall, we put money into our recent budgets toward the Save the Wetlands Project. And after we hear from Robin Knox, we’ll hear comments from Michael Reyes, and David Dorn, and Administration officials. Once they have had a chance to share their comments with us, I’ll open the floor to Members for any questions you may have in three-minute rounds. And I see Chair Lee has dropped off, so we’ll wish her a speedy recovery. After...let’s see, so we’re...if there are no objections right now, I would like to designate Robin Knox, David Dorn, Michael Reyes, Alex de Roode, Makale`a Ane,

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Rowena Dagdag-Andaya, Jordan Hart, and Eric Nakagawa as resource persons pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: TP)

CHAIR KING: Okay. Thank you, Members. All right, we'll go right into the presentation by Robin Knox. Robin, do you...are you...have your presentation lined up? Okay, that was fast. Okay, take it away. You might be muted, Robin. We can't hear you. We lost the presentation.

MS. KNOX (*PowerPoint Presentation*): Sorry about that, I had to stop sharing in order to unmute. Okay, let's try this again.

CHAIR KING: Okay.

MS. KNOX: Okay. So thank you for taking this up and making the time to learn about the work of the South Maui Save the Wetlands Hui. The Save the Wetlands Hui is a group of residents with a mission to protect and restore wetlands in Maui County. The Hui formed--and it is an unincorporated group--it formed around the many times that we all found ourselves together testifying to the County Council or to the Planning Commission about proposed development of properties that we thought were valuable wetland. We want to acknowledge our sponsors and thank the County Council for allocating the funds for us to get a grant through the Mayor's Office of Economic Development, and our fiscal sponsor is Hawaiian Island Land Trust, who also gives us great guidance with regard to restoration. Our project scope includes a wetlands inventory and mapping, similar to what's proposed in this bill. We also have a demonstration wetland restoration project, and have a mission to do public education and stakeholder outreach to share what we've learned. Wetlands have important functions and values to our community. Sediment attenuation and reduction, the wetlands help us with erosion control, better water quality in the streams and oceans, protect the coral reefs and fisheries and even drinking water. The nutrient and chemical attenuation and reduction, again, better water quality and can filter and trap, and actually assimilate and process different pollutants, including returning nitrogen to the atmosphere rather than it remaining in (*audio interference*). Flood attenuation and storage. This is probably the most important one for South Maui because we really believe that there is public safety issues. And it also recharges groundwater, which again, the more fresh water in the groundwater the more protected we are against salt water intrusion when sea level rises. Plant community abundance and diversity has long been recognized in Hawai'i. There's historical and cultural importance, and our native plants have been, you know, threatened or just, you know, forced out or outcompeted by invasive species. It's important as fish and wildlife habitat, especially for threatened and endangered species that many of our birds are. The groundwater discharge...recharge and discharge...and especially in Hawai'i, that groundwater discharge is really important to the ecology. A lot of the water from our island watersheds does not go out through the surface, but comes out in submarine (*audio interference*). It can help...the

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wetlands can help to prevent erosion of streambanks and shorelines, which again, gets more important as we go forward with disturbances due to climate change. And there is actual carbon sequestration in wetland soils, so it can help mitigate climate change. So what is a wetland? And it might seem like a simple question, and there are some simple definitions, but I'll just say that they've been controversial and highly debated over time. And different agencies have set up different definitions, and they change over time. And when they change, the...if you look at a particular wetland, that wetland may be protected or not, depending on not only the wording of the definition, but how it's interpreted through technical guidance and protocols for determining what's a wetland. So most people, when they think of wetland, because of its wide use, they think of the Clean Water Act definition, that's what's been adopted in the County Code, that's what's used by the Corps of Engineers and USDA. But as I said earlier, it's proven that that has not protected wetlands that we value in South Maui. The Corps, as Michael Reyes told us, uses the three criteria of plant, soils, and hydrology. NRCS, in enforcing compliance with the National Food Security Act, uses two, the plants and the hydric soils. And then the U.S. Fish and Wildlife, which is more interested in management and tracking trends with wetlands, uses the definition that it's transitional between terrestrial and aquatic systems, and it's where the water table is at or near the surface. And you note, they don't even talk about plants or the type of soils. And then there's an international definition from the Ramsar Convention on Wetlands, which really describes wetlands more than gives a criteria. It just lists a lot of the different types of waters that are wetlands, and notes that that can be natural or artificial, permanent or temporary, static or flowing, fresh, brackish, or salt. So it really gives you an idea of the diversity of wetlands on the planet. And we like this definition because it had also artificial or manmade wetlands including fishponds, salt pans or formations like lo'i kalo. So in Hawai'i, this definition has some important cultural aspects associated. So...and then we went to the folks whose expertise is mapping wetlands, the Federal Geographic Data Committee. And their stand on this is that there's no single indisputable definition due to the diversity of wetlands, and because it is a continuum or gradient between wet and dry lands, and we're trying to draw a line on something that's a gradient. My observation, after studying some of the history of these different definitions and rulemaking, is that once you get a definition that you think you want to work with, you need to examine what particular properties or wetlands or areas would be protected or not protected because in the end, it needs to serve the purpose of what you're trying to do. So if you come up with the definition and it's overprotective, then you can, you know, tailor it to be more focused on what it is you're trying to protect. And likewise, if it's under protective, you can expand that definition to include other things. And, you know, some of the things other than plants, soils, and hydrology that are used are ecosystems...aquatic ecosystems, substrate, water regime, I guess is...that's hydrology...but landscape, where is it in the landscape, you know, and what is the function. And from our work, we think this functional aspect of defining wetlands is extremely important. And of course, it depends on your perspective, you know. Here's a water quality scientist at the surface, they might define it one way. Here's your wetlands microbiologist with their heads stuck down between...beneath...in the soil, and they might have a different perspective. So we need to recognize that this really is not a simple task, that there's a lot of complexity to it. We have set some criteria, and we have, you know, mapped some of the

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wetlands in our South Maui study area, and we focused on those that are under threat of being lost to development in the last few years. There are other properties that we think are wetlands, but they may be extremely isolated or small, and these are the ones that we've set priority on. So you can see that it's throughout...and we did not look south of Kalama Beach Park in our study area. So you can see that there...it's pretty distributed throughout the area, and as we'll see, it's an important part of our drainage system. So just to give you some perspective...and by the way, David Dorn put together all of these maps and photography to help demonstrate what we've learned. You can see that these wetlands are connected to each other. And indeed, many times, when subdivisions are built, their drainage system is designed to deposit the water into one of these wetlands. And here's just another diagram of how water comes through Kihei through these wetland areas. And notably, all along that area of coast in our study area, there are five fishponds. So there is, you know, a functional aspect that goes from the top of the mountain all the way out to the ocean, to the fishponds, and to the reef. And this water demonstrates this the best. This is during one of the big mud floods, I call them. And you can see the areas that are holding the muddy water, and you can see that surrounding properties are not under water. So it really does help our community to have this wetland functioning. Now, this is just another view of that same flood looking the other way. Even the road flooded, but the houses did not. So one of the challenges is that while we might have a definable unit that we see as a wetland, that it's owned by private ownership. So there may be quite a few owners that are stakeholders in this process of preservation or restoration. So we're going to tell the story of two wetlands, and we have many more stories, and I hope that people will join us for some of our future webinars where we present our findings. But this is a story of Waipu'ilani. And if you look up the watershed at Haleakalā mauka of the highway, this is what that watershed looks like. If you look at the area, it's a 17 square mile catchment basin. And this is just amazing to me that...how this narrows down all the way down as it approaches the coast. And if you look at...if you go out and look physically at this area here, this ditch or channel...oops, that discharges to the ocean, it's like three to six feet wide. It's extremely small outlet to the ocean. And the...as the...as you see, the gulch comes down the mountain, this is where it goes under the highway and enters into the kahawai here, and then expands out into a larger area. And that's very important for allowing the deposition of solids and allowing the water to spread out and infiltrate into the aquifer. This bridge is 100 feet wide, so the channel's 100 feet wide there, and gets even wider. As you can see, quite a bit of sediment gets deposited there. So another, you know, depiction of this, just showing how it comes through the populated areas and how important these open areas are to protecting the existing homes and the safety of people who live there. Again, you see the fishponds that receive the runoff from these (*audio interference*). This is the area that Mike Moran referred to earlier, where this is the streambed and someone is proposing an affordable housing development there. And the Planning Commission extended the SMA permit that was over 18 years old and, you know, a lot of this area was not built up 18 years ago, and now we have even less open area to handle the water. And we have...you know, that is the thing that, you know, we had an expert, Amanda Courting, who is a PhD Environmental Engineer, and she testified that this would be an environmental injustice, and it is not environmental equity, and it would...in her opinion and in mine, it would actually put people at risk, both property and the

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actual lives and wellbeing of people. So this is what that narrow channel looks like when it floods and overflows. This cinderblock wall you see here might look like a fence during dry weather, but it's actually a flood wall to keep water out of these properties. And if you walk up that channel, you'll see that all the houses have them. And this is from the other end, from the beach. This is what it looks like during dry weather. There's perennial water here because the groundwater comes in in these areas on the coast. This is what it looks like when it has rained. And fortunately here, we have a County park that serves as...there is an ephemeral wetland here that fills up when, you know, it rains and, you know, protects the surrounding properties. Unfortunately, some people felt their property wasn't protected, and I think this was unnecessary because of the large area at the park that can hold water, but they broke the sand berm. And as you can see, we really need to think about how to manage these discharges and these wetland resources because look at all the muddy water going out onto the reef. And there's another picture of what that looks like. And then, of course, it goes down the coast. It fills in the fishponds, you know, all kinds of implications to the marine life and to the reef from that kind of (*audio interference*) the fishpond that gets impacted. And like I said, the reef. You know, we have all these programs to protect the reef, and conserving and restoring our wetlands would be one of the best things we could do. The coral reef is so important in keeping us above sea level, literally. This is the second story, this is the Ewa Wetland. And it is a seven-acre site right here that's near the coast across from the VFW, across from these fishponds. And this is the ad on Zillow saying how...that this is a developer's dream, that you could build 108 units here if you did affordable housing. And they even say that part of this is a "two acres is a dedicated wetlands," which I interpret they probably meant jurisdictional wetlands because there's a report on that. And then it says...you know, talks about how the...how if you do it affordable, you can get it developed because you don't have to comply with show the water. But if you tried to do market price, you would have a hard time getting it developed. So I think this is a big concern. We should not be allowing laws that are designed to help us with affordable housing be used to degrade our environment or to put those affordable homeowners at risk of their property and their (*audio interference*). And this shows the connectivity of that wetland. That wetland does not...this is the Ewa Wetland here, does not discharge. It is a wetland that's so connected to groundwater that the water goes down into the ground, and you can see that it's connected to all these other undeveloped wetland areas. And this is the flooding that already happens there with the Ewa Wetland being available to receive some of the stormwater. So we know that this would only get worse if that wetland were developed. So thank you for letting us share. We look forward to sharing with the community more and here's some of the places you can find us. We have savethewetlands.org website. We're on Facebook and we're Maui Wetlands on Instagram. And I would also like to say I appreciate Michael Reyes bringing up that distinction about flow-through and I think both are important. So when we're crafting this bill and our definitions, I think we need to accommodate both the flow-through and anything that meets our criteria. And our definition that we proposed in the written testimony actually says if you meet one of the criteria, not two or three, that it would be protected.

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CHAIR KING: Okay. Thank you so much, Robin. And the last comment you made about one of the criteria, are you talking about one of the criteria of the existing criteria in 2.80(b)?

MS. KNOX: Well, we proposed a very detailed definition of wetlands. But when you're looking at...typically in a lot of the definitions, including that one, there's mention of plant, soils and water. And the Federal EPA Corps of Engineers one, you have to have all three. The NRCS USDA one, you have to have two. And we're suggesting that if you have even one, especially on the dry leeward sides, that it should be protected. And...but we think there are other ways than those three criteria, and that's why we researched and gave the comments that gives you a very detailed way to look at it and parse it out. And I'll just say too, that the plain language of what's in a regulation has very specific interpretations when it comes down to being implemented and applied. Just like Michael explained the definition of an ephemeral. You know, that has a meaning in English language of something that's not long-lasting or permanent, but it was recently redefined to specially say it means water bodies that are present only in response to precipitation. So when we are thinking about what we want our bill to say, I think we also need to think about the technical guidance and the criteria that need to be developed to guide the departments when they're trying to implement this. And we did also submit some detailed comments along those lines. And I would just like to mention that Diego Rivera helped us with those, and he is our intern. He's a soil scientist with a master's in environmental management student at Richardson Law School, so he was very qualified to help try to, you know, think up how can we do this.

CHAIR KING: Okay, great. So we're going to go next to any...if there are any remarks from Michael Reyes. I'm going to unmute your video. Anything that you have to add to the presentation that Robin just did? Otherwise you can wait until we get to the bill and start going through the bill.

MR. REYES: Yeah. No, I mean, the only thing I was going to say is just reiterate that...that the...you know, the definition of wetlands that we have would not support, you know, like Waipu'ilani as an example, it's a flow-through system. It's not going to have groundwater or surface water frequency, hydration sufficient to support vegetation, adaptive and soil conditions. So it's...because it's in an ephemeral system, it's not going to have wetland vegetation, it's not going to have hydric soils. And so under the current wetland definition, it would not be considered a wetland. And so that's why there needs to be additional protections in place for flow-through systems like Waipu'ilani, or most of the flow-through systems on leeward Haleakalā are going to be ephemeral, and they're not going to meet that wetland definition.

CHAIR KING: All right. Thank you for that. And did you work with Robin on the definition that she submitted, Mike?

MR. REYES: No, I have not.

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CHAIR KING: Okay. Okay, great. Well, thank you for those comments, and stand by for when we get to the actual bill. Thank you. I think...David Dorn, do you have anything to add to that...to any of the comments?

MR. DORN: Sure, just wanted to reiterate what Robin and Michael have both said. Now we're getting down to some specific definitions. And this is what the challenge is for us when we create a bill, you know, if definitions can work for us or against us. And so we want to make sure that our...you know, our wetlands as they are, are protected. What I have seen in the study is that, you know, they are not only ephemeral, a lot of these wetlands, you know, they are seasonal and they change, you know, with climatic change. And one thing we have to look at is when you looked at Robin's diagram of the Waipu'ilani Gulch funneling down to this narrow wetland, which has ephemeral water. So only a small part of it can be classified currently as wetland, let's just say, by the Army Corps of Engineers. But the flow-through systems that feed into that are vital to our watershed and, you know, if you dig down, there is groundwater in all of these areas. And I know, because I live in this neighborhood too, you know, we have plenty of wells and we have people...you can actually listen to the water flowing underground. And we don't know because we haven't studied all of these areas and really given it a big in-depth inventory. So we really need an inventory of, you know, these watersheds, gulches, flow-through systems. I mean, we have four major rivers in South Kihei, but we don't call them rivers because if they're...you know, they're drying, to make sure we call them gulches. But it's understood that this is where all the water goes. And there's millions of gallons of water coming down underground from the, you know, top of Haleakalā. Most of it's traveling underground, and that is something else we lose when we start blasting the ground to develop places too, you know, what's underground and the overall effect it has on our ecosystem. All of that water is going into the ocean daily, and it's only flowing over land some of the time. So yeah, broader definition for sure and, you know, I think Michael Reyes is really hitting it on the head. We have to include these flow-through systems. The other last thing I wanted to say is we are also...with climate change, which you're concerned with, we're going to experience marsh migration. And as the water table rises, the sea level rises, the water table rises, and these wetlands that are now water...you know, Waipu'ilani Park, for example, there's several down there...they're going to be marching inland, and they're going to be right up in those properties that are yet to be developed. So in several decades, what is now a building site will become a wetland once again because natural forces will cause these wetlands to migrate. Now, when they...when they do migrate, we have to maybe anticipate that, and we can actually...this, you know, marsh migration scenario viewers that you can use...we need to leave space for these wetlands to go. So we need space for the water, floodwaters, to be, and these wetlands and open spaces to be in the future. So if someone's building a...you know, an affordable housing project that's meant to last 80 years, what will the groundwater situation and the wetland situation and the water table be in 80 years? So the service life of the project should match, you know, the hydraulics that...of that anticipated time period as well. So that was my comment.

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CHAIR KING: Okay. Okay, great. And then just stand by in case we have any future questions from Committee Members. Thank you, Mr. Dorn. And so I would like to next go to the Office of Climate Action, Sustainability, and Resilience. And here is Makale'a Ane to give us a comment. Aloha.

MS. ANE: Aloha, good morning. The presenters pretty much took the words out of my mouth. They really highlighted all of my concerns and, you know, this is a very, very important issue, and I'm glad that we're taking it up. And it's actually one of our actions in our resiliency strategy, which Alex and I will be presenting in a little bit. But yeah, I wanted to just highlight the need for stricter definitions in the ordinance and, you know, we got a whole great presentation from Robin on really what to consider while we're looking at that definition. And I really thank Robin for also bringing up the cultural uses as well because there are, like she said, lo'i and salt flats that could be used to mitigate climate change, and it is an indigenous solution to climate change that I think is really important to consider. And also, Mr. Dorn, for also bringing up the creation of future wetlands. That was one thing I wanted to highlight to consider, is that we do have information on sea level rise through the PAC EOS models and other models out there, and it does show inundation and possible creation of future wetlands or filling in of old wetlands and pūnāwai, pūnāwai that had fresh water coming up previously in historic times and maybe it can come back. So those are really important to consider, and to save, and maybe create opportunity for creating new wetlands so that we can mitigate all of the devastation that we've done with our current buildings. So yeah, so just looking at...I really like to look at historic maps of where we had identified wetlands, where traditional practices were that used these areas for cultural purposes, as well as, you know, lo'i, like I said. So yeah, so a lot of work to do, and I think that there's a really good opportunity by sending it to the Planning Commission and having the Director really identify those definitions and opportunities. And so, yeah, just consider the different definitions that were presented. And also, I really appreciate that Robin brought up denitrification, so that was my...when I worked for the EPA, one of my research projects was looking at how nitrogen gets back to the atmosphere, and wetlands are a really important process, which it's really hard to get nitrogen and break it down and get it back to the atmosphere. So this is a really important step in our whole ecological cycle. So mahalo, and looking forward to you talking more about this in our --

CHAIR KING: Okay.

MS. ANE: -- meeting.

CHAIR KING: Hang on because I think we will have questions for you. So thank you so much for your comments and for being here. Really appreciate your input and the interaction you've had with, you know, Save the Wetlands Hui. Okay. So next we're going to go to the Department of Public Works, if Rowena Andaya-Dagdag [sic] is here. Hi, Rowena. Any comments on what you've heard so far?

MS. DAGDAG-ANDAYA: Yes, and I...you know, I'm sorry if my comments aren't very organized. We did get the bill on Monday morning, and haven't had a really good

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opportunity to thoroughly review the proposal, but I did just want to provide some comments in this morning's meeting. So just...if we just go through the...take a start on page 2. I guess right off the bat, one of the questions I had was, will there be a wetland identification process included in this ordinance? I think other counties or other jurisdictions, in their wetland protection ordinances, have a section on how wetlands are identified.

CHAIR KING: Okay, I think that's in the 19.47.060 under mapping.

MS. DAGDAG-ANDAYA: Okay. And then the second is, I noticed that there weren't any definitions, and there was a lot of talk about definitions in this morning's discussion, you know, defining what wetlands are, what is restoration, perhaps giving more definition on some of the terms that are used in the ordinance would be helpful.

CHAIR KING: Okay.

MS. DAGDAG-ANDAYA: Going on to page 3 under prohibitions, 19.47.050, I kind of added that the Committee may want to consider rewriting this section to identify actions that are allowed in wetlands. The description of the prohibitions, I mean, there may be some unintended consequences. I wondered if...well, first off, that first one, the placement of new structures. What's the definition of new structures? Because sometimes structures, that could include like a boardwalk or even some sort of like a hale or like a placard, a signage, that might actually require permitting. So I think you need to...the Committee needs to really look at those prohibitions and determine if some of these prohibitions could even affect our ability to maintain or improve public spaces, such as roads or sidewalks. Even private roads, I mean, would that have an impact on some of the facilities that we maintain? That could also include existing infrastructure that might be located, or utilities located within a wetland. But again, I don't know exactly...

CHAIR KING: This is new structures.

MS. DAGDAG-ANDAYA: Okay. And then I also think maybe adding a section that identifies activities that can be...I think that's the same...yeah, that would be allowed, you know, in a wetland area. 19.47.060, mapping, I think that section needs to be expanded to also include language, or maybe a process on how maps are established, and how they would be identified. Some of the questions that I had just through this cursory review is, where will it be filed? Where will the maps be filed? How are they going to be adopted? Is there going to be an opportunity for a map amendment process? I think earlier, David Dorn had mentioned that there may be some existing developed lands that may revert back to wetlands, so how do those get included in this map? Is there a process to validate the location of these wetlands? So I think maybe consideration on how this section gets expanded, is expanded, should be...there should be discussion on that. I wonder too if there should be a penalties and enforcement section included in the bill for any unpermitted development on wetlands. That might be a discussion that you'd like to have in your Committee. Then going on to page 4, this is where it...there would be language included in the Subdivision Ordinance. The...I think there are some...you know, just some cleanup

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of the existing language on page 4, so I'm going to skip that and go to 5 where it has E, in the wetlands overlay district, the Director must consider any report required by subsection 19.47.030(a) in the policy section in 19.47.020. Over the years we've had issues with the word consider, because that word can be very subjective. I think even in conditions of approval, I remember one that was through the Planning Commission, there was State Department of Transportation shall consider a sidewalk in this location, but there was really no conclusion as to what that word consider would be. So I think one of, you know, just...on the onset, I think maybe my suggestion would be to, you know, delete this section, and perhaps include language...or actually it's...it is already covered in the subdivision code where...in 19.08.090 under review, it's stated that the reviewing agencies shall review the preliminary plat and indicate their approval or recommendations thereon within the time limit established by the Director. So there's already language in 18 that...you know, that requires agencies to review and provide recommendations in accordance with their own...their own standards and requirements. It's also covered in 18.16.020 compliance, where it's stated that subdivisions shall conform to the general plan, and shall take into consideration preliminary plans made in anticipation thereof. Subdivisions shall conform to the requirements of the reviewing agencies, and State and County law, and the standards established by this title. So it's already covered in 18.16.020. So Section E, I think that that language can be deleted. Moving on to page 6 under grubbing, 20.08.080, grading and grubbing permit review. Again, that language regarding or stating the word consider, I think that needs to be either revised or eliminated. And one of the suggestions that I had, perhaps the Committee may want to also consider, under 20.08.040, permit required, no person shall commence or perform any cut or fill activity or grubbing on land located in the wetlands overlay district without a grading permit. So you could have that covered in 20.08.040 instead of having language in 080. And again, I apologize for, you know, just the informal comments, but we didn't get a chance...I haven't even had a chance to review this with Staff. But what we'd like to do is be able to formalize all of our comments in a letter and submit that to the Committee.

CHAIR KING: Okay. Well, I appreciate that, Rowena. And, you know, this is going to the Planning Commission, so we can submit whatever letters you send in too. But the last statement that you made, could you put that in the chat?

MS. DAGDAG-ANDAYA: Sure.

CHAIR KING: That all persons shall be...you know, that statement that you made when you were suggesting we replace...the last sentence about considering in the report. That would be helpful. But I really appreciate all of your comments, and yeah, some of this is...it's in here, the definition is one of the things that we're going to be talking about today because I think that's probably a major part of this that we need...if we send it to the Planning Commission and make major changes, we may have to send it back out again. So I did get...you know, OCS has informed me that there's...the bill can be amended even after the Planning Commission review too, but I want to make sure that we get any of the major issues, like the definition. Because right now it just refers to...in 19.47.010, it just refers to the existing definition in Section 2.80B.020. So that's what is being used right now as the definition because it was already in the

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Code, but we have a lot of suggestions today, as you have heard. So thank you so much. Are you going to be able to hang around in case there's questions?

MS. DAGDAG-ANDAYA: I can. Yes.

CHAIR KING: Okay. Appreciate that. Thank you, Rowena.

MS. DAGDAG-ANDAYA: Thank you.

CHAIR KING: And next we'll go to the Planning Department. Do you have any comments? I think Jordan Hart is here.

MR. HART: Good morning, Chair. Thank you. Yes, I did provide written comments. I'm glad that resource person Robin Knox mentioned the importance of technical criteria to guide the departments because that's basically all of our comments relating on those substance of the bill. You know, our request is that you spend more time on this in the Committee and hammer out some of these details so that when the planning commissions from the various islands review this, that the whole concept is fleshed out, as opposed to kind of a framework that they'll comment on and then those actual details about how these things will function will be hammered out. But I would like to go through the items that we noticed are...will be, you know, as the bill is now would be difficult for the Planning Department to figure out how to address, starting with the discussion of zoning or overlay. So the areas that are being discussed are already zoned, so they should be considered as an overlay. That's...I'm sorry, I'm starting with 19.47.010.

CHAIR KING: Okay.

MR. HART: The bill does not provide information on how Council will establish an overlay, whether that's by ordinance or other measure. The bill does not...let's see, the criteria for determining which area should be subject to the overlay should be defined. Moving on to 19.47.020 --

CHAIR KING: So just before you move off of that --

MR. HART: Sure.

CHAIR KING: -- what you are saying is you don't like the word zoning in there? That we should just stick with just what is overlay district rather than --

MR. HART: Well --

CHAIR KING: -- . . .*(inaudible)*. . .

MR. HART: -- it was described as zoning in the legislation, as well as overlay, I believe. Now, if you wanted to make it zoning, hypothetically you could rezone these areas open space or something like that. But if it was supposed to keep its own zoning, and then have this wetland overlay, then it would not...the overlay would not also be

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zoning. Either you're changing the zoning, or you're making a designation that lays over the zoning to cause you to treat that area differently, regardless of what it's zoned.

CHAIR KING: Okay.

MR. HART: Let's see, the...okay. So 19.47.020, these policies...there's policies mentioned here that appear to be listed in Title 19 that refer to Title 18 and Title 20. Those sections should be put in Title 18 and Title 20. That would be...anyway, there's some of those listed numbers there. Rather than directing Environmental Management or Public Works to take some sort of action inside of Planning Department's zoning section, or Title 19, to put it in their own sections that they administer. The next section to comment on is 19.47.030. There is, again, reference to Title 18, number 1, and Title 20, number 7, those should be removed from Title 19, and the requirements for the report should be put into those titles since we don't administer those titles. The Planning Department does not administer those titles, 18 and 20. This section also includes actions allowed by administrative permits. Those are permits that are administratively approved potentially by Department of Public Works or other agencies that could have greater impacts on the wetlands than some of the actions that are listed. So those should be, you know, identified and determined and noted. County use permits that don't involve ground altering activity shouldn't have to do this report, and they should be qualified uses. Let's see, D-6, item D-6 also needs to be clarified that it relates to the wetlands and not to...not the project in general. Let's see, so that is...impact of pollution by garbage, litter, or refuse. That's just an existing condition that may exist or a project generated. Let's see, 19.47.040, consideration of the report for item B, an ordinance should not include a narrative or findings or conclusions. That information should be documented on the record in other places, such as staff reports or committee reports rather than inside of the ordinance. If there are wetland impacts or mitigation needed, conditions should be placed on the approval. Conditions of approval could be recorded with the UA, if appropriate. Let's see, 19.47.050 item A, we believe, should be deleted. It is foreseeable that the need could arise for structures necessary to protect wetlands, promote habitat, or facilitate restoration. And I think that Rowena made similar comments, there may be other things that you may be interested in doing here that are not harmful, but are useful. Outright prohibition would prevent that option. On mapping, guidelines or a process...sorry, guidelines, a process or criteria should be provided in determining the overlay area. There are resources available providing information about wetlands, which of those should be used by the County for the mapping process. It's assumed that the map should be updated periodically. The details or...the details contained in the map or the criteria for production should be specified. If a map is going to be used to establish overlay districts, this bill should spell out any criteria that the map needs. I also think that it would be helpful to identify whether or not the Planning Department or whoever the mapping entity is is supposed to go through some sort of process with the community to do this, or if this is just an in-house operation that's done by Staff and presented to Council. Let's see, 19.47.040 should state if there is a conflict, then more is restrictive, and that's relating to...referencing the Clean Water Act and the Coastal Zone Management Act. So basically, whichever of all of these potential legislations that may come into play,

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the most restrictive would be in effect, as opposed to saying no conflict. Let's see, there is the amendments to Title 18.08.100(e). And this is the same thing that Rowena had brought up. The term consider is subjective, and that's basically how conflict is created is when there's an interpretation that's supposed to be made and, you know, people have the opinion that the interpretation should be weighed one way, and the Administrator looks at the material that they're provided and the criteria that they're obligated to consider, and makes the consideration or determination that they do, and then there's resentment about how that unfolds. So if Council wants a specific thing to be the case, then it needs to be clear, you know, the guidance on how that decision is to be made. So some things that could be included to supplement that is, you know, criteria for creating a summary of findings following the consideration and putting that on the record, or a criteria for making conditions for the mitigation of impacts. And we have a similar comment for the section on 20.08.080. And then the final comment is on the section for 19.08.100...oh, sorry, sorry, 19.06.010, and that basically, rather than adding this into the districts designated, there may need to be a completely different section or subsection for zoning overlays. There's been discussion of a cultural overlay district. We think that this wetland should function as an overlay, you know. Both of those could also be potentially handled by open space zoning. But if they're not going to be just rezoned to open space, then it probably should be an overlay district, and then you would create a subsection that's distinct from the zoning districts for overlays and place these in that location. That's all of our comments.

CHAIR KING: Okay. Thank you. Thank you, Planning Department. Next we'll go to Department of Environmental Management. Aloha, Director.

MR. NAKAGAWA: Aloha, Chair --

CHAIR KING: Any comments?

MR. NAKAGAWA: -- and Members. Yeah, so I mean, it looks like Jordan and Rowena covered pretty well on the...more of the implementation and all the verbiage, I guess, inside the actual proposed amendment for the Code. I guess my only...when I first read it, I guess, my *(audio interference)* are on board with you guys of we need to protect the wetlands, right? Because it does have, as Ms. Knox said, environmental benefits, right? I think...and so...but it's easy to see, I guess, natural wetlands as far as like Keālia Pond or Kanahā Pond, that kind of stuff. I think the only caution I have is...as Mr. Reyes pointed out, is like what is the definition? And then those definitions, how does it translate actually on the map, right? So, you know, I did talk to, like, DLNR, Clean Water Branch, the...I guess those are the legal authority who designates these kind of wetlands as well as the Army Corps. So they...you know, there are some...I only went to the National Fish and Wildlife, they have an overlay map. So even if that's a good start, but I know we're going to try...sounds like you guys want to try to expand that and create a...maybe a little bit broader designation of these maps. So the map is the key, right? Because if you just look at the National Fish and Wildlife, there...I guess, the hesitation I have on is you guys also have restoration, right. So when we talk about restoration, I kind of view it almost like sea level rise and, you know, similar, right, like when we do managed retreat or we're

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going to retreat, right. There's a lot of different places that existing right now throughout the County, and whether it's Kihei and Hāna, Ha'ikū, Keanae, and a lot...and like Kaunakakai, right, where you have existing homes, businesses, and other things that are inside just the...just this one that's from the National Fish and Wildlife, right. And they all said for Hawai'i, it's not pretty...really that accurate. So I think first is...for me, in the bigger picture, I...you know, everybody talked about more specifics on that bill. I think that bigger picture for all of us is really trying to figure out what the definitions we want, and then going out in the field and mapping that, right. And then you...overall, you look at what it is. And then I think like what Ms. Knox said is, you know, then we look at that and then we figure, okay, is that too restrictive or less restrictive, right. And then from there, we can kind of come back and talk about, okay, how do you want to implement that? For me, that's kind of the biggest thing because I guess the...we didn't really have...we couldn't offer up a recommendation because we don't know the extent on which this program will reach, right? So for instance, like all of Azeka, right, that whole Azeka Place, right, they're all in the wetlands, right. Whether it's like along 'Īao, 'Īao Parkside, they're all in the...you know, the designated wetlands according to the National Fish and Wildlife one that kind of everybody uses, but they realize that it has...it's not really accurate for Hawai'i. So those are the kind of, I guess, questions I have as far as in more clarification on what is our intent. And then to me, like I said, the designated wetlands that we already know and that are already out there, Keālia Pond, that's easy, preventive, right, like we want to prevent any type of development on top of them. The question I have is more the restoration. And then if we're going to broaden the definition, how does that impact that surrounding area? And then the other thing, you know, I do offer is when we try to broaden that definition, I know there...this is the hard part, right, and we kind of see it in all levels of regulation is the Federal, State. To me, everybody should be somewhat harmonized. I know the definition you guys have right now is pulled straight out of the EPA on definition. And so...but if we're going to broaden to manmade, that kind of stuff, as somebody suggested, I know those are not included inside the State and Federal wetlands definition. And other than that, I mean, I think that's pretty much all that I have. And then so once we get more clarification, we can offer up more recommendations.

CHAIR KING: Okay. And Director, there is a definition of wetland right now that exists in Code, and it's...Staff just put it into the chat so you can see. That's the definition that we're referring to in the bill.

MR. NAKAGAWA: Yeah, that's the one.

CHAIR KING: And that's the one that you've heard testimony on and presentations on that we should broaden. So that's what...that's the starting point, just to let everybody know.

MR. NAKAGAWA: Yeah.

CHAIR KING: Okay.

MR. NAKAGAWA: So that's the one straight from the EPA guidance, yeah.

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CHAIR KING: Yeah, that is actually in our Maui County Code right now.

MR. NAKAGAWA: Yeah.

CHAIR KING: Okay. All right. So thank you for those comments. Appreciate it. And next I wanted to see...is Keola Whittaker still here? Keola, do you want to make any comments? I know you had some comments on Federal and State guidelines.

MR. WHITTAKER: Sure. Thank you, Chair. You know, the time it took to put this complicated piece of legislation together, this is a really complicated area of the law because it involves overlapping State and Federal regulations. So we just want to take some additional time to consider possible amendments, but I can preview some of what we would recommend. First, I want to ditto what Jordan and Rowena said. I think they had a lot of good comments, and some of what we would recommend . . .*(inaudible)*. . . their recommendations. One easy change is I would recommend amending 19.47.070, which just mentions two Federal statutes, the Clean Water Act and the Coastal Zone Management Act. We should expand this no conflict provision to include no conflict under State or Federal law rather than just mention these two Federal laws because we know that others apply. So like the Endangered Species Act, for example, Migratory Bird Treaty. In addition, the County has certain obligations under State Law in these areas, and so we wouldn't want to conflict with those laws. So we can just say this Chapter is not intended and may not be interpreted to conflict with State or Federal law. As Rowena said, the ordinance should include allowed uses in wetland areas. So as it's drafted now, there are only set of prohibitions. So people that own land within a wetland area would want to know what is permitted, even if it's an overlay district. And I should note there are a lot of model ordinances out there made for municipalities and...that have been passed in other cities and counties, and they include, you know, permitted uses such as agriculture, parks when left in their natural state, wildlife preserves, et cetera, so that's something that we can use as a model. There have been quite a few comments on the mapping. You know, one thing that Council could do is they could pass...adopt by ordinance a map of the wetland areas, and then have a procedure to amend those maps perhaps annually. There's some State law issues, so Charter and State laws make the planning commissions the authority regarding the SMA, and many of the wetlands would fall within the SMA area, so we'd want to take some time to consider how those laws might interact. There's just a couple of policy recommendations. You may want to allow for special use permits to allow for certain uses, for example, if there's no practical alternative for that use. So Rowena mentioned some uses for which a special permit may be...might be granted, and you can have strict criteria for that, but at least that allows for some uses within the wetland area. And then another policy consideration is that, you know, as it's drafted, the Planning Department's going to be required to produce the disability reports, you know, one requirement. That requirement could be placed on the applicant, so it'd be similar to an environmental impact assessment, and then that report could be accepted by the approving area agency, by Public Works or Planning. And then just one note about amendments. So, you know, if you pass it today and it goes to the planning commissions, they will make certain recommendations. So the

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amendments that you make after that, if they relate to those recommendations, it doesn't have to go back to Planning; or if they're not significant, so it's not, you know, a big substantive change, it doesn't have to go back to the planning commissions. But it sounds like there are a number of amendments that are possible, so just want the Committee to be careful that, you know, if it's not something that the planning commission recommends, and it comes back and you want to make substantive amendments, then it would have to go back to the planning commissions again. That might further delay implementation of this legislation.

CHAIR KING: Okay. Thank you so much for those comments. appreciate it. And then last, I would like to bring on James Forrest from OCS, who worked essentially on this bill, to speak to some of the comments that are made and where we are at with the proposed amendments.

MR. FORREST: Thank you, Chair. There have been a lot of amendments today. That means a lot of people have been working hard. I just wanted to note that the presentation by Robin Knox was excellent. Kudos to you. I just wanted to start by maybe describing the origin of this bill, and then the existence of the Federal protection that does protect wetlands that are adjacent to navigable waters. That definition of adjacent has been narrowly construed, so it doesn't protect many wetlands here in Maui County. So that's what we were aiming to do, is to use that definition, but expand the area that it covers to areas that are not just adjacent to navigable waters. So that's why we used the Federal definition. It's a policy decision to decide if you wanted to expand that definition. There's also nothing preventing you from passing this legislation, and then passing subsequent legislation to protect other wetlands that are not covered by the Federal definition. Those are all up to you, all policy decisions. Now, as far as the comments from Corp. Counsel and the Administration, there were a lot of comments, so I can't address them all right now. We would like to get those in writing. It's a good thing that this would be going to a planning commission so you'd have the chance to iron those out. It is similar to the discussion about what type of amendments you can make on, you know, first and second reading. The rule isn't necessarily substantive changes, it's changes that effect...you know, essentially change the bill so much that it's now a new proposal, okay? So you have a little bit broader ability to make changes. You can err on the side of caution, or you can try to press those limits. That's up to you guys. We have said in the past that that...the planning commission exists for this purpose. You send them a bill so they can make comments and make changes, then you guys review those. So your power is pretty broad if you did do something that changed the complete nature of this bill, it would be...it would, you know, necessitate sending it back to the planning commission. I'm not too worried about that requirement, but that's always an option for you. So really, that sums it up. Unless you have a specific question about a comment, I think that's where we...where we would end it.

CHAIR KING: Okay. All right. Thank you. We've had a lot of input, Members. And do you want to take a short break? It's 10:36 right now, and then come back and we can do the round of questioning? Or do you want...okay. So we'll take a ten-minute break. If everyone can hang tight with us, it's 10:36, so we'll come back at 10:46 if that's okay with everybody. And thanks to everybody for their comments. And then we'll

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proceed with looking at this bill and deciding if we're ready to pass it on to the planning commission or if we have too many changes. You know, I'm going to go ahead and call recess until 10:46. . . . *(gavel)* . . .

RECESS: 10:36 a.m.

RECONVENE: 10:48 a.m.

CHAIR KING: . . . *(gavel)* . . . Will the Climate Action, Resilience, and Environment Committee return to order. It is 10:48, and we've had presentations and comments by all the Departments, including Corp. Counsel and OCS, and so I'm going to go into questions. And we have...we have four of you, so I'm going to go with four minutes each because we have a lot of people that you may be wanting to ask questions of. So Nicole, if you could just do the timer for four minutes, and we'll start with Committee Vice-Chair Shane Sinenci. So any of our resource people or Departments that you would like to ask questions of.

VICE-CHAIR SINENCI: Okay. Mahalo, Chair. I wasn't sure if Member Paltin is on a time...did she want to go ahead of me in case she needs to drop off or anything?

CHAIR KING: Oh, I don't know --

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: -- do you have a question...

COUNCILMEMBER PALTIN: *(audio interference)* as long as I am able to. Thank you for your kindness.

VICE-CHAIR SINENCI: Oh, okay.

CHAIR KING: She's just listening, so...

VICE-CHAIR SINENCI: Oh, okay. Thank you, Chair. So my first question was for Mr. Reyes. He did mention that the watershed currently is not recognized by Federal standards, and I was just wondering which of the three criterias [*sic*] did we not meet?

CHAIR KING: Mr. Reyes.

MR. REYES: So I guess...I wanted to clarify that the State is defaulting to the Federal definition for wetland. That definition is for an isolated wetland specifically, so it...I had it in front of me but, you know, basically it's saying that a wetland has to have a predominance of, like, saturated soils or hydrophytic vegetation. And so what that is is that's going to limit us to protecting isolated wetlands like...and so a lot of these ephemeral streams, because they rarely flow, they don't have hydric soils and they don't have hydrophytic vegetation. So like Waipu'ilani as an example, it's basically got keawe and buffalo grass growing in it. Neither of those two are hydrophytic.

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They're both considered adaptive plant species. And there is a national wetland plant list which goes through and lists the...what each plant type is considered. So you have obligate, facultative wet, and facultative species are found in wetlands, and then fac-up and upland species are considered upland plants. And so --

VICE-CHAIR SINENCI: Okay.

MR. REYES: -- all the plants in Hawai'i are...many of the plants in Hawai'i have been given this designation. And so if those plants aren't located in the area...if wetland plants aren't located in the area, it's not deemed to have hydrophytic vegetation present.

VICE-CHAIR SINENCI: Okay. And --

MR. REYES: In the current...

VICE-CHAIR SINENCI: -- has the County...Mr. Reyes, as a County, we can be more restrictive or we can kind of do our own --

MR. REYES: Yeah.

VICE-CHAIR SINENCI: -- watershed area?

MR. REYES: You could. And so with...you know, with isolated wetland systems, like I said, there has to be predominance of aquatic vegetation, hydric soils, and evidence of hydrology in place. That's what the Army Corps requires.

VICE-CHAIR SINENCI: Okay.

MR. REYES: The County could very easily require only one of those or two of those be present instead of all three being present.

VICE-CHAIR SINENCI: Okay.

MR. REYES: And that would obviously expand the size of the wetlands footprint for many of the wetlands that currently exist. So...

VICE-CHAIR SINENCI: Okay. Thank you. And then my next question was for Ms. Knox. Her presentation included areas that kind of included surrounding areas. Did that one slide also include reef going out into the reef marine environment?

MS. KNOX: We did not...

VICE-CHAIR SINENCI: It did not.

MS. KNOX: We did not...sorry.

CHAIR KING: Go ahead.

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MS. KNOX: We did not map the reefs, but there are maps that have been done by agencies that show the reef areas along that coastline. I will say that what I recollect from looking at those maps is that those are areas that have been very impacted by macroalgal overgrowth, which is often in response to nutrient loads. So the...it's quite possible that the health of the reef along that coastline would be much improved by better management and restoration and preservation of our (*audio interference*)

VICE-CHAIR SINENCI: Is it included in the watershed identification? . . .(*timer sounds*). . .

MS. KNOX: That might be a question that Michael could answer better. I don't know what's --

VICE-CHAIR SINENCI: Okay.

MS. KNOX: -- in the latest watershed plan with that...with regard to that.

VICE-CHAIR SINENCI: I...my time is up, and I can wait for my second round. Thank you, Chair.

CHAIR KING: Thank you, Committee Vice-Chair Sinenci. Next we'll go to Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Okay. Wow, this is a fascinating presentations for you folks, and it brings me back to my time in conservation and the troubles that we had to deal with on that level. So in this...and so my question is for Ms. Knox. In regards to wetlands, it seems to me that we're talking very specific about coastal wetlands, but as we know, when we go up in the mountains, we have, you know, upland...I don't know what the category is. Upland wetlands or bogs or whatever we call them. Can you speak to that in regards to not only being coastal when we speak on wetlands?

MS. KNOX: Yes, our presentation did focus on coastal wetlands because we're looking at the South Maui area. However, our definitions and other research did include all wetlands. They're referred to as elevated wetlands, and they're quite important to the water systems.

COUNCILMEMBER JOHNSON: Yeah. And for me, like working in the Invasive Species Control back in the day, the wetlands...oh, I just totally spaced on the name...the upland wetlands or what did you call them? The higher...

MS. KNOX: Elevated.

COUNCILMEMBER JOHNSON: The elevated wetlands are...have different challenges, you know, invasive species, strawberry guava, they're not facing the development that the coastal wetlands are struggling with. So that was the...that's kind of what I just want to speak...in the definition, we are trying...we are addressing the upland wetlands so...okay.

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MS. KNOX: We are. I think that comes under the topic of restoration and --

COUNCILMEMBER JOHNSON: Oh.

MS. KNOX: -- you know, invasive species are a problem for all the wetlands because they change the nature of it.

COUNCILMEMBER JOHNSON: Yeah, that's right. Okay. My next...thank you, Ms. Knox, for that. I'm running on a timer, so I'm going to move on to my next question in regard...and this is for Planning Department. Let's see here. So overlay versus zoning. So Mr. Hart, can you speak to the idea of...do you have a preference of overlay versus zoning when it comes to wetlands, or are we pretty much...overlying would be the best route to go when it comes to this policy?

MR. HART: Our recommendation is overlay. The Council could do...choose to do either/or, but it's not the same thing, so they have to be differentiated. You do one or the other. But we think that overlay is the best way to do it --

COUNCILMEMBER JOHNSON: Okay.

MR. HART: -- at this time based on the current draft.

COUNCILMEMBER JOHNSON: Can you explain why you think overlay would be better as opposed to a zoning?

MR. HART: Well, I mean, you would have to go through and basically rezone all of these properties that you're discussing and whether or not, you know, that's...needs to be done or is your intent not abundantly clear that that's the case. But providing an overlay, especially in the special management area would, you know, have a very similar effect of basically causing these things to have to be addressed through that process.

COUNCILMEMBER JOHNSON: Okay. Thank you. Thank you, Mr. Hart. And my last question's for Mr. Reyes in regards to examples of hydrophytic...is that the word...hydrophytic vegetation. So can you just give us some examples. Like, for example, is moss considered hydrophytic vegetation, or can you give us some...I know you gave examples of what weren't, like keawe, so can you give us examples of what some hydro...whatever...what the vegetation is?

MR. REYES: Yeah, so the invasive...the pickleweed that you see in all the wetlands that's in the Keālia Pond and . . . *(timer sounds)*. . . those are hydrophytic plant, only occurs in wetlands for the most part.

COUNCILMEMBER JOHNSON: So what is an example of a vegetation...you said that the invasive grass is one?

MR. REYES: That is one. So basically these plants are plants that have evolved to live in soils that are anaerobic.

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COUNCILMEMBER JOHNSON: Yeah.

MR. REYES: Anerobic soils are found in wetlands, and so it's a good indicator of a wetland because plants like...you'll see it...keawe sometimes during dry years will populate to the center of the wetland, and then you'll see a bunch of young, dead keawe trees. And what's happened is that as the water during a wet season or wet year, that those anerobic soils will kill plants that aren't supposed to be growing in the wetland.

COUNCILMEMBER JOHNSON: Oh, okay. I see.

MR. REYES: I can provide a list of all the plants listed in Hawai'i with their designation for the Committee if it's helpful.

COUNCILMEMBER JOHNSON: Okay, I see. Thank you, Mr. Reyes. Thank you, Chair.

CHAIR KING: Thank you, Member Johnson. So just to be clear though, pickleweed...because I spent...couple weeks ago I spent, you know, several hours pulling pickleweed out of the wetlands. So even though it's a weed, and we don't want it there, it's still an indicator of a wetland.

COUNCILMEMBER JOHNSON: Exactly yeah. Okay, great.

MR. REYES: Correct.

CHAIR KING: Okay.

COUNCILMEMBER JOHNSON: Thank you for that clarification, Chair.

CHAIR KING: Because...yeah, a lot of us spent a lot of hours, and I think I had to leave because I was getting lightheaded and I almost fainted. It was in the hot sun pulling out all that pickleweed. But that's interesting to know that some of the plants that are indicators are not necessarily wetland friendly. You don't want them there. Okay, next we'll go to Member Molina, followed by Member Sugimura.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. And much mahalo to Ms. Knox for that great presentation. The visuals are certainly worth 1,000 words. And also for the input from our various Departments. I guess maybe for Mr. Hart from Planning. At this point, do we know what percentage of wetlands in Maui County are Government-owned versus wetlands that are owned privately?

MR. HART: No, I don't think that that's something that we...I think that's something that could be, you know, a conclusion that could be reached. I think we need to discuss which definition of wetland we're using to do that, but I think that we can certainly, you know, come up with that information using our GIS (*audio interference*)

COUNCILMEMBER MOLINA: Okay, thank you. And then for Public Works, Ms. Dagdag, any...do we have any existing permits that could create a conflict with this new

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ordinance in place? I know you mentioned some concerns with doing some public improvements. And also, if Director Hart wanted to jump in on that question as well.

CHAIR KING: Rowena, are you still here?

COUNCILMEMBER MOLINA: If she's off the call, Madam Chair, maybe Director Hart could respond to that if he has any information.

MR. HART: Let me clarify that there is a specific quantity of pending permits that may involve wetlands now?

COUNCILMEMBER MOLINA: Yeah. If there's something that you see with existing permits that if this ordinance were to pass, there could be a conflict, or maybe in some legal issues? Are you aware of anything like that?

MR. HART: Okay. So I mean, I would ask Corporation Counsel to get involved in this specific part of the conversation, but in similar scenarios, when legislation is changing and there are pending applications, in the past, there has been, you know, recognition of the status of the applicants under the prior, you know, Government criteria at the time they applied. So, you know, and there's been a number of conversations like this in recent legislation, so there should be a comparable discussion, but I think that your counsel should advise you on that. But we could advise on if the criteria that we're specifically discussing is established, at that point we could give you information on, you know, how many permits we think are pending that are subject to that criteria.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Director. Okay, can we have Mr. Whittaker comment on that question as well, Madam Chair?

CHAIR KING: Sure. Keola?

MR. WHITTAKER: Thank you, Chair. Yes, we wouldn't have retroactive application of the permitting requirements. So it would depend on the particular permit and the...and where they are in the process.

COUNCILMEMBER MOLINA: Okay. All right. Thank you very much. Thank you, Madam Chair. I also want to thank Mr. Reyes as well for his perspective.

CHAIR KING: Okay.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

CHAIR KING: Thank you. And then so, Jordan, your response to Member Molina was that you don't have any in the...in the queue now that would be affected? Or do you not know and you have to go back and...

MR. HART: Oh, what I was trying to say is that if we can clarify, you know, what...you know, there's been a lot of discussion on the various definitions of wetland. And in

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the context of this proposed ordinance, what I was trying to say is that if we'd set the standard for us to identify which projects we're searching for, we could search for those projects. But --

CHAIR KING: Okay.

MR. HART: -- it...but I mean, there are...you know, Ms. Knox presented a project that just got an SMA permit extension, you know. Did Mr. Reyes agree that that was considered to be a wetland under current standards or not? You know, that's the kind of discussion I'm talking about. Like, you know, there's these projects that are out there that people are aware of but, you know, what definition are we using to query the projects.

CHAIR KING: Okay, I've got it. So yeah, once we do define that, then you can go back and look. Okay. Thank you. Just wanted to clarify that for Member Molina. Member Sugimura.

COUNCILMEMBER SUGIMURA: Chair King, thanks for bringing this up. I mean, truly, the discussion is important. And growing up on Maui, I've seen, you know, the wetland areas it was...you know, it was a big part of Kihei and you're...you know, like Azeka Place, that's a really good example. And so my question is, what would happen to properties like that, that if we were to adopt a policy...and it sounds like there's a lot of work more ahead based upon the, you know, Department comments. I really appreciate Director Hart. He has a, like, a whole page of, you know, suggested changes. And then I hope that Director Dagdag-Andaya would also submit hers because I don't see hers in writing.

CHAIR KING: Right, Rowena will be getting those in hopefully.

COUNCILMEMBER SUGIMURA: Yeah, so if you could get that. And then I see Eric Nakagawa. But I wonder what the impact...I don't know who could answer this questions, but the impact of adopting legislation like this and the properties that I know of in Kihei. There might be others, like the Kahului Wastewater Treatment Plant, you know, if it's by the existing Kanahā, you know, I don't know what you call park or, you know, that area. So what are the impacts of this action to existing structures or businesses in the example of Azeka? What would happen?

CHAIR KING: There's not an intent to have an impact on existing structures. But, you know, there...we had a situation in South Maui that's kind of an ongoing where permission was granted for a business in what was previously on wetland was a home. I don't know if you remember the veterinarian, Dr. Kehler who has since passed. But when that was approved, it was because he was recognized as a local business, everybody knew him, he did good business, he had a good reputation. And then years later, there was another property on that street that was in the wetland zone that tried to do the same thing on a bigger piece of property. There was not a business already there or a building. And that's when the issue came up of what is a wetland, you know, why do we have a letter requiring that...that particular property to maintain the wetland when we had another letter saying it wasn't a wetland. So

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that's part of what we're trying to clear up here is, what is a wetland, what...you know, how can we protect these areas before we lose any more. And so my...if you have any other questions, otherwise I can go into my intent for the rest of this issue.

COUNCILMEMBER SUGIMURA: Go ahead.

CHAIR KING: Okay. So my intent was to...is at this point, because we have a lot of input from the Departments and, you know, hopefully we'll get them all in writing, is to go back and work on some of the details on who would do what. And what I wanted to get from this Committee...because I think that one of the most important things is the definition. And I would like to work with Robin Knox and Michael Reyes and the...and Makale'a Ane on creating a definition that works for everybody, that works for the purposes of this bill, if the Committee is willing to look at a broader definition than what's already in the Code, which is what's posted on the chat. So if we...if I have the blessing of this Committee to go forward, then I'd like to try to broaden it a bit. And because of my background and my work, I've had some meetings with the FDA on the Clean Water Act, and even with some NACo through the WIR. And I believe what's happening on the Federal level is that very narrow definition, which eliminated a lot of the adjacent waterways under the Trump Administration, that's being set aside now. And so the broader definitions, I think, are going to come back under the Biden Administration because a lot of...there's a lot of things that were allowed to happen under the Trump Administration because of that redefining what adjacent waters to the navigable water...U.S. navigable waters are. And that may be something that regardless of what the Federal Government does, we want to do that because of the protectionism that we see necessary for Maui County. So that's...that was my intent was...at this point is to work with, you know, the groups that brought forward the information on, you know, the various types of definitions, and try to come up with a definition that works better for Maui County. Because it is...because my main thing I find in the definition was just finding out that we can do that, and it is legal for us to, you know, broaden the definition if we want. So unless this Committee has any major objections to working on that and, of course, anybody who wants to be part of that discussion is welcome to...and I'd like to move forward with that, and also work with the Departments on some of the details and, you know, we can clean up that language of zoning versus overlay, things like that. So if that works for everybody, then we can defer this item, and I'll bring it back when we've got a more defined bill that we can send to the planning commission. Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, I really appreciate that, and I would like to...if I could participate in it, be part of the discussion. But if, you know, we can't...if we cannot because of Sunshine, I understand that also.

CHAIR KING: I think we can have at least two members so, you know, that's...that would be great. But, you know, even if we have three, we just have to make a report, I guess. Member...Vice...Committee Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Yeah. Thank you, Chair. Yes, I'm supportive of your process. I just wanted to add that if it could...if the definition could extend out into the reef system or from a cultural perspective, the Ahapua'a system was from the top of the

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mountain...not to the shoreline, but continued out into the reef and into the ocean.
Thank you.

CHAIR KING: Okay. Well, we'll definitely look at that and we'll look at what already exists to protect the nearshore areas and the reef and, you know, so there's not redundancy. But we definitely...you know, that's...you know, job one as far as protecting against erosion to the reef. Okay. So Members, if there's no other...if there's no other burning questions, then...with no objections, I'd like to defer this, and I'll bring it back as soon as we have something that is more defined that will be easier for the Planning Commission to review and send back to us.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: AL, TP)

ACTION: DEFER.

CHAIR KING: Okay, so ordered. All right. Thank you, Members. Really appreciate the input and the direction from this Committee. And we will be working on this, along with the myriad of other things. This Committee has been extremely active, and I really want to thank you all for, you know, being attentive to all these different issues we're working on. So Members, if there's no objections, I'd like to take up all three of the contracts that we're going into next together, and do presentations on all the contracts, and then we can have any questions that Members have.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (Excused: AL, TP)

CHAIR KING: No action being requested here, it's mainly just to review what's going on in the County with regards to these contracts.

CARE-60: WHOLE-SYSTEM SOLUTIONS ASSESSING AND ANALYZING CARBON EMISSIONS, AND CREATION OF DATA GATHERING, ANALYSIS, AND VISUALIZATION TOOLS FOR THE COUNTY OF MAUI'S JOINT CLIMATE ACTION AND RESILIENCE PLAN (CONTRACT C7432; MAP COLLECTIVE, INC.) (MISC)

CARE-61: WHOLE-SYSTEM SOLUTIONS COUNTYWIDE VULNERABILITY ASSESSMENT (CONTRACT C7431; GEOS INSTITUTE) (MISC)

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**CARE-64: COUNTY OF MAUI JOINT CLIMATE ACTION AND RESILIENCE PLAN
(CONTRACT C7436; LOTUS ENGINEERING AND SUSTAINABILITY, LLC)
(MISC)**

CHAIR KING: So we have Whole-System Solutions Assessing and Analyzing Carbon Emissions, and Creation of Data Gathering, Analysis, and Visualization Tools for the County of Maui's Joint Climate Action and Resilience Plan, CARE-60. We have CARE-61, Whole-System Solutions Countywide Vulnerability Assessment. And we have the County of Maui Joint Climate Action and Resilience Plan, which is CARE-64. So for these items, we have Makale'a Ane, who's the Environmental Coordinator from the Mayor's Office of Climate Action, Sustainability, and Resilience [sic]. And I think we have Alex de Roode. I have him in my notes. Yes, Alex is here, who is our Energy Commissioner from the same office. And they will be providing us updates on these contracts. So I'll turn it over to Makale'a first. Thank you so much.

MS. ANE (*PowerPoint Presentation*): Hi, aloha. Thanks for having us today. I'm sharing my screen, so hopefully you can see my first slide.

CHAIR KING: Yes, we can see it.

MS. ANE: Perfect, okay. So we are going to give a presentation on all of the three different items on the agenda. I'm going to dive into the resiliency strategy, which is for CARE-60 and 64, I believe. And then Alex will finish with an overview of how all the projects work together and all of our contracts kind of interweave and create our whole-system solutions to climate change. So this first slide is very apropos to our conversation now. This is the Makaloa Reed that's located in our estuaries. And it really embodies the sentiment of our...of our office, the Office of Climate Change, Resiliency, and Sustainability [sic]. The Makaloa Reed is very important culturally, but it bends and sways as Hoholu, Ke'ena o Hoholu is the name of our office, and so Hoholu is to be resilient and bend, and the Makaloa bends with the ebbing of the tides, but is rooted in deep and is able to hold on and be resilient through these changing times. So let's see if I can change this screen. Let's see.

CHAIR KING: . . . (*inaudible*). . .

MS. ANE: Yeah. Let's see if I can get to the next page.

CHAIR KING: Okay.

MS. ANE: Going to have to scroll. Okay. Scroll. So let's start off with the definition of resiliency. We use the ability to adapt and thrive through shocks and stressors that are exacerbated by climate change. So what do we really mean by that? There's a lot of vocabulary in there. So what do we mean by the ability to adapt to climate change? Who has the ability to adapt? Who has, you know, the extra money that they can put into and invest in solar projects? Who can buy EV car? Who can even attend workshops on climate change and participate in discussions like we have here today? And, you know, we can unpack all of these words. Adapt and thrive. How do we thrive as a community? How do we thrive in the face of climate change and

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shocks and stressors? Shocks are bigger impacts to our community, like tsunamis and hurricanes, fires are really important, you know, increased storms and flooding events. And then stressors are just the daily stressors of our daily lives. How do I pay my rent? How do I, you know, send my kids to school? And if we can't take care of those stressors, those daily stressors, how can we have time to think about adapting and bigger issues like climate change? Here we go. Can you see the whole screen? . . .*(inaudible)*. . .

CHAIR KING: We actually can't. Is there some way that you can...okay, there. Now we can see the whole screen.

MS. ANE: Okay. Okay. So when we talk about this ability to adapt, we really want to focus on frontline communities. And these are traditionally termed as underserved populations, vulnerable populations, or historically disadvantaged populations, but we use frontline communities. And so these communities feel the impacts of climate change differently, and it really affects their ability to adapt. And it's really uneven across the board when you have, like we said, you know, available funding, time, energy, to address these impacts. And so frontline communities are often disproportionately affected by the impacts of climate change, and implementation strategies need to ensure inclusivity, especially for frontline communities and underserved populations. And then this is just a list of, you know, different definitions of what that means as a...when we look at one of the items on the list was the GEOS mapping, and we have a heat map index that we want to create with our Whole-Systems Solutions contract. And so it's really how do we define frontline populations and historically disadvantaged people, low income, people with disabilities, people with mental illness, you know, the list goes on and on. So our resiliency strategy. I think most of you have seen this slide before. When we are...we have created our resiliency strategy, we've been working on it for the last three years, and we've cross walked many of the plans that are out there and made sure that the underlying themes that have been identified in all of these plans and all of these surveys that have come out with during COVID, what are the people continuing to say over and over and over and, you know, we just want to make sure that we're listening and putting it into these strategies. So we've cross walked all of these plans. And really, the...what floated to the top and is what's really...you know, we've...we're talking about this today, making sure that we address traditional ecological knowledge and nature-based solutions. These solutions can help us mitigate climate change. This graph just shows how carbon is stored and how carbon is in the cycle, but really, indigenous solutions to climate change and nature-based solutions are what we want to invest in, and it gets the biggest bang for our buck, we feel. And so this is a slide of, you know, how all of these systems work together. You can have a water cycle, carbon cycle, nutrients and ecosystems all work together. And by investing in nature-based solutions, it will help address all of these problems instead of just one solution. Like say we want to address sediment on our reefs, you know, if we put in one sediment retention basin, yes, it captures the highest amount of sediment, but can it have other implications as well? As we've seen with COVID, we've...if you look at fishponds and lo'i, if we invest in those people doing those practices, maybe it's not the highest sediment retention rate and highest sediment coefficient or whatever of putting in vetiver, but if we...and retention basins, if we

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invest in cultural practices, those practices can pivot and provide other services, like jobs and food and education. So really looking at the whole system of these solutions. So this is just a diagram on, you know, import of fossil fuels, emissions, how nature captures that carbon, puts it in ecosystems, and how the whole system works. And kind of just like this is just identifying what the things that we don't really think about when we are looking at one specific BMP. If we look at nature-based solutions, it can address all of these different aspects, so climate regulation and resilience, environmental services, as well as social benefits. And I sent these slides to you so you can dive in more, but I'm going to try and breeze through this because of time. But this is what our resiliency strategy is going to look like. It's modeled after the O'ahu resiliency strategy. So we have pillars, goals, and action steps. And then we'll break them down into, you know, a description of the action step. Our resiliency co-benefits, who's being the lead on the action step, the time frame, how it aligns with the Aloha Plus Challenge; and then also, the UN Sustainable Development Goals. And also, what are we doing already to address this. Because a lot of work has been done already, and we really want to elevate the programs that address this, and really highlight that we are really working towards this already. And it's not a stagnant resiliency strategy that you put on a shelf, but really working together and working to implement these things that can make our whole County resilient. And so this is just an outline of what the resiliency strategy is going to look like, and a lot of the action steps that we've already identified. And hopefully we'll get it out within the next six months maybe. But we've done a lot of work within the last three years. I'm going to present some of the findings that we've had so far. And so like with the O'ahu resiliency strategy, it's set on pillars, and those pillars identify goals and then action steps. And so our...how we developed the RFP is that we really want to make sure that we include an indigenous mindset so...and not just translate, you know, verbiage from, like, one strategy that was written in English and put it into Hawaiian just to translate it for the sake of translating it, but really work with cultural practitioners to really look at what that means to be resilient. We've been looking at this problem for two thousands of years. So if you have that mindset, the Kanaka mindset first, and the...and include people...not just Hawaiians, but people that have been here and see these problems, that we can capture things that we wouldn't necessarily capture by just translating it word for word. And so one of the examples is that instead of using the word pillars, we would...I'm suggesting to use piko. And so in Hawaiian we have three piko that connect us to our ancestors, that connect us to this current generation, and then the last piko is to connect us to our future generations. And so that's really the goal, is to make sure that we do good by our future generations. We're just borrowing this land from them, and we want to make sure that we set them up for success. So I'm suggesting that we call these pikos. And so our first piko is to mālama Kanaka, then mālama ola, or mālama honua and then mālama ola. So mālama Kanaka is, you know, to take care of the person. What...and this is not just Kanaka as a Hawaiian, but Kanaka people in general. All of us that are here. And we want to make sure that we have the basic necessities to survive. We just...so that would be food, water, housing, and career opportunity. Mālama honua are the, you know, general earth practices that we think of as climate resiliency and climate change policy and planning. You know, renewable energy projects, those are all taking care of the land, honua. And then mālama ola is making sure that we take care of ourselves. And we,

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you know, have self-care and healthy communities, religion, and cultural practices. But really, if we can't take care of ourselves, we can't have the energy to make sure that we take care of each other. So making sure our whole bodies are taken care of. I'll dive into the three pikos that we've identified and try and breeze through this. So the first one is mālama Kanaka. So people, place, you know, your water, food, housing, community, and economic development. So number one is land use design guides. And I'm going to breeze through this because you guys will have it already but...and there'll be some that I pull out specifically, but land use design guides, minimal standards including LIDs, Complete Streets, and other triple benefits. Number two, catalyze the construction and retrofit of healthy resilient zero carbon buildings. And of course, we've had this on the agenda earlier, and it's really important to...if we are going to set these goals, we have to make sure that we take those steps to get there. And there's a lot of ways that we can do that that are good for the environment, and not hard on our pocketbook. Maybe a little bit more money spent to putting these things in, but we really need to prioritize that. So number three, invest in ecosystem regeneration access or promote circular economy pathways. We've seen this with COVID, we need to invest in circular economy, making sure that we create businesses here that could address all of our needs so that when there is a shock to our system that we can bounce back and that we're able to withstand it and hold our own. Number five, affordable housing buyback program. So how do we keep affordable housing affordable? And really, all of these strategies are trying to address the loopholes in the system and figure out how do we...how do we tweak that so we can fix these little things that need to be fixed. And so that affordable housing buyback program, we think...we've been talking to a lot of people, and it's been identified that...and we haven't totally reached out to the Department of Human Housing and Concerns [sic] and built up this strategy, but we want to...all of these strategies that are identified are pathways to work with the different departments and say, okay, let's unpack this a little bit more. This is what our contractors are for. How does this really function? How does this really work? And how do we, like, for this example, keep affordable housing affordable? And so our idea is that if there is an affordable housing project, you know, we...people buy into it, you live there for a little while, and then maybe they're...they get a little bit too big for that home, they want to sell it. How do we keep that house affordable? Is the County able to...when that person sells, they're supposed to be able to offer it to the County so that we can buy it. If we don't have the money to buy it and say, sorry, we decline to buy it, then that house can go on the open market. So...and Lori can correct me if I'm wrong, but this is just what we've learned in the last three years. And so if we can, as the County, say yes, we are going to float that. We are going to buy it back, turn around, and sell it at affordable housing rate, you know, depending on inflation or whatever, but sell it back, we only had to carry that loan for a little bit or carry that in our Affordable Housing Fund and sell it back on the affordable housing market. So hopefully that'll be good, but we still have to unpack that one. Number six, first time homebuyers program. Of course, we have it right now. Let's build out that program a little bit more. Maybe partner with other organizations, partner with land trusts, partner with OHA, DHHL. Right now it's on a lottery system, so if maybe we partner with OHA and DHHL, if there's people that don't get on the lottery, maybe they can fill that gap and fund those people. If maybe they do get on the lottery, they get \$30,000 for their down payment, but we know that

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\$30,000 is not a lot, and you still have mortgage insurance. Maybe OHA, DHHL, other community groups can match that, bring it up to the \$60,000, and maybe we'll put vulnerable populations at a better standing. Number seven, agriculture housing. We all know that housing is an issue. We want farmers on the land, but how do we keep it from going into gentlemen's estates? I don't know, but something to think about. So our next pillar is mālama honua. And Alex, if you're there, please jump in and explain any of these. But number one is the Mayor is really, really...is...he really feels that 100 percent water reuse is one of his top priorities, and we're really looking at this for West Maui especially, but also other...around the whole entire County. But one of our ideas for West Maui is to use the injection well. We've procured a reservoir and if we pair that with--sorry, there's sirens in the back--if we pair that with pump hydro when the water's coming down, we can create electricity. And then if that water goes to ag fields, we can also create food. We know a lot of it's going to go to other developments and landscaping, which is good because we want to make sure that we're using recycled water on our landscape, and not fresh water and drinking water. But yeah, just looking at these systems as a whole and figuring out how to pair them together and be really resilient as a community. Number two, accelerate an equitable transition to clean energy sources. Three, CIP projects based on resiliency standards. So I know our Administration and Dave Taylor really look at CIP projects and make sure that it is going to be resilient and they have this internal checklist. But really, creating these standards and documenting it and making sure...you know, check...we check marked it, and it is resilient. And we're doing that with our vulnerability assessments within the Departments as well. Number four, manage climate and environmental risks and reduce exposure disparities...sorry...through land use and infrastructure development policies and Code updates. So this is exactly what we're talking about today, right? And we've...you know, a lot of these new bills and ordinances that have come up are really trying to address this issue. So amending the 205(a), no building in historic areas or updating the SLR-XA. I know the SMA rules and regulations are getting updated, but if we use the SLR-XA, can we do plus 40 feet or something, or plus something. We can always do better, and there's always things that we haven't thought about. And then so on here is also the overlay districts. One of them was, you know, the wetlands, that was one of our action steps that we wanted to address, but also other ones relating to water, the well head protection, other stuff like that. Number five, identify opportunities. Consider blue, grey, green infrastructure, making sure that...this kind of ties to our water reuse, but allowing for grey water reuse. Allowing for low impact design and development. When we do streets, making sure are Complete Streets. Also integrate native Hawaiian plants, as well as bioswales and native bioswales, stuff like that. Number six, making sure that our all hazards mitigation plan updates include climate change and resilience, which it does, and it can continue to be ongoing. Alex and I were involved in that updating process that they did...that MEMA did last year. We were going to be talking about these new contracts, but we have our countywide vulnerability assessment. A lot of the Departments, you know, they had a defined scope of work that they looked at that the impacts of climate change directly on their infrastructure. And mostly it was identified that it was mostly the impacts of sea level rise, but our County-wide vulnerability assessment is going to be an overall...like, what are all the different impacts from climate change, including increased storm events, you know, flooding

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and fire. And then we have...one of our contracts is for a heat map index overlaid with ALICE data. And Alex will talk about it a little bit more, but just making sure that we address the heat island effects, as well as threats of wildfire on our communities and where those are. What communities are, you know, the most vulnerable from fire and also, which farmers are vulnerable and kind of in the way of this path of increased fire risk. Number eight, our climate action plan. And number nine, the Mayor approved a paperless policy for the County operations, or for me to draft one. And so this is modeled after the Federal memorandum in 2019, so hopefully we'll have a paperless policy come out that helps us get there. Mālama honua, this is our second piko still, but number ten, committed to renewable energy goals for public transportation by 2035 and electric busses. Number 11, County-wide fleet electrification, looking at how we can make that transition, you know, what can we do now and what can we set ourselves up for the future. Alex has really been working on charging stations. I know DEM...Department of Transportation is looking at other options for our fleets. Number 12, citing our renewable energy projects with respect to culturally important resources, low-income populations, and natural resources. We have a lot of renewable energy projects going on to important ag lands. We want to make sure that ones that are important are used for ag and other purposes. Number 13, use of native plants in public landscaping. There's a State Act that says, you know, we have to use native plants at certain percentages in our landscaping for State...for State contracts. But we can do that for the County as well. And we can also be more aggressive with our levels of percentage that we use. And so put our money where our mouth is, making sure if we're going to spend the money on plants, let's make sure it has cool benefits and nature-based solutions, and we can put it in native landscaping. And also...sorry, one more, updating the noxious weed list. So one item was if the plants are found on the noxious weed list, making sure that those plants cannot be sold at stores because we're...if we're allowing them to be sold in the store, then we're paying, you know, MISC and other type people to remove these from the wild, we're kind of in this vicious cycle. So let's...like we did with the sun...we're trying to do with the sunscreen ban, make sure that we just say you can't distribute these things because we're continuing to put money into eradicating them. And then the last pillar, or the last piko, is mālama...it should be mālama ola, so take care of ourselves and our wellbeing. So we would like that all Government documents be available in 'ōlelo Hawai'i. And this is how equity can look in Hawai'i. How do we pay tribute to people that are here, have been here for thousands of years, and to uplift the importance of 'ōlelo Hawai'i. Number two, upgrade broadband access and reliability for underserved populations. We've been trying to do this during COVID. It's very important. And we've seen that, you know, really, kids need access to broadband, and there's a lot of places that don't have that access, and it really trickles down to education and uplifting different communities. Number three, develop satellite kitchens and school farms for farm to school produce. We know the problem is getting the farm...or getting the produce to the schools. And it's...really has to do with the procurement at the State level for our DOE system, where you want to make sure that the schools and the cafeteria workers, but, you know, it's easier to work with a...you know, one contractor that brings in food from all over the place, and that's how that system is set up. But how do we make it easier for a farmer to go directly to the school and just give one produce. And so our system is, you know,

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the...that contract has to go to a third party that can accumulate produce from 23 different vendors or produce items. And so how do we address that? How do we make it easier to get really good, healthy food back into our school system. And so one of them is satellite kitchens. Seeing if a certified kitchen can actually be the ones preparing the food, they work with the local vendors, you know, chop up all the vegetables, you create more jobs for creating these packets or food items, and then giving it to the school either, you know, prepared hot or ready for the school to assemble. And then also, in Ke‘anae, Maka‘ala Ke‘ike is really looking...they’re the ones that gave me this idea about school gardens. And so a lot of schools already work with farmers, already go to the farm and have curriculum on these farms. If we can designate these farms as school farms, then they can provide food directly to the school and give them really fresh, healthy food for their cafeterias to work with. Number four, accelerate transition to clean energy. Accessible and equitable mobility systems. And number five, this is actually really relative to our conversation right now. Councilmember King had said that this...that wetlands were our first line of defense, and I think actually to me, these wetlands are the last line of defense by capturing sediment. Our first line of defense...well, first is making sure that the sediment stays on land. But also, we can create riparian buffer zones and setbacks to make sure that those areas don’t contribute more, and those keep sediment on the landscape. And then it comes down the stream, and then the wetlands...everything is connected, and you can always find better ways to address, you know, sedimentation issues. And so green corridors and actually access for people to access these corridors and use these places and connect to nature because we really have to develop that appreciation and knowledge that you just drove over a culvert, but do you know that that culvert is actually a stream? Not very many people make that connection, so making that connection again. And then number six is developing a resilience hub network. And so Alex and I are really...are working on an EDA grant to help to get resilience hubs to leverage the funding that we currently have for resilience hubs and implement them across the County. And one of our contracts is for the development of resilience hub network. With that, we have 20 minutes for Alex and some more conversations and questions. So I’m going to let Alex just introduce how all of our contracts work together, and the different contracts that are out there, and this intricate community outreach effort that we’re going to be diving into really soon. Alex, you can share your screen.

CHAIR KING: Thank you, Makale‘a. We’ll go to Alex and, you know, we have 20 minutes, but we...you know, I’d still like to leave a few minutes for Members to ask questions if they have --

MS. ANE: Yeah.

CHAIR KING: -- so they can...

MS. ANE: So Alex will...

MR. DE ROODE (*PowerPoint Presentation*): . . .(inaudible). . . Chair. I didn’t want to stop Makale‘a’s momentum there. She was doing a good job all in one breath. Kudos to

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Makale'a for going over all of that. Let me just share my screen real quick here. Let's see. Are you seeing this relationship diagram?

CHAIR KING: Now we are. It looks like an organizational chart.

MR. DE ROODE: Yeah. So I...this is a depiction of all of the current contracts we have out right now under our office, and at least an attempt at visualizing connection between them. If I really had to, you know, do...show every connection, there would be even more arrows on this chart, and it'd be even harder to understand. So I'm not going to go through every connection here but basically, if you look at the top of this diagram, we have a spectrum from on one end, climate adaptation and resilience as it's also called; and on the other hand, climate mitigation or GHG reduction, right? So we're trying to reduce the amount of contributions we're making to climate change, right. We want to reduce our impact. At the same time, we know we need to adapt to the impacts of climate change on the resiliency and adaptation side. And so where these rectangles with each of the different contracts are located is our, you know, best estimate of where do they fall on the resiliency to mitigation spectrum. The joint climate action and resilience plan is square in the middle. It has these two components, the resilience plan or strategy that Makale'a just covered, and then a climate action plan for basically draw down to reduce our carbon emissions and specific actions that'll help us get there. Really all of these other scopes of work feed into that joint climate action and resilience plan, so I would identify that as really an overarching plan that really, all these other efforts feed into. We have...on the agenda today you have Map-Collective...or Contracted Map-Collective identified. Their role is really to help with developing visualization tools, dashboards, putting data together in a way that's easy to understand. So they're more on the communications front of our efforts, and they're going to basically enhance what's already in Lotus' scope of work for the joint climate and action plan on those fronts because each of these scopes of work have their own responsibility to be able to help us visualize and communicate this information. But Map-Collective has a special subject matter expertise in that area to help enhance that. We have Resilient Maui Housing Guide and our...so some of these were not on the agenda today, but they fall under the same RFP that was put out under the Whole-System Solutions RFP. So Resilient Maui Housing Guide was under that RFP as well. That got awarded to Stantec. Stantec is also contracted to help us with the heat map index that's looking at both fire risk, as well as heat island risk. That's the impacts of temperature as well as fire on ALICE populations in particular. So Asset Limited, Income Constrained, and [sic] Employed, which is a broader category than just identifying low income. And then in addition, Stantec is also contracted to do a assessment of renewable energy project potential across Maui County. So looking at what has already been either approved or installed, what's pending approval, and then given where we want to go to 100 percent clean energy by 2045, what are recommendations for filling that gap, basically, getting us to 100 percent. We also have...you have this on your agenda, Countywide Vulnerability Assessment by GEOS as the contractor. As Makale'a mentioned, this is looking to bring together all of the vulnerability assessments that are being done by individual departments, overlaying those so that we're not just looking at them in silos, and then also enhancing what is being considered. So beyond, you know, primarily sea level rise impacts and infrastructure located in coastal zone areas, looking at

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impacts...potential impacts to infrastructure from climate change that are outside, you know, mauka of the coastal zone areas. And looking beyond sea level rise impacts to risks that Makale'a mentioned, like hurricane, fire, et cetera. We also...Makale'a, you know, finished her presentation discussing resiliency hubs. We have a contract out with American Microgrid Solutions, who we've worked with before on a resilient power feasibility study. It...Councilmembers will recall we had a report back out where we did a feasibility study for resilient power systems for Velma McWayne Santos Community Center, Lāhainā Civic Center, and Hāna Community Center. And this contract takes that scope further to look beyond just the power systems, but other aspects of making those three sites I just mentioned more resilient, but also how do they fit in to a larger resilience hub network that would be envisioned by the community. So I failed to mention, but all of these have significant community outreach and stakeholder engagement components to their scopes, so there will be...we'll be, you know, reaching out to the individual stakeholders and stakeholder representatives, as well as the public at large, the general public through it looks like now primarily virtual workshops and surveys and other tools to get input into this process. And then I'll mention we have as well, concurrent to all of this, in separate...in separate contracts, OATI or Open Access Technology International. We have underway the project to deploy ten Level II EV charging stations, including one on Moloka'i. We are working actively with Parks and Rec and Public Works as the facilities that are identified under this scope fall under their oversight. And so we're already conducting site visits. We have the infrastructure on order. There is currently a microchip...global microchip shortage right now that's impacting some of the supply chain there, but we have...we have that equipment on its way. So the next step there, once we are able to install the systems, is concurrently we'll be working closely with Council and our Budget Director to develop a rates and fees structure for these electric vehicle charging stations for the public. And last but not least, we are close to issuing an RFP for energy savings performance contracting. We're working with our contractor in Engineering Economics right now to develop the RFP, and then through that, we'll be able to select one or more energy services companies that will be able to be brought on board, conduct an investment grade audit of all County facilities, and give us a proposal for where do we see the greatest opportunities, not only in terms of energy efficiency, but also water efficiency, and renewable energy, and electrification of transportation for the County fleet. So that's all going to be encompassed under this ESPC or energy savings performance contract. So we'll be keeping the Council abreast of progress on all these fronts. And I'll leave it there since we have very little time now that we've covered a lot already. And happy to take any questions.

CHAIR KING: Okay. Thank you, Alex. If you could stop screen share, that would be helpful. Great. Okay, so thank you for sharing those...excuse me, the contracts and then the peripheral contracts. I think my only question is...because you guys have encompassed a lot, I hope you were able to hire that third person that we budgeted for in this budget because that's a lot of work you guys are doing. You need help. So anyway, let us know when that happens too, because that will be exciting to get the extra person in the office. The one question I had before I open it up to the Committee is, are you working with...on the Resilient Maui Housing Guide that

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Stantec is doing, are you working with the Affordable Housing Comprehensive Plan folks?

MR. DE ROODE: So on these scopes of work, other than the energy savings performance contracting and the electric vehicle charging, but the other scopes of work, we're currently in a kickoff phase where we're...we've engaged with primarily Lotus Consulting with the Joint Climate Action and Resilience Plan and GEOS with the Countywide Vulnerability Assessment, as well as Map-Collective. And we're formulating a plan of how are we going to integrate all of these scopes of work so that we're not duplicating efforts and we're not...you know, we're able to access data jointly so there aren't 15 requests going to the Planning Department for different layers. And...

CHAIR KING: Oh.

MR. DE ROODE: Yeah, so...

CHAIR KING: That's great. I want to turn it over to the Committee now to see if anybody else has got any burning questions, but that was just one of the thoughts that came to mind because I didn't want to have to, you know, as we're going through the Affordable Housing Comprehensive Plan, I don't want to have to duplicate or be in conflict with...

MR. DE ROODE: So we haven't gotten there yet, to answer your question. But we'll certainly keep that on a...on the to do list.

CHAIR KING: Okay. I see a big smile on Member Johnson's face, so I'm sure he'll be happy to work with you. Any burning questions, Members? Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. And good morning...or good afternoon, Mr. de Roode, and also Ms. Ane. My question will be just pretty straightforward, focused on the three contracts that's listed on our agenda. The Map-Collective contract that was doled out with County funds for 186,000, the GEOS Institute contract was 77,956, and the Lotus Engineering and Sustainability for 249,977. Just in general, the...I guess you mentioned about how these contracts are...or the scope of work is being integrated into our resilience plan. Did you go over the Lotus Engineering and Sustainability? Because I wasn't clear of what they'll be doing for the Joint Climate Action and Resilience Plan. And is there any timeline when data will be available for the public to view? And how will they be measuring their goals? I guess we can just keep it for now to the Lotus Engineering and Sustainability.

CHAIR KING: Okay. Alex, that was the first bar on his graph. You want to just briefly reiterate the --

MR. DE ROODE: Sure.

CHAIR KING: -- on the Lotus Contract?

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MR. DE ROODE: Yes. Thanks for the question, Councilmember Molina. The...so the...that contract, the Joint Climate Action and Resilience Plan is a 15-month contract. So right now, the timeline...we're hoping we can actually complete the scope of work within 12 months, but if needed we would extend it to 15 months. We are...we do have already a Gantt chart with milestones and timelines provided to us by the contractor. We're...as I mentioned, we're in the kickoff phase right now, so we're revisiting that to make sure that...you know, because that was submitted with their proposal. We want to revisit that. We're trying to integrate all these scopes of work, and we want to make sure that it's currently accurate as it is. Then we'll be able to share that with the Council and the public. And they'll be...you know, along with those milestones, there will be identified dates in that timeline for workshops and stakeholder engagement and input. So we'll be...basically Makale'a and I are responsible for ensuring that the contractors are adhering to those milestones and approving invoices for the contractors. And so we have a good idea of, you know, how they're progressing on their path.

COUNCILMEMBER MOLINA: Okay. Thank you. And last quick question, just on the Map-Collective, I appreciate the educational aspect you're taking. Myself, I'm moonlighting again as a public school teacher during my off weeks and certainly, climate issues are a very strong interest for our young people, especially in the middle schools. Can you provide an example of what they're doing...what they're going to do as far as educating our kids as far as their scope of work, Map-Collective.

MR. DE ROODE: Yeah. Makale'a go ahead.

MS. ANE: I was going to say that I feel like the Map-Collective contract is really to help us fill the gaps between the different contracts that we currently have now, and then be able to communicate that out effectively to the public. But we do have a Maui County Aloha Plus Challenge dashboard that we are working to help kids really communicate and learn about climate change. And so it's mauichallenge.org and I presented a few times about it, but it's the County's way to really connect to the community and give them...you know, empower everybody to take action on this huge global issue. And really, a lot of the work that we're trying to do is across all the counties. There's a charter school that is helping us to develop curriculum to really take that dashboard and have kids use the dashboard and be able to learn about climate change and also, you know, communicate those actions with their parents.

COUNCILMEMBER MOLINA: Okay, that's good.

MS. ANE: So I would say more so than GEOS, our mauichallenge.org.

COUNCILMEMBER MOLINA: Okay, thank you.

MS. ANE: Shameless plug.

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COUNCILMEMBER MOLINA: Yeah, appreciate that empowering through education, especially for our young people. Thank you very much for your responses. Thank you, Madam Chair.

CHAIR KING: Thank you, Member Molina. We have a question from Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So I think this is Alex, Energy Saving Performance Contracting. You...is that for our County facilities? Is that what you said?

MR. DE ROODE: Yes, it is.

COUNCILMEMBER SUGIMURA: So is that going to be our...

CHAIR KING: That's actually...Member Sugimura, that's actually not on the agenda. It was sort of given in the whole scope of the different contracts, but it wasn't one of the things that we posted.

COUNCILMEMBER SUGIMURA: Okay, so we can't talk about it. I'll call you later, Alex. Thank you.

CHAIR KING: But I do...you know, I'm going to just to let you know, I do...I am working on putting together a panel discussion on all the different available renewable energy scenarios that we have for our County because there are things that have been coming up or things that are here already that are not being utilized. So hopefully we'll get into that round between your Committee and my Committee, we should be able to cover that portion of energy infrastructure as well. So if there are no other questions, Members, I think we have enough agenda items on this Committee where we can bring this kind of discussion back up. It was a really...it was a great, very rounded discussion, I'm really impressed with how you're tying everything together. And that is definitely not working in silos, so I appreciate that. I just wanted to get a motion to file these three contracts because we've gotten a good overview. I'm sure we'll come back to this subject matter and hear more about what's going on, but I'd like to just get these off the master agenda, if possible. Member Sugimura.

COUNCILMEMBER SUGIMURA: So move.

VICE-CHAIR SINENCI: Second.

CHAIR KING: Moved by Member Sugimura, seconded by Member Sinenci. All those...any discussion? If not, all those in favor of filing the CARE-60, CARE-61, and CARE-64 say aye.

COUNCILMEMBERS: Aye.

CHAIR KING: Okay, it's unanimous. Five ayes, measure passes. So we'll go ahead and file these, and with our gratitude for your presentations and for your work. You sound extremely busy, and I'm just thrilled that you're the...that the scope of it is so much

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more beyond just what you would think of for climate change, when you're getting into energy and housing and even looking at equity and, you know, so we're having . . .*(inaudible)*. . . recovery. I really appreciate all of that work going forward.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Lee and Paltin.

MOTION CARRIED.

ACTION: FILING of communications.

CHAIR KING: Any other questions or comments, Members? Otherwise, with our gratitude to the Climate...are you now the Climate Action, Resilience, and Sustainability Office [*sic*]? Did you guys change your name from Climate Change?

MS. ANE: It got coded funky so it's Climate Change, Resiliency, and Sustainability [*sic*].

CHAIR KING: Okay.

MS. ANE: So it's still the same work.

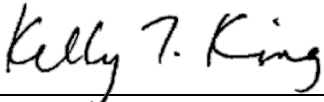
CHAIR KING: Yeah, it is. I just...I always get confused when I'm talking about your office. Anyway, thank you, Members. And it is now 11:59, and the Climate Action, Resilience, and Environment Committee is adjourned. . . .*(gavel)*. . .

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ADJOURN: 11:59 a.m.

APPROVED:



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

care:min:210901min:cs

Transcribed by: Crystal Sakai

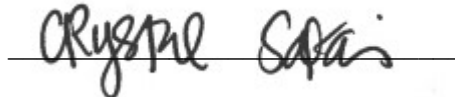
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CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 50 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 23rd day of September 2021, in Wailuku, Hawai'i

A handwritten signature in black ink that reads "Crystal Sakai". The signature is written in a cursive style and is positioned above a horizontal line.

Crystal Sakai