

# **GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**Online Only via BlueJeans Link**

**June 29, 2021**

**CONVENE: 9:01 a.m.**

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair (arrived  
at 9:05 a.m.)  
Councilmember Gabe Johnson, Member  
Councilmember Tasha Kama, Member  
Councilmember Kelly T. King, Member (excused from 10:34 a.m. to  
11:03 a.m.)  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**STAFF:** Shelly Espeleta, Supervising Legislative Analyst  
David Raatz, Supervising Legislative Attorney  
James Forrest, Legislative Attorney  
Kasie Apo Takayama, Legislative Analyst  
Pauline Martins, Committee Secretary  
Lenora Dineen, Council Services Assistant Clerk

Zhan Lindo, Council Aide, Molokai Council Office

Axel Beers, Executive Assistant to Councilmember King  
Davideane Sickels, Executive Assistant to Councilmember Kama  
Ellen McKinley, Executive Assistant to Councilmember King  
Evan Dust, Executive Assistant to Councilmember Kama  
Jordan Helle, Executive Assistant to Councilmember Sugimura  
Kate Griffiths, Executive Assistant to Councilmember Johnson  
Lois Whitney, Executive Assistant to Councilmember Kama  
Sarah Pajimola, Executive Assistant to Councilmember  
Rawlins-Fernandez

**ADMIN.:** Gary Murai, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Ipo Mossman, Executive Assistant, Office of the Mayor  
Moana M. Lutey, Corporation Counsel, Department of the  
Corporation Counsel

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Stephanie Chen, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Michele McLean, Director, Department of Planning  
Jordan Hart, Deputy Director, Department of Planning  
John Rapacz, Planning Program Administrator, Department of  
Planning

**OTHERS:** Ed Oyama  
Diane Preza  
Junya Nakoa  
Kai Nishiki  
Cara Flores  
Nick Drance  
Kanamu Balinbin  
Ross Takashima  
Juanita Reyher-Colon  
Doradeen Makalapua Kanuha  
Joseph Blackburn II  
Zane de la Cruz  
Gary Gates  
Susan Vickery  
Plus (3) other people

**PRESS:** *Akaku Maui Community Television, Inc.*  
*Kehau Cerizo, The Maui News*

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CHAIR MOLINA: . . .(*gavel*). . . The GREAT Committee meeting for Tuesday, June 28th [*sic*], 2021 will now come to order. It is one minute after the hour of 9:00 a.m. I'm your Chair, Mike Molina. It's now time for Committee roll call, and we'll start off with our maven of cultural greetings, our Council Chair Alice Lee. Good morning, Council Chair.

COUNCILMEMBER LEE: Mr. Chair, the morning greeting is from Laos, and you pronounce it sabaidee. Sabaidee, everyone. Good morning.

CHAIR MOLINA: Good morning and sabaidee to you, Madam Chair. My Committee Vice-Chair Keani Rawlins-Fernandez will be joining us very shortly. In the meantime, let's take a quick trip across to the pond to Lānaʻi and check in on Councilmember Gabe Johnson. Good morning, Mr. Johnson.

COUNCILMEMBER JOHNSON: Good morning, Councilmember Molina. Saibe...oh, I'm already butchering it. Sabadai [*sic*] to all of the Members. Good morning. And I look forward to a very interesting meeting. Aloha.

CHAIR MOLINA: All right. Mahalo. Sabadai [*sic*], sabaidee, what have you, to you,

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Mr. Johnson, and to my colleagues. All right. Let's go now to South Maui and check in on Councilmember Kelly King. Good morning.

COUNCILMEMBER KING: Good morning. Sabaidai [sic]; is that correct?

COUNCILMEMBER LEE: Dee, dee.

COUNCILMEMBER KING: Sabaidee.

COUNCILMEMBER LEE: Yes.

COUNCILMEMBER KING: Okay. It's like the ob-la-di ob-la-da.

COUNCILMEMBER LEE: Yes.

COUNCILMEMBER KING: Good morning. Aloha kakahiaka, everyone. Good to see everyone again.

CHAIR MOLINA: All right. Aloha kakahiaka and sabaidee to you, Councilmember King. Let's take...take a cruise out to the West Side and check in on Councilmember Tamara Paltin. Aloha.

COUNCILMEMBER PALTIN: Aloha kakahiaka, bonjour, and sabaidee kākou.

CHAIR MOLINA: Wow, you're getting real multicultural. Excellent, Councilmember Paltin. Bonjour. Parlez-vous français, yeah? All right. Let's go up to Upcountry, Maui. Councilmember Sugimura, sabaidee. Good morning and aloha.

COUNCILMEMBER SUGIMURA: Good morning. Sabaidee. And it's a beautiful day here in Wailuku. Good morning, everybody.

CHAIR MOLINA: Good morning. And let's check in on the neighborhood and Member Tasha Kama. Sabaidee. Good morning.

COUNCILMEMBER KAMA: Ob-la-di ob-la-de sabaidee. Aloha kakahiaka, everyone.

CHAIR MOLINA: And mahalo, Member Kama. And of course, due to heavy traffic on the way to East Maui, we're finally here to check in on Councilmember Sinenci out in Hāna. Aloha, my friend.

COUNCILMEMBER SINENCI: Hey, sabaidee, Chair and fellow Councilmembers. Aloha nui kākou mai Maui Hikina.

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CHAIR MOLINA: All right. Mahalo to you, Mr. Sinenci, and sabaidee. Boy, Chair Lee, you gave us a tough one this morning, yeah. But anyway...but this Council is always ready for challenges.

COUNCILMEMBER LEE: Always.

CHAIR MOLINA: Always. Joining us as well as...from Corporation Counsel we have Mr. Gary Murai and Stephanie Chen. And from the Office of the Mayor, Mr. Ipo Mossman. From the Department of Planning, Director Michele McLean and Deputy Director Jordan Hart. And we are, of course...this meeting would not be made possible without our hardworking Committee Staff, led by Supervising Legislative Analyst Shelly Espeleta; Legislative Attorney James Forrest; Committee Secretary Pauline Martins; and everyone else from the Staff who's helped put everything together. And to my knowledge, our Granicus is working. We had a Granicus issue yesterday. So far everything, knock on wood, is working. The online meeting is being conducted today in accordance with the Governor's most recent emergency proclamation on COVID-19. You can feel free, if any of you out there who would like to know about this, just check out the last page of the agenda for information on meeting connectivity. We have a very full agenda, Members, and we have one item that could generate a good amount of testimony, GREAT Item number 36. Let me go over the rules of public testimony first. Oral testimony via phone or video conferencing will be accepted. Testifiers wanting to provide video testimony should join the online meeting via the BlueJeans meeting link at [bluejeans.com/175115369](https://bluejeans.com/175115369), as noted on your agenda. And testifiers wanting to provide audio testimony can participate via phone conference by dialing 1-408-915-6290 and the meeting code that I just mentioned to you. And the Committee intends to keep the same meeting link and phone number for future GREAT meetings this term for the ease and convenience of Members and the public. And I believe we...we'll also set a limit for oral testimony today, of course, as always three minutes per item. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. And when testifying, please state your first name and last name. And if you're testifying on behalf of an organization or if you're a paid lobbyist, please inform the Committee of that. And be mindful with regards to the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. And while others are testifying, please be courteous by turning off your video and muting your microphone while waiting for your turn to testify. And if you'd like to simply view this meeting today, just turn on the television to Channel 53, *Akakū*. So with that said, Members, as I mentioned we do have a full agenda. One of the items I believe will generate a lot of testimony, that's GREAT Item 36, and there are some strong feelings about it. And your Chair always intends to maintain decorum, and I'll certainly ask everyone who plans to testify on that particular item, please do so respectfully without using any derogatory language or disrespectful language towards anyone on this matter. And segue now to my Committee Vice-Chair who has now joined us, Member Rawlins-Fernandez. Mahalo. I would like to ask you, as someone who is very eloquent in...and very ready at the moment to do whatever your...your Committee Chair asks you to do. I'd like to ask you if you could start...before we begin testimony, to share with us a little prayer.

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VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, and sabaidee kākou. Okay. E pule kākou.

Mahalo a nui no kēia lā

Nani no kēia lā

Mahalo no kēia Kuleana

Ke Kuleana kaumaha, ka mea nui no ko kākou lāhui

Mahalo no ka po'e i hele ana i kēia lā, i ke ka'analike ko lākou mana'o me kākou.

Mahalo for this beautiful day, for this kuleana -- which is both a privilege and a responsibility to our people.

We ask that you help to soften our tongues, open our hearts, open our minds, and open our ears as we determine a path forward that respects everyone's time and energy.

A path forward that ensures kaulike.

A mama Ua Noa

Mahalo.

CHAIR MOLINA: Mahalo, Member Rawlins-Fernandez, for that very beautiful prayer. Okay. Let us begin with public testimony. Ms. Espeleta, please announce our first two testifiers.

MS. ESPELETA: Thank you, Mr. Chair. Your first testifier is Ms. Susan Vickery, and she'll be followed by Mr. Nick Drance.

CHAIR MOLINA: Good morning, Ms. Vickery. Ms. Vickery, are you there? Is she on the call? Okay. Ms. Espeleta, you know what, let's move on from Ms. Vickery. We can come back to her. And announce our next testifier please.

MS. ESPELETA: Yes, Mr. Chair. It looks like Ms. Vickery has dropped from the call. Moving on to Mr. Nick Drance, and he'll be followed by the number...I'm sorry, the individual signed in with 9987.

CHAIR MOLINA: Okay. Good morning, Mr. Drance. Mr. Drance on the call. Mr. Drance, can you hear us?

MS. ESPELETA: I believe Mr. Drance needs to be...oh, he's unmuted now.

CHAIR MOLINA: Morning, Mr. Drance. Please proceed with your testimony. Okay. And it looks like he may be having some technical difficulties. All right. Let's move on to our next set of testifiers, Ms. Espeleta.

MS. ESPELETA: Mr. Chair, the next individual is signed in with the last four digits 9987. They can unmute themselves by pressing star four.

CHAIR MOLINA: Okay. Testifier 9987, good morning. Please proceed with your testimony

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and state your full name for the record. Testifier 9987?

MS. ESPELETA: Mr. Chair, that individual has been unmuted on our end, and they can proceed with their testimony.

CHAIR MOLINA: Okay. Thank you for that, Ms. Espeleta. Okay. Last call for testifier number 9987. You have been unmuted, please feel free to testify, otherwise we'll move on to the next testifier...or testifiers, I should say. Okay. With that said let's move on, Ms. Espeleta.

MS. ESPELETA: Mr. Chair, I've been notified that Ms. Vickery is back on the call. We can return to Ms. Susan Vickery.

CHAIR MOLINA: Okay. So be it. Ms. Vickery, please proceed with your testimony. Ms. Vickery? I believe we should have you unmuted on our end.

MR. OYAMA: Hello?

CHAIR MOLINA: There you go. Okay. Please identify yourself.

MR. OYAMA: Hello. I'm trying to find out if I'm in the right meeting.

CHAIR MOLINA: Okay. Can you state your full name for the record?

MR. OYAMA: My name is...my name is Ed Oyama, O-Y-A-M-A.

CHAIR MOLINA: Okay. Hang on...yeah, Mr. Oyama, we have someone else that was slated to testify before you. Last call --

MR. OYAMA: Okay.

CHAIR MOLINA: -- for Susan Vickery. Okay. If not, Members, any objections...Mr. Oyama, you plan on testifying on our agenda today?

MR. OYAMA: Yes.

CHAIR MOLINA: Okay. All right. Members, any objections to allowing Mr. Oyama to proceed with testimony?

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: But did he ascertain he's in the right meeting?

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CHAIR MOLINA: Yeah. This is the GREAT Committee meeting of June 28th [sic], Mr. Oyama, just for your information. Okay. So you're allowed to testify on any of the five items that's on our agenda. So go ahead, Mr. Oyama. Start off by identifying yourself, your full name, and then go into your testimony. And you'll have three minutes.

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

MR. OYAMA: Thank you. My name is Ed Oyama. And I'd just like to verify that one of the...the agenda item I want to testify to is the approval of Zane de la Cruz to the Lānaʻi Planning Commission.

CHAIR MOLINA: Okay. Continue on. You can state the reasons why you'd like to support Mister...Mr. de la Cruz.

MR. OYAMA: Okay. Thank you. I've known Zane for many years. He was born and raised here. He's been away to college, and then he moved back to Lānaʻi. He wants to stay here. I think he would be a good addition to the Lānaʻi Planning Commission. He's a pretty grounded person, and he will ask good questions of applications that come before the Planning Commission. I think he's...he can work with people, so they can work towards consensus when they need to. And overall, I think he wants to be involved in betterment of the community. He's been involved with the...helping the Lānaʻi Lions...Lānaʻi City Lions Club with their community service projects forever, since he was a high schooler. So I think he would be a good addition to the Lānaʻi Planning Commission. That's all.

CHAIR MOLINA: Okay. Thank you for your testimony, Mr. Oyama. Members, do you have any questions or any need to clarify Mr. Oyama's testimony? Seeing none. Mahalo for your testimony, Mr. Oyama.

MR. OYAMA: Thank you.

CHAIR MOLINA: Thank you. Okay. Ms. Espeleta, please continue with announcing our next testifiers.

MS. ESPELETA: Mr. Chair, the next testifier is Diane Preza for GREAT-2(16), followed by Leonard Nakoa.

CHAIR MOLINA: Okay. Good morning, Ms. Preza.

MS. PREZA: Hi. Good morning. Good morning. Thank you --

CHAIR MOLINA: Good morning.

MS. PREZA: -- for allowing me to testify. I am Diane Preza, and I'm here to testify in support

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of Zane de la Cruz's nomination to the Lānaʻi Planning Commission for the following reason. You know, Zane is a fine young man and he...he went away to...he grew up here, he went away to college, and then he...he moved home and he wants to make Lānaʻi his home. And I find it refreshing that someone, you know, his age is willing to volunteer to represent the community. And I...I wish more young people would, you know, do this...you know, offer their time like Zane is willing to do, and I think he would be a great example for the community. Like the previous testifier stated, he is...he is from here and he understands the community. And I think that he would be able to make really good decisions for...for us. I've known Zane since he was a child and through adulthood, and what I know of him is he's always been kind and considerate, and very, very thoughtful of...of others' opinions. And he's always willing to share his own in a...in a thoughtful manner. I...I know his families, both...both sides of his family, and they're upstanding members of our community, always volunteering. And I think it's...it's just refreshing that Zane wants to be a part of the decision-making processes on Lānaʻi. And I think he would work very well with others. So for those reasons, I would hope that you would consider, you know, approving Zane to the Lānaʻi Planning Commission. And that's all. Thank you.

CHAIR MOLINA: Okay. Mahalo for your testimony, Ms. Preza.

MS. PREZA: You're welcome.

CHAIR MOLINA: Committee Members, any questions or a need to clarify Ms. Preza's testimony? Seeing none. Thank you for taking the time to testify, Ms. Preza.

MS. PREZA: Thank you.

CHAIR MOLINA: Okay. Ms. Espeleta, please continue with announcing our next testifiers.

MS. ESPELETA: Mr. Chair, continuing on with Leonard Nakoa, followed by an individual signed in with the first name Amy (*phonetic*).

CHAIR MOLINA: Okay. Good morning, Mr. Nakoa.

MR. NAKOA: Good morning, morning, morning. Turn off the TV. Yeah. Like Alice Lee said couple meetings back, I save all my energy for this buggah, okay. 'Cause I've been doing a lot of research. I get one lawyer friend in Eugene, Oregon who went help me out, you know, for...for, you know, find out plenty of this stuff. So this is very passionate to me. I tell you guys right now, I not one lobbyist or whatever, but I speak in behalf of choke people that no like come on top this thing, yeah? Yeah. So I going tell you guys get choke. If there was a real public meeting for this short-term rental project, not single-family home, brah, you would have plenty...plenty of the community come out, you know what I mean? But questions is, we gotta ask is like is this really a single-family home? I know couple of you guys had drive out here, you gotta check 'em out. The buggah is huge, brah. Even...even more huge than some of the hotels that's been here



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for years, years. You go in the middle of Nāpili Bay and you look back, ho brah, you can see this monstrosity, you know, and let alone seeing it on top the damn road. Oh, sorry for the language. But so again, we never...we never get one chance for have one public meeting. So you know, is this family...single-family home that they filed a short-term...a SMA for, is it 30 feet, you know, is it...is it the height? What you call...and then Michele McLean, you know, I sent all you guys couple questions that I wanted you guys for all answers and some of you guys never answer, some of you guys never get back to me, you know what I mean, but most of you guys did. Okay. But the questions, you know, that was answered by Michele McLean, she said she...if she went...actually pass her desk, this thing, she would not have had approved it. Okay. And then she went say blatantly she never look on because get plenty permits that come through and then she couldn't do it, you know, she cannot do 'em. So I'm sorry, but if you cannot do the job, you know, try think about it. Maybe...maybe you got to go find something else for go do. And then, you know, it's just frustrating again, you know, for all this kine stuff. And then I know that when she went ask for this meeting, she was kine of went bring up going into executive session. I no think you guys can go into executive session or should be...have the right to go into executive session because there is no, what you call, charges filed, you know, there's nothing filed against the developer or the architect or, you know, or nothing. So there's nothing. So you guys shouldn't go into executive session today. And one other thing is when we go to revoke this permits, the SMA permits, she was saying something like it's...you know, all you guys...get plenty people who comes up with this. Get the...she said the Mayor's Office, the Corporate [sic] Counsel, the County Council, and then I guess her, I don't know. So who actually makes the final call? Isn't it the Mayor, the guy supposed be the number one guy in this County? You know, that...because this thing cost the taxpayers 5 to \$10 million. You know that's us, our money.

MS. ESPELETA: Excuse me. Mr. Chair, it's three minutes.

MR. NAKOA: And then we...we just went...we just went the kine, we lost one --

CHAIR MOLINA: Sorry, Mr. Nakoa...

MR. NAKOA: -- we lost one charge in the...in the Kahoma. In the Kahoma project --

CHAIR MOLINA: Junya, yeah, can...can you...

MR. NAKOA: -- Kahoma project we lost that one. What?

CHAIR MOLINA: Oh, yeah, sorry, your three minutes is up, but if you can conclude.

MR. NAKOA: Oh, shit. Well, you know what I mean, we...the...the...the Supreme Court just went...just went side with the people at the Kahoma Village because of the mistake by the Planning Department and the Planning Commission. Now this morning couple more groups went file some more charges against the Planning Commission and Planning

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Department for the Wailea project. And guess what I doing when we go get...you know, if...for this project? Same thing, brah. Okay. And then so --

CHAIR MOLINA: Okay. Mr. Nakoa...

MR. NAKOA: -- I mean...

CHAIR MOLINA: Junya, sorry, I have to --

MR. NAKOA: Yeah.

CHAIR MOLINA: -- stop your testimony here. But at this point, Members --

MR. NAKOA: Oh, brah, I get plenty...

CHAIR MOLINA: -- I know you may have questions for Mr. Nakoa. I would be open, Members, if any...no objections, because Mr. Nakoa has been tracking this...this item on behalf of the community, any objections to having Mr. Nakoa remain as a resource?

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Okay. So Mr. Nakoa, when we do get to the item we're going to ask you to stay and answer any questions the Members may have related to this project, yeah?

MR. NAKOA: Ho brah, thanks, yeah. That means I get more long for talk.

CHAIR MOLINA: Yeah.

MR. NAKOA: Oh, brah, poor thing, you guys, you guys got to listen to me now. Okay. See you guys later. Shoot.

CHAIR MOLINA: All right. Thank you, Mr. Nakoa. Okay. Ms. Espeleta, please continue with announcing our next testifiers.

MS. ESPELETA: Mr. Chair, your next testifier is Amy, followed by Cara Flores.

CHAIR MOLINA: Okay. Testifier Amy, please identify yourself, full name, and then proceed with your testimony on any of our agenda items today. Calling for testifier Amy. If you can hear me, please proceed with your testimony.

MS. ESPELETA: Mr. Chair, I believe she needs to be unmuted on her end.

CHAIR MOLINA: Okay. Amy, if you could unmute yourself then we can hear you. And if possible, turn on your video. Okay. We may have a technical glitch there. Let's move on to our next testifier, Ms. Espeleta.

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MS. ESPELETA: Mr. Chair, moving on to Cara Flores, followed by an individual signed in as Cheryl (*phonetic*).

CHAIR MOLINA: Okay. Good morning, Ms. Flores. You can proceed with your testimony. Cara Flores? You can hear us? Unmute yourself if possible.

MS. ESPELETA: Mr. Chair, her video appears to be unmuted, and she has been unmuted on her audio on our end as well.

CHAIR MOLINA: Okay. Ms. Flores, if you can hear us, please identify yourself. If not, we'll come back to you, Ms. Flores, if you can hear us. Ms. Espeleta, continue with our next testifier.

MS. ESPELETA: Mr. Chair, moving on to an individual signed in under Cheryl, followed by Kai Nishiki.

CHAIR MOLINA: All right. Cheryl, I did see you come on earlier with your video anyway. Cheryl, please go ahead and identify yourself and proceed with your testimony. Testifier Cheryl?

MS. ESPELETA: Mr. Chair, it appears she may have dropped off the call.

CHAIR MOLINA: Okay. It looks like Cheryl has dropped off. All right. Please announce our next testifier.

MS. ESPELETA: Our next testifier is Kai Nishiki.

CHAIR MOLINA: Okay. Good morning, Ms. Nishiki. I know you're there someplace. Okay. Ms. Nishiki, proceed with your testimony.

MS. NISHIKI: Good morning, Chair, Committee Members. So yes, I understand this is a difficult situation. E kala mai, I'm speaking on the Nāpili beach house situation. And I'm not exactly sure what the solution can be; however, I do see and I...and I want to draw your attention to looking at this area in the big picture and realizing that we really need to have areas for resorts to eventually move away from the shoreline and rebuild. And that this parcel here could possibly be used for that purpose in the future. And so if there's an opportunity for that property to either be sold to a current resort or be used as some sort of property swap in the future, it will definitely be needed in that area. Also, public access and parking is a nightmare in this area, and before this house started a few years ago, I was really trying to work to actually acquire this property for the County for...for beach parking purposes. So I know that this property is worth a lot of money, so I'm not really sure what the...what the ending solutions could possibly be. But I do think that public benefit and sea level rise should be possible things to think about in...in looking at this property. But it was definitely not supported by the

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community, and we do not need any more short-term rentals. So no matter what happens, we don't want any more short-term rentals. Thank you very much.

CHAIR MOLINA: Okay. Mahalo for your testimony, Ms. Nishiki. Members, any need to clarify Ms. Nishiki's testimony? Seeing none. Thank you very much, Kai, for your testimony. I see Ms. Flores came back online temporarily, so I'll call...

COUNCILMEMBER LEE: Mr. Chair? Mr. Chair?

CHAIR MOLINA: Yes? I'm sorry.

COUNCILMEMBER LEE: I'm sorry, I guess you didn't see my hand up for...

CHAIR MOLINA: Oh, oh, I...I apologize.

COUNCILMEMBER LEE: I have a question for...

CHAIR MOLINA: You had...you had a question for Ms. Nishiki?

COUNCILMEMBER LEE: Yeah.

CHAIR MOLINA: Okay.

COUNCILMEMBER LEE: Please.

CHAIR MOLINA: Ms. Nishiki, if you're still online, Chair Lee has a question for you. Go ahead, Chair Lee.

COUNCILMEMBER LEE: Good morning, Kai. I was wondering how much...did you find out what the value of that property is?

MS. NISHIKI: I...I did not. I did not get to that exact point yet. I was in...I was trying to contact the property owner to negotiate something, but no, I had not found out what the appraised value is.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Chair Lee. Members, any other need to ask Ms. Nishiki a question or clarify her testimony? Member Paltin?

COUNCILMEMBER PALTIN: Oh, I just...I heard it was for sale for 12 million. To answer --

MS. NISHIKI: Oh --

COUNCILMEMBER PALTIN: -- Chair Lee's question.

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MS. NISHIKI: -- duck soup. I'll write a check today.

CHAIR MOLINA: Okay. Thank you, Member Paltin, for that clarification. All right. Any other need to question Ms. Nishiki regarding her testimony or clarifying it? Seeing none. Thank you very much for your testimony, Kai. Okay. Let's go back to, I believe, Ms. Flores. I saw her come on a little earlier. Cara Flores, if you're there, please --

MS. FLORES: Yes. Can you hear me?

CHAIR MOLINA: -- begin your testimony. Go ahead, Ms. Flores. I believe we can hear you.

MS. FLORES: Awesome. Okay. So with...this in regards to the GREAT-36, the Nāpili project. And I just wanted to make a statement more than any kind of action. With shoreline erosion, and rising sea levels, and now we're seeing over 100 degrees in the Arctic Circle, we're going to see rapid sea rise level. We need to be really, really careful about approving SMA exemptions and maybe make the process of getting one more stringent so this type of approval doesn't happen again. Because when you build seawalls, it affects the properties beside it. You know, the wave energy has to go somewhere, and it affects other places, not that property. Also, I was really appalled to read in *The Maui News* that this developer intended to use this possibly as a short-term vacation rental. I hope that doesn't happen, and it sounds like the County is not in support of that. But if it doesn't become a short-term vacation rental, I'm wondering if it's just going to become another empty luxury home that someone uses for a month or two every year, and otherwise just going to be taking up space and not being utilized, not benefitting the residents here. I was really disappointed that it seems like this project was approved, even though it seems like it's outside the intended structure and design of the Nāpili Civic Improvement District and what they outlined. Even though it's technically two stories, it is obviously a lot larger than what was intended, and it's just barely short of the square footage requirements to get that SMA exemption in the first place. So I feel like this whole project was a failure of oversight. They used all of the loopholes they could to build the biggest property possible, as close to the ocean as possible, and get these exemptions that maybe shouldn't be so easy to get. And we need more scrutiny on these type of projects. Thank you.

CHAIR MOLINA: Okay. Thank you for your testimony, Ms. Flores. Members, questions for our testifier? Member Paltin, question or clarification for Ms. Flores.

MS. FLORES: You're muted.

CHAIR MOLINA: Oh, Member Paltin...there you go, you got to unmute. Go ahead.

COUNCILMEMBER PALTIN: Hello? Can you hear?

MS. FLORES: Yes.

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COUNCILMEMBER PALTIN: Okay. Thanks. I just had a question when you were talking about as close as to the ocean as possible. This house is not...not really near the ocean, although it is in the SMA exemption zone. Just wondering if you could clarify.

MS. FLORES: Well, I'm just saying for future projects, especially these kind of luxury homes that people will build as close to the ocean as they possibly can, so we have to be careful. And I know they're building...you know, they're wanting to build walls and stuff that can affect the shoreline, so...

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

MS. FLORES: Yeah. Sorry about that.

CHAIR MOLINA: Thank you, Member Paltin. Members, any other need to clarify Ms. Flores' testimony? Seeing none. Thank you very much for your testimony, Ms. Flores. Okay. Let's go back to...before we continue with our next set of testifiers, let's go back and check in on Mr. Drance, Nick Drance if he's online and available to provide testimony. Mr. Drance? Okay. There you are.

MR. DRANCE: Hi there.

CHAIR MOLINA: Mr. Drance, go ahead.

MR. DRANCE: Oh, good, good, good. Aloha. It's interesting that Ms. Flores and Junya's testimony is almost identical to mine. I attended that meeting at the job site with 25 or 30 residents with Michele McLean and her assistant, partially because the residence involved a sort of impropriety on one level or another, so I wanted to make these comments and I hope they're helpful to you. The developer's attorney indicated in written testimony that if your determination is not made in early July, he'll advise his client to move forward as planned and permitted, and that you shouldn't take that as a threat. I think that and the contents of the letter in general tell a lot about who and what residents in the County are working with here. I'm told that this designer is...developer is experienced and knowledgeable. Numerous revisions should not have been necessary under normal design circumstances. I also understand that the plans are such that subsequent modifications appear preplanned. The back and forth, the number of revisions to the original plans submitted turn a straightforward project into an unmanageable situation by regular Department Staff without management involvement, which did not happen. The Planning Department Director at the meeting indicated that specific suggestions from residents are essential for resolution. Right out the gate that sounds like compromise to the law is required, and it's understandable, but it doesn't seem right. Someone...suggestions made at the meeting and on social media range from tearing the structure down to lowering it to the official height without exceptions. The developer indicated his intentions, as we heard, to use the project as a short-term rental. Is the property zoned and permitted for that? Is it zoned for hotel

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use as asserted? And when was that established? Given the numerous changes to the plans over two years, the original SMA exemption, is it still appropriate? If the same items were changed in his plans more than once or twice, does that indicate improper intent, he being an experienced developer? In other words, fraud, which is what the residents are asserting. I can't say that's the case, that's what many are asserting. In the long term, as Ms. Flores indicated, I learned...we learned that the Planning Department Staff member involved is on leave, and was on leave at that time, and the Department Director indicated that she was unaware of the situation. And that because of the large number of staff members in her Department, it made oversight impossible for the majority of what goes in there. So that's like having countless department directors able to function independently, each having a lot of control. So once a problem like that is discovered, the fear of costly litigation plays a big role in how the issue is resolved. So to some extent, the developer feels like they are holding the cards, and perhaps they would be. This particular case was brought to light by public outrage, but there's probably lots of others like this. I've been told that an audit of the Department has been requested several times, I know that's a messy situation. . . .(timer sounds). . . I'm just wrapping up. But it seems logical and reasonable. So I hope my testimony is helpful to you.

CHAIR MOLINA: Okay. Thank you for your testimony, Mr. Drance. We have a question from Councilmember King. Proceed.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Nick. Nice to see *(audio interference)* --

MR. DRANCE: *(audio interference)*

COUNCILMEMBER KING: -- finally connected. I just wanted to clarify something that you said. Did you say the person who signed the SMA permit was on leave or the Department Director was on leave during the time it was...

MR. DRANCE: I thought it was curious that during that meeting at the job site when somebody said something about that staff member, the Director said that...at that point, she was on leave. I just...it made me...it brought...it sent up a red flag. I wonder when she was put on leave and under what circumstances. It sounded as if it was perhaps a consequence of this thing, but I don't know.

COUNCILMEMBER KING: Okay. So...

MR. DRANCE: *(audio interference)* this is what I understood.

COUNCILMEMBER KING: Okay. So it wasn't necessarily stated that she was on leave when she signed the permit?

MR. DRANCE: The staff member was currently on leave as of the meeting date at the job site.

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COUNCILMEMBER KING: Okay. Okay. Thanks for that clarification. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member King. Members, questions for Mr. Drance? Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Nick, it's been a while. So Nick, did you submit your testimony in writing to us?

MR. DRANCE: I...I did, and you know, this is so complicated, I changed it a little bit after I read the developer's attorney's testimony, so it may not quite match what I have here, but the bulk of it is the same, and I did.

COUNCILMEMBER KAMA: Okay. But so could you send us your revised testimony?

MR. DRANCE: Okay.

COUNCILMEMBER KAMA: Okay. Thank you.

MR. DRANCE: Thank you.

COUNCILMEMBER KAMA: Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. Members, any other need to clarify Mr. Drance's testimony or any questions for him? I see Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Drance, for your testimony. I just was wondering, you were looking into the permits, how...I didn't...how did you know that there were numerous revisions?

MR. DRANCE: That seems to be common knowledge. It's been discussed widely. It's...I didn't...I don't...it seems like it's common knowledge.

COUNCILMEMBER PALTIN: I just wanted to clarify because, you know, every place I go I...I get all sorts of different stories about this --

MR. DRANCE: Yeah.

COUNCILMEMBER PALTIN: -- and...and not all of them are rooted in facts. So I just was wondering...

MR. DRANCE: Yeah. I...I...well, I hear you. The...the...what I understood was...for example, there's a wet bar in there or two that could easily be converted to a kitchen, and there's some issue about that. There's some issue about the stairwells, whether they are really used for another purpose. The thing about the elevator shaft thing on the top of the building, that may not have been in the original plans. The...what I understood was



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originally, when the plans were submitted, it wasn't so obvious that it was a dwelling used in...possibly in a number of ways. That's my specific understanding. But hopefully your Committee will be able to get the facts.

COUNCILMEMBER PALTIN: Okay. And...and did you...you just got that information from word on the street, or directly from the Planning Department at the presentation?

MR. DRANCE: No, no. I didn't...you know, I have a recording of the meeting, I can't remember if that was discussed. We did look at the blueprints, and at the time there were specific items and areas that were pointed out that I understood to be changes, but there was a full set of blueprints at that meeting for us to look at.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. DRANCE: All right. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Members, any other questions for Mr. Drance? Seeing none. We thank you for your testimony, Mr. Drance.

MR. DRANCE: Thank you very much. Aloha.

CHAIR MOLINA: Aloha. Thank you. Okay. Ms. Espeleta, please continue with our next set of testifiers.

MS. ESPELETA: Mr. Chair, your last two testifiers are an individual signed in with the last four digits 0871, followed by Gary Gates.

CHAIR MOLINA: Okay. Testifier 0871, please state your full name for the record and proceed with your testimony.

MR. BALINBIN: Aloha. My name is Kanamu Balinbin, and I represent, I guess, the Upper West Maui community. I want to thank you for allowing me to testify today. There's a lot of frustrations with the community over this project and the way it was handled. You know, my...there's so many questions, but it...it kind of was brought up by Junya, the other lady, and the previous testifier. So what...what I want to...what I want to come across is, is that when...for me, when I was working construction, we would always have somebody come and make sure that we're following our plans, an inspector would come in at least once a week. I don't see why nobody came and...and checked this project. That's...that's kind of strange to me. I've...I've talked to other developers saying yeah, you know, inspectors come, they're here...they're here like on a weekly basis, but why hasn't anybody gone to that particular project to inspect it to see if it was doing what it said it would do in the permits? Another thing is, you know, my...my friend Danny (*phonetic*) lives right below that...that project. And the...the...the retaining wall that's supposedly there, he saw it being dug and it was only like two or three feet deep. And he's afraid that that wall is going to come crashing down on his...on his property.

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You know, for...for a lot of us West Maui residents, we're really frustrated because we don't...we don't feel like we get our fair share of the pie when it comes to developments, affordable housing, just things in general. A community...a community center, you know, we're frustrated here. And with the lack of, I guess, due diligence on the people in charge, it's...it's compounding this...compounding this frustration that we have. So I would...I...for...for me, I would just like...you know, I...you know, there's so much things that I want to say. I...I...I going to be honest, I was...when I worked construction, I...I...I dropped envelopes of cash with...with...with things that I needed to drop off to the Planning Department. I don't know who it went to or what it was...what was doing...what it was...what was being dealt with the cash that I sent there, but there's...there's...there's a payoff plan going on there. And if you people are...if people are not going to...are...investigate this or have an audit on the Planning Department and what's going on, on O'ahu, then we're just going to keep getting into these messes. So thank you very much. Aloha.

CHAIR MOLINA: Okay. Mahalo for your testimony, Mr. Balinbin. Members, any need to clarify Mr. Balinbin's testimony? Seeing none. Mahalo for your testimony, Mr. Balinbin.

MS. ESPELETA: Mr. Chair --

MR. BALINBIN: You're welcome.

MS. ESPELETA: -- would it be possible to clarify that testifier's first name and spelling please.

CHAIR MOLINA: Oh, yes. Mister...Mr. Balinbin, can you state your full name for the record again and spelling of it? Just to make sure we have it correct for the record.

MR. BALINBIN: Oh, Kanamu, K-A-N-A-M-U, last name Balinbin, B-A-L-I-N-B-I-N.

CHAIR MOLINA: Okay. All right. Thank you, Mr. Balinbin.

MS. ESPELETA: Mahalo.

MR. BALINBIN: Thank you, Mike. *(audio interference)*

CHAIR MOLINA: Okay. Hang on...Mr. Balinbin, hang on, yeah? I have a couple of --

MR. BALINBIN: Yeah, go ahead.

CHAIR MOLINA: -- Members with questions.

MR. BALINBIN: Go ahead.

CHAIR MOLINA: Member Paltin, followed by Member Sugimura.

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COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Balinbin. I just wanted to clarify, are you saying that you participated in bribing the Planning Department to get permits?

MR. BALINBIN: No, what I'm saying is like...well, when I worked construction back in the...I'd say late...late 1990s, I...I've worked...I've worked...you know, I not going name...I'm not going to name the people that...that I worked for, but it was...it was...it was pretty...there was like three or four different companies that we would kind of...but we...we...I...I...I dropped...I've dropped off money over there on...on couple occasions, several occasions. I've had...I...I...I sat on...I sat in on a member from the Planning Department when my friend had fines...fines at his property in Huelo. He sat down with one of the ladies from Planning and she offered...she said, I can make your fines go away if you want to help me pay my credit card debts, things like that. And there was an investigation...there was an investigation. It was Arakawa's...it was during one of Arakawa's terms, and it was investigated.

CHAIR MOLINA: Mr. Balinbin, I think you answered Member Paltin's question. Member Paltin, do you have...is there need to clarify Mr. Balinbin's question [sic]?

MR. BALINBIN: . . . (inaudible). . . I've done it before . . . (inaudible). . .

COUNCILMEMBER PALTIN: One last clarification was, is this a civil service you're talking about, civil service employee or appointed?

MR. BALINBIN: For the Planning Department. I not going mention names. I can tell you names later, Tamara, if you like call me up, and the specific name that...that...that had bribed...had offered my friend to...to take away his fines if...if she got help, say, with her credit card bills. It...it's...I...I...I seen things like this happen before, and it seems like it's...it's more rampant now. I...I...you know, it...I...I don't know things can get approved and then later get turned over by the Supreme Court. It's frustrating for us because...because we have no...we have no really...you know, we're waiting for Pulelehua, we're waiting for something so...so we can get by with...it's hard for us here on the West Side. You know we're dealing with all these...

CHAIR MOLINA: Mr. Balinbin, thank you. I think you answered. Member Paltin, do you have another clarification question for Mr. Balinbin before I go to Member Sugimura?

COUNCILMEMBER PALTIN: No. Thank you, Chair.

CHAIR MOLINA: Oh, okay. Mr. Balinbin, just real quick question for you. So --

MR. BALINBIN: Yeah.

CHAIR MOLINA: -- are you saying the...there was any, I guess, alleged bribery related to this project? Just to clarify your testimony. Was it just another...

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MR. BALINBIN: I'm not...I'm not...I'm not saying that there is. There's...there's talk about it. I...I don't know firsthand knowledge. I've heard...I've heard that...that...you know, Mike, some of the things I no like...I no like mention names --

CHAIR MOLINA: Yeah.

MR. BALINBIN: -- but if...if I can call your office and I can tell you some things then --

CHAIR MOLINA: Okay.

MR. BALINBIN: -- I...I feel more comfortable that way. I no like throw anybody under the bus.

CHAIR MOLINA: No. Okay. Yeah.

MR. BALINBIN: . . .*(inaudible)*. . .

CHAIR MOLINA: Okay. I just want to make sure that...that it ties into the project or the agenda item that we have here today with your...your statements, yeah.

MR. BALINBIN: The one thing I'm worried about the project because everything was answered was that retaining wall by my --

CHAIR MOLINA: Yeah.

MR. BALINBIN: -- friend Danny's house that he just built --

CHAIR MOLINA: Okay.

MR. BALINBIN: -- he built his --

CHAIR MOLINA: Yeah.

MR. BALINBIN: -- dream house. And the retaining wall that he...he...he swears by that it's not at the proper depth, and that wall could come crashing down at any big rain or anything like that, that we have in Nāpili in...or that Upper West Side. It can happen, you know, and...and...

CHAIR MOLINA: Okay. All right. Thank you, Mr. Balinbin. I have a question for you from Member Sugimura. Member Sugimura, question for Mr. Balinbin?

COUNCILMEMBER SUGIMURA: Thank you. Hi, Kanamu. I was just going to ask the same question that Tamara was...got clarification on, so --

MR. BALINBIN: Okay.

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COUNCILMEMBER SUGIMURA: -- thank you. I have no further questions.

MR. BALINBIN: Okay. I believe...I believe that person is still working in the office, so if you guys...if...if...if Mike or...or whoever is the head of this . . . *(inaudible)*. . . thing, if...if...I...I...I...I'm not afraid to...to...to mention names face to face, but not over this --

CHAIR MOLINA: Okay.

MR. BALINBIN: -- because...you know.

CHAIR MOLINA: Thank you, Mr. Balinbin. I appreciate your thoughts.

MR. BALINBIN: Okay. Thanks. Thanks.

CHAIR MOLINA: Okay. Members, any further clarification or questions for Mr. Balinbin before we let him go? Okay. Seeing none. Mahalo for your testimony, Mr. Balinbin.

MR. BALINBIN: *(audio interference)*

CHAIR MOLINA: Thank you. Okay. Ms. Espeleta --

MR. BALINBIN: Thank you.

CHAIR MOLINA: -- please announce our next testifier if we have any.

MS. ESPELETA: Mr. Chair, your last testifier is Mr. Gary Gates.

CHAIR MOLINA: Okay. Good morning, Mr. Gates. Mr. Gates, if you're there? Yeah. Okay. Mr. Gates, please proceed with your testimony. Mr. Gates, you need to unmute yourself.

MR. GATES: Good morning.

CHAIR MOLINA: There you go.

MR. GATES: I was just attending...I was just attending and...and...and watching and observing, I wasn't planning on testifying.

CHAIR MOLINA: Okay. Well...well, thank you for joining us nonetheless. All right. I guess we're...

MR. GATES: Thank you for the opportunity.

CHAIR MOLINA: Oh, you're more than welcome. Members, I believe we're at the end of our testimony list, if...Ms. Espeleta, if you could confirm that? Was that Mister...was that

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the last person signed up for testimony?

MS. ESPELETA: Yes, Mr. Chair. Mr. Gates was your last individual.

CHAIR MOLINA: Okay. Last call going out for anyone else who would like to testify on our agenda items for today. I believe we had Ms. Vickery earlier. Last call for Ms. Vickery. I still see her on the line. But if you would like this opportunity to testify, please inform the Committee of that. Ms. Vickery, or anyone else. Okay. Hearing no requests for testimony, if there are no objections, Members, the Chair will close public testimony as well as accepting written testimony for today's agenda. Any objections?

**COUNCILMEMBERS VOICED NO OBJECTIONS**

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

CHAIR MOLINA: So ordered by the Committee. Okay. Mahalo. Okay. Members, let's proceed with our agenda today. We do have...prior to the Nāpili item, we do have four boards and commission nominations to consider...four items, I should say. We'll get to that, a...maybe the first two, and at some point I'd like to spend some time on the GREAT Item 36. After the first two boards and commission items, if there are no objections, I would like to ask that we take the agenda out of order and bring up GREAT Item 36 as our third item for discussion. Any objections with proceeding to that matter?

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Okay. So ordered. You're such a very accommodating Committee, I swear. I love all you folks. All right. Let's...

COUNCILMEMBER KING: . . .*(inaudible)*. . .

CHAIR MOLINA: Yeah.

**GREAT-2(1) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(VARIOUS) (CC 21-42)**

CHAIR MOLINA: Let's start off with our first item, GREAT Item 2(1), Nominations to Boards, Committees, and Commissions. The Mayor is nominating a total of three individuals for various County boards and commissions, each for five-year terms expiring on March 31st, 2026. And our deadline for these nominees is July 26, 2021. Let's start off first with the nominee for the Board of Variances and Appeals, Ross Takashima. I'd like to call upon Mr. Mossman from the Mayor's Office to provide us opening comments on Mr. Takashima. Mr. Mossman or the Mayor's representative?

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MR. MOSSMAN: Get myself unmuted. Aloha, Chair Mike. And I'd like to thank you for the opportunity. Mr. Ross Takashima comes from us from Kaunakakai. A civil engineer, been doing his work here for over 13 years. I'd like to thank Ms. Keani Rawlins for her application on Mr. Takashima. And I'd like to have Mr. Takashima...I had a nice chat with him this morning, and he's available and ready for any conversation. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. And I see Mr. Takashima. Thank you for making yourself available. If you could go ahead and take about a minute or two to tell us a little bit about yourself and why you would like to serve on the Board of Variances and Appeals. Please go ahead, Mr. Takashima.

MR. TAKASHIMA: Sure. Hi, Committee Members. So my name is Ross Takashima. I've...born and raised on Moloka'i, and I graduated from Moloka'i High, then I went off to school in Washington State University. I got my bachelor's in civil engineering. I started my professional career in Portland, Oregon, and then after we had our first baby, we wanted to move back home. And so me and my wife briefly lived in Kaua'i for a couple of years, and then we moved back home to Moloka'i, and started my own firm here. So I'm a self-employed civil engineer. And when we moved back, part of our...part of my goal was to get involved and use my skill set and whatever skills I had to give back to the...my home and the community that raised me. So you know, that's...that's my goal here. And when I was...they asked if I was interested in this particular board, I thought it was a perfect fit for being a civil engineer because I see projects all the time, I'm licensed in three states. So I do...I do projects all over the place. And so to have a say in what goes on in our home is really important to me. So yeah, that's just a little bit about me and why I want to serve.

CHAIR MOLINA: All right. Yeah, mahalo for your opening comments, Mr. Takashima. All right. Members, for the record, we had five Councilmembers that requested Mister...check that, four Councilmembers that requested Mr. Takashima's presence this morning; Committee Vice-Chair Rawlins-Fernandez, Councilmember Johnson, King, Sinenci, and Paltin. So we'll start off first with our Moloka'i representative, Member Rawlins-Fernandez. Each of you have three minutes for Q&A with Mr. Takashima. So proceed, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo to Mr. Mossman and to the Mayor for submitting Mr. Takashima's name for the BVA. I requested his presence because I wanted everyone to meet Mr. Takashima and see how awesome he is and what a great fit he would be for this board. Mahalo, Mr. Takashima, for joining us for today's meeting. I know how excited you are. And I...I'm so grateful that you have returned to Moloka'i and the first thing you want to do is give back to our community, and that's so Moloka'i style for sure. So my appreciation for that. And you know, like the testifiers talked about this morning about the Lāna'i Planning Commission, Mr. Takashima is similar to that, born and raised Moloka'i and went away to get education and experience so that he can come back and really be able to contribute to our community. Mr. Takashima, I...I ask all of our nominees these questions, and so I'll ask do you see...do

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you foresee any concerns about attendance?

MR. TAKASHIMA: No, I...I don't think so, especially with this online format. I work...I work virtual with clients all over the...in the mainland and in other states, so yeah, I'm very comfortable with meeting this way. Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. And how do you foresee contributing to this board?

MR. TAKASHIMA: Well, like I said, I think my background and my professional experience can lend itself to contribute to, you know, especially the Board of Variances and Appeals, where people are proposing things that are outside of the Code or, you know, special cases, so I think I can...I can definitely contribute that. Looking at projects and why they're doing what they're doing. And you know, it was interesting listening to all the testimonies this morning on this project. But yeah, I think I can lend my...my skills and expertise in civil engineering to really contribute to the...the board.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo again for answering all my questions. And I urge the Members to vote in support of Mr. Takashima. As we all talk about, he is part of the younger generation that we are trying to lift up and get more engaged. Mahalo again, Mr. Takashima. Mahalo, Chair.

CHAIR MOLINA: Okay.

MR. TAKASHIMA: My pleasure.

CHAIR MOLINA: Mahalo, Committee Vice-Chair Rawlins-Fernandez. Let's go to Councilmember Johnson, any questions for Mr. Takashima?

COUNCILMEMBER JOHNSON: Thank you, Chair. Thank you, Mr. Takashima, for joining us today. I just want to say mahalo for your application. And...and, you know, I was...I was listening to your...your testimony, so I'm...I'm going to rise...I agree that it's so great to have younger folks coming out for their community. Now you got to shake the tree and get some more younger guys and younger women. Very important to have some nice --

MR. TAKASHIMA: Yeah.

COUNCILMEMBER JOHNSON: -- younger voices on these...on these boards and commissions. So mahalo for that. I...I really appreciate you, you know, stepping up to the plate. So that's it for me. Thank you, Chair. I...I have no further question.

CHAIR MOLINA: Okay. And thank you very much, Mr. Johnson. Let's go to Councilmember King, any questions for Mr. Takashima?



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COUNCILMEMBER KING: I just have one. Thank you for being here, Mr. Takashima. And thank you to Member Rawlins-Fernandez for seeking somebody from the Moloka'i community for this board. And I...I was one of the ones that requested and I'm really glad...I was really glad to hear you introduce yourself and talk about your commitment. The only question I have for you is about potential...some...it's ironic that sometimes the most qualified people get accused of conflict of interest, and you're working in the field. So do you anticipate having to make decisions for any jobs that you're working on or...or the company that you work for?

MR. TAKASHIMA: Not at the moment. I...like I said, I think the bulk of my work is up in the mainland. I do have a few local projects around the State. But if it...but I also am very, I guess, discretionary with the types of projects that I take. So if a project doesn't look right to me, or if I feel like it's a detriment to the community, you know, I...you know, I'll decide to turn it down. And if there is any project that we have to get, you know, a variance or...or something like that, then I would...obviously I would recuse myself or, you know, somehow not be involved with any sort of decision that would influence any my projects, so...

COUNCILMEMBER KING: Okay. Well, I think that's great. And you know, it's just a...it's an ironic reality that sometimes the most qualified people are the ones that are...are directly involved, and then it does lead sometimes to those conflicts. But no, I'm in full support, and I really appreciate you being here in person, nice to see your face.

MR. TAKASHIMA: Thank you.

CHAIR MOLINA: Okay. Mahalo, Councilmember King. Let's go to Councilmember Sinenci, questions for Mr. Takashima?

COUNCILMEMBER SINENCI: Mahalo, Chair. And aloha, Mr. Takashima, for your willingness to serve. I...I do see on here that you lived in Portland and worked for KPFF Consulting Engineers, and I was just wondering what were some of the duties performed at KPFF?

MR. TAKASHIMA: Well, KPFF, I got hired right out of college, so basically I learned the...the trade. I learned the...you know, the responsibilities of an engineer. I learned how to design. CAD work was...you know, one of the first things you learn is how to draft in AutoCAD. And then I got my license up in Oregon, a professional engineer license, so I had to take the test, and got licensed. And you know, that company...you know, fortunately I was blessed enough to be a part of that company because that was a really good company for learning. And I still keep in touch with them. I still work with them. So yeah, it was...it was...the roles were basically of a typical civil engineer where, you know, we handle utilities, earthwork, grading, drainage, you know, that type of stuff. So basically site work, yeah.

COUNCILMEMBER SINENCI: Oh, mahalo. And kudos for that because I...I spent some time up there, and it's a difficult market to...to get into up in Portland. So again --

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MR. TAKASHIMA: Yeah.

COUNCILMEMBER SINENCI: -- mahalo for that. Thank you. Thank you, Chair.

MR. TAKASHIMA: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. And last but not least, Member Paltin, questions for Mr. Takashima?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Takashima, for your willingness to serve. I just had a couple questions. You know, this board hears and determine application from...variance from strict applications of any General Plan zoning, subdivision, or building ordinance, and holds public hearing. And I just was wondering if you had...if you could share with us any thoughts as to the types of criteria that you would use to determine if a project should be granted a variance or appeal, like what...what types of things would you use, what kind of criteria would you use to make those types of decisions?

MR. TAKASHIMA: I think the first thing would be looking at what piece of code or ordinance they're looking to get a variance on, and the intent for said code. I think a lot...you know, we have to remember that all the codes that we have are for a purpose, right? So looking at what they're trying to get the variance on, I think, is the first thing, and what the purpose of that is. And then it's also looking at location. So as a civil engineer we deal with sites, right, so the architects and structurals, they're just concerned about the building, so they're not really concerned about where it goes. Civil engineers, we...we don't do much in the building, it's all site work, so I know that projects affect the...the surrounding environment. So I'll be looking at that too. So first I would look at the Code, what they're trying to get a variance on and why, and then look at the surrounding area, the location of it, and to see how that's going to impact, you know, like in here in Hawai'i, you know, traffic is huge and, you know, it's disturbance and, you know, there's a lot of sensitive areas. And like I said, you know, we deal with earthwork and erosion control and things like that, so I'd definitely --

COUNCILMEMBER PALTIN: Thank you.

MR. TAKASHIMA: -- would be looking at that.

COUNCILMEMBER PALTIN: That was a very thorough answer. My question's been completely answered. My last question is just do you believe in climate change?

MR. TAKASHIMA: I believe the climate is changing. I think that's...that's, you know, a fact at this point. You know, I think the details on what's contributing to what is, you know, that's up for debate. But I...I do believe in renewable energy sources, you know, I do believe...it just makes sense to me that we have these resources that we can tap into.

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And now we have the technology too, so...yeah. And I believe we have a sensitive environment here in Hawai'i, so we...we really have to be mindful of that.

COUNCILMEMBER PALTIN: If I could specify specifically about the climate changing in sea level rise.

MR. TAKASHIMA: Yeah. I...the...I think the sea level is rising, right? So and I...I think we see it here on Moloka'i as well. You know, the South Side and our town is basically at sea level so I think the concern is...is real. I think that, you know, solutions have to be thought about and talked about for sure.

COUNCILMEMBER PALTIN: Thank you. Thank you for answering my questions. Thank you for my opportunity, Chair.

CHAIR MOLINA: Okay. Thank you very much, Member Paltin. And just to clarify, although that question was not on Mr. Takashima's application, I assume you're asking that question as to how it...climate change would apply in his role as a decisionmaker on the Board of Variances when any proposed projects seek a variance, especially in the shoreline areas. Am I correct? Okay. All right. Just wanted to make that clarification for agenda and Sunshine purpose...Sunshine Law purposes. Okay. I believe that's the last of our five Councilmembers who requested Mr. Takashima's presence. If there are no other questions for Mr. Takashima, I'm going to go ahead and excuse him. And I'll thank Mr. Takashima for making himself available for...to provide responses to the Committee Members who asked you to join us here today. So mahalo, Mr. Takashima.

MR. TAKASHIMA: Thank you.

CHAIR MOLINA: Thank you. Okay. Our next nominee up for consideration is the nominee for the Board of Water Supply, Ms. Juanita Reyher-Colon. And for the record, Committee Vice-Chair Rawlins-Fernandez, Councilmembers Johnson, King, Sinenci, and Paltin requested Ms. Colon's presence here...Reyher-Colon's presence here today. So we'll again go to our Moloka'i representative, Ms. Rawlins-Fernandez, for questions for...excuse me, let's...let's hold on off that. Let me check with Mr. Mossman first to give us a brief opening comment, and then we'll hear from Ms. Reyher-Colon. Mr. Mossman?

MR. MOSSMAN: Thank you, Chair Molina, again. Ms. Colon comes to us from again Moloka'i. Very, very well. Hawai'i Rural Water Association Executive Director. Again, Ms. Rawlins...Ms. Keani, Councilwoman, we thank you for this again, application. And you know, as she did such a great job I'd like her to introduce Ms. Juanita Colon to our...to the...to the team. So we appreciate her volunteering, and the Mayor looks forward to her nomination.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. Ms. Reyher-Colon, if you're on the line, if you could notify, we'd like to ask you for some brief opening comments before we...

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MS. REYHER-COLON: Hi. Aloha. Can you hear me?

CHAIR MOLINA: Oh, we can hear you fine. Please go ahead (*audio interference*)

MS. REYHER-COLON: Okay. Great.

CHAIR MOLINA: Tell us something about yourself.

MS. REYHER-COLON: Sure. Real quick, I just want to say to...to Ross for his nominee for the Board of Variances and Appeals. I've been the last Moloka'i commissioner for that seat. I...I think he's going to learn a lot for sitting on that seat, so congratulations to him. But for myself, like Mr. Mossman had mentioned, I work for Hawai'i Rural Water Association. I've been the Executive Director for the past year. We're actually a nonprofit organization that provides technical manager and financial training and assistance to the water utilities, as well as the communities they serve. I've been in the water industry for 12 years now. I am a certified distribution operator with a Grade 2 certification through the State Health Department. And I also sit on the American Water Works Association, Hawai'i section board. I'm the Director for Hawai'i to the national association, and that's a professional development organization that deals with water and wastewater industry standards. Let's see, what else? I...I am born and raised on Moloka'i, I graduated from Moloka'i High School, and attended UH Manoa, as well as UH West O'ahu, where I received my bachelor's degree in business administration. And for me to serve...I come from a family that believes in...that believes in service to community and family, so this is my way to give back to my community, not just my Moloka'i community but also the greater community of the County and the State in my experiences that I have gained. Like I mentioned, my last commission appointment was for the BVA which ended last March, and I'm always looking for ways to volunteer my time and service to hopefully provide a greater impact for my community for present and future generations. I think with my experience and background I would bring the technical aspect of utility management to the board of the Department of Water Supply.

CHAIR MOLINA: Okay. Mahalo for your opening comments, Ms. Reyher-Colon. Well, I must say, just looking at your application and your experience, you...in my opinion, you're certainly more than qualified to serve on this board. So I'm going to go ahead and open up the floor for questions first with our Moloka'i representative. Committee Vice-Chair Rawlins-Fernandez, please proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Once again I want to thank Mr. Mossman and Mayor Victorino for receiving Ms. Reyher-Colon's application and submitting her name as a nominee for the Board of Water Supply. As we heard months ago from the previous Board of Water Supply Chair, we didn't have someone on Moloka'i for over ten years representing us on this board. E ola i ka wai. And you know, we know that water is life. And...and she also mentioned that at the time she was nominated I believe she was the only one or one of two women on the board, and so,

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you know, Ms. Reyher-Colon checks both those boxes, a highly qualified woman from Moloka'i. So I guess those are three boxes. I...mahalo, Ms. Reyher-Colon, for joining us this morning, and your continued service to our island. Not only have you served...served on the BVA but you're also looked to as one of our experts on the island in water systems. My first question is regarding your knowledge of other water systems, so outside of Moloka'i. If you could share your knowledge on which...or share which systems you have knowledge on and would be able to contribute to the Board of Water Supply.

MS. REYHER-COLON: Sure. So in my current capacity with HRWA or Hawai'i Rural Water, we serve the whole State of Hawai'i and we work closely with the systems throughout the State, so more specifically within Maui County. I am very familiar with all the systems on Moloka'i. I have some familiarity with Lāna'i water system, as well as some of the DWS systems on...on Maui Island, as well as the...some smaller nonmunicipal systems on Maui as well. Because we provide technical training and assistance to operators, you know, my current position affords me to be able to work with a wide variety of systems as well as their operators, and part of that is really getting to know the operations of...of these systems and...and how they're being managed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. So you know, not only do we get someone who'd be able to contribute from the perspective of the Moloka'i systems, but also from our smaller systems on Lāna'i and Maui. And so I think like we are getting such a package deal with Ms. Reyher-Colon. My last question, do you foresee any concerns with attendance?

MS. REYHER-COLON: No.

VICE-CHAIR RAWLINS-FERNANDEZ: Perfect.

MS. REYHER-COLON: Not at all.

VICE-CHAIR RAWLINS-FERNANDEZ: And you already...mahalo. And you already practically answered my question in your opening comments about how you anticipate contributing to this board. So mahalo nui for joining us and for, you know, your continued commitment and service to our County. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Committee Vice-Chair Rawlins-Fernandez. And yeah, Ms. Reyher-Colon, that's very hard to do to answer Committee Vice-Chair Rawlins' questions in your opening comments, so that's quite an accomplishment in itself. Moving on to our next Councilmember for questions we have, I believe, Mr. Johnson. Any questions for Ms. Reyher-Colon?

COUNCILMEMBER JOHNSON: Sure. Thank you, Chair. Good morning, Ms. Reyher-Colon. Thank you for coming out and joining us today. I only have one question for you. The law states that water is a public trust. And do you feel that resorts are...or do you...as

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resorts not being part of public entities, do you feel that resorts should have a different water rate?

MS. REYHER-COLON: So resorts would actually fall under commercial use. You know, all waters are public trust waters. And...and the use from a resort, that type of setting, would fall under public use...under the Public Use Code. Whether or not they should have a separate water use rate is really determined by...by a multitude of factors and...and what the intentions of recouping revenue from...from resorts. That's a hard question to definitively answer. There are rate structures that's utilized across the country to put into perspective the different commercial uses, as well as residential use, and those are some of the things that we go through with our operators and boards that we provide technical assistance with is actually going through the process of looking at what their infrastructure is, what their needs are, and really getting down to how to structure their...their rates. And that won't necessarily impact everyone, but in...in a way that's not...that would be equal and fair to everyone. I hope that answered your question.

COUNCILMEMBER JOHNSON: Okay. Thank you, Ms. Reyher-Colon. I don't have any further questions for you. Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you, Councilmember Johnson. Let's move on to Councilmember King, any questions for Ms. Reyher-Colon?

COUNCILMEMBER KING: Thank you, Chair. Aloha, Ms. Reyher-Colon. And I think you answered most of my questions. The one question I have for you and it...you know, you're obviously so well qualified in the water arena, I wondered if you had a chance to look at the Water Use and Development Plan for the County, and if you see the Board of Water Supply having a role in it going forward. You know, they had given us a memo a year or so ago, maybe a year and a half ago now with their...their suggestions. And just wondered if you foresaw the board having continued input into the Water Use and Development Plan?

MS. REYHER-COLON: Yes, I am aware of the Water Use and Development Plan for...for Maui Island, as well the current process that's going...that's taking place right now for Moloka'i Island. I do see a value in the board having some type of relationship within the plan development. To me, I think it's always beneficial for folks that make decisions to sit in on the process so they understand the full scope of what's happening, and...and also answer their questions while the process is...is occurring. I've in...in my professional capacity have...have sat through these processes before, whether it's a local level or...or at the individual system level or utility level when they're developing their policies. And I always think it is a good idea and beneficial for board members to be able to sit in on the process and...and develop some of the questions that they may have, and...and have it answered during the process rather than after the process. Some of these questions could really assist with the overall plan before it's...it's finalized. So I do think it's beneficial for...for the board to...to be engaged in...in the process of the

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Water Use and Development Plan --

COUNCILMEMBER KING: Okay. So you can...

MS. REYHER-COLON: -- based on capacity.

COUNCILMEMBER KING: So as a board member you intend to be involved going forward?

MS. REYHER-COLON: Yeah. You know, currently right now in...in my capacity with HRWA, I have been asked to sit on some of the discussions to...to provide some technical backgrounds. And...and if it's...if it's...if it becomes an issue with other board members that I'm engaged in the process, then I would definitely look at possibly recusing myself, but at this point I think it would be beneficial for all parties to have someone that has a technical background.

COUNCILMEMBER KING: That's what I'm hoping. So thank you for answering that question. Appreciate it.

MS. REYHER-COLON: You're welcome.

COUNCILMEMBER KING: I appreciate you being here. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Member King. And let's go to Member Sinenci, questions for Ms. Reyher-Colon?

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Ms. Reyher-Colon, for your willingness to serve. And I too would like to commend, what an impressive resume you have here. So I guess my question would be, you know, our East Maui community has been...well, our...our cultural kalo farmers have been fighting for more water to be released for more taro cultivation here on East Maui upwards of 15 years of being in litigation. And some of the streams were opened, 10 of those...of 27 streams were opened, and...and a few of them just partially opened to allow for our stream life to...to go from mauka to makai. Currently the...the EIS is stalled due to just a contested case. Do you feel that continued diversions out of East Maui for...for agriculture use in Central Maui be at the same levels as plantation days?

CHAIR MOLINA: Mr. Sinenci, before I ask Ms. Reyher-Colon to respond, again, I'm not sure what Ms. Reyher-Colon's level of comfortableness would be on answering a question like that on her taking a specific position at this point on the Water Use and Development Plan. I just want to make sure that we...we try and confine our questions as much as possible to the application...on her application, and be very cautious with responding to taking any...any specific positions on certain topics that may be somewhat controversial. So I just wanted to add that in there. So if there are no objections with allowing that question, Members?

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**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Okay. Then I'll allow Ms. Reyher-Colon to proceed if she feels comfortable enough to comment on any specifics like that related to the Water Use and Development Plan. So Ms. Reyher-Colon, go ahead.

MS. REYHER-COLON: Yeah, thank you. That...take...taking a public perspective on that issue, for...for me, in looking at and working at a utility, having the balance of both traditional and cultural practices with current needs must occur. And...and at this point, I would reserve my answer because it can get controversial. But just know that for...for...for me and my upbringing, I look at all perspectives, both cultural and traditional practices as well as my current technical background, and...and really meld both experiences and knowledge to hopefully come out with a better resolution that would suffice and be able to provide the water that is needed. And know that not all answers are going to make everyone happy, but at least we've addressed some of the issues at hand and taken into consideration all aspects of...of what is out there that is made available to us. I hope that helps.

COUNCILMEMBER SINENCI: Yeah. Mahalo...mahalo, Ms. Reyher-Colon. And then my...my last question was, you know, the...the commission has created a TIG report on the East Maui water system. Have you seen that TIG report?

MS. REYHER-COLON: No, I have not. I've...I've seen...I think the last report that I read I think was the 2016 report. I haven't read anything recently on...on...on that report for East Maui.

COUNCILMEMBER SINENCI: Okay. Great. Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Councilmember Sinenci. And finally, let's go to Councilmember Paltin, questions for Ms. Reyher-Colon?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Reyher-Colon, for your willingness to serve. I was particularly impressed with in your opening statement when you mentioned a commitment to continuing education. And I just was wondering if any of your continuing education in the subject of water included the effects of climate change on our water resources here, especially in Hawai'i nei?

MS. REYHER-COLON: Yeah. So part of our job for HRWA, we do go to the continent every year for two weeks in two separate months and...and we receive training. A lot of it nowadays has to do with climate change and...and cybersecurity. So we...for...for myself, I...I do take it seriously because, you know, climate change doesn't happen overnight, it's been occurring for...for years now, but it's just become prevalent recently. And so for the water industry, addressing climate change really addresses our use and...and what our sustainable yield...yields are. And without understanding what our climate change does to our utilities and the impacts that it has, we won't necessarily be



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able to provide the necessary operations as well as sustainable numbers for pumping, for both human consumption, as well as ensuring that our environment is...you know, continues receive the wai that they need to...to continue to grow and thrive.

COUNCILMEMBER PALTIN: Thank you. I'm...I'm glad that you're up on the current trends in that area. The only other question I had was if you had any ideas about...you know, when we look at rates and fees, a lot of times we...we set them up so that...you know, like for example the highway tax, where the goal is to use less gasoline; but then once that goal is being met, then we don't get the tax to fix our roads. And kind of similar about water rates, you know, we don't want people to use a lot of water, conservation is kind of the...the theme, but if...if we set higher rates for people who use more water, once the conservation occurs, then we may not have the...the monies to do what needs to be done to upkeep the system. And I just was wondering if you had any ideas about how to set up our water rates or whatever rates they are without shooting ourselves in the foot in the long run in trying to accomplish our goals that...that we'd like to see without losing that larger revenue source?

MS. REYHER-COLON: Right. Yeah. So that...you know, that is not uncommon and just strictly to...to DWS' issues, it really is a national issue across...across the...the country when setting rates. You know, we're always looking at conservation, and the biggest way to...to encourage conservation is higher utility rates. And at what point does that bottom out and...and you no longer have that revenue stream. Without going through the process of actually sitting down with the folks that needs to be involved in the...in the rate structure, I really can't give a definite answer, but there are processes in place that's...and tools in place that we can utilize to get to a point of a structure that would benefit not just the utility, but also the community. And of course, you know, there's no definite one...one answer that fits all equations, it's just a trial and error, which is why you typically, you know, go back and do rate studies again once you kind of fizzle out and bottom out at the current rate structure. But I do have some ideas, I don't want to mention it on...on...on the call on what to do. But definite, I think, having that technical background can...can provide some insights to...to rate structuring.

COUNCILMEMBER PALTIN: Thank you. Thank you very much for your answers.

CHAIR MOLINA: Okay. Thank you very much --

MS. REYHER-COLON: You're welcome.

CHAIR MOLINA: -- Member Paltin. Okay. Seeing no other questions for our nominee, Ms. Reyher-Colon, I'd like to thank you very much for making yourself available to respond to questions from the requesting Committee Members. All right. Members, the last nominee under Great Item 2(1) is the nominee for the Fire and Public Safety Commission. I would like to ask Mr. Mossman to give us opening remarks on the nominee Doradeen Makalapua Kanuha. Mr. Mossman?

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MR. MOSSMAN: Thank you, Chair Mike Molina. You know it gives us a lot of pleasure to introduce this young lady. A graduate from Lahainaluna High School, three generations of family ties in Lāhainā. We're very excited to have her as a...the Mayor's nominee. She brings with her some experience in the boards and commissions, serving five years on the...the Culture and Restoration Committee [sic]. And with that being said, we'd like to welcome Ms. Makalapua to...to your interview process. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. And I see Ms. Kanuha on the...on the call. Mahalo for making yourself available. We'd like to ask you to just give us a maybe one or two-minute summary of why you'd like to serve on this commission, and a little bit about yourself.

MS. KANUHA: Mahalo nui. Aloha kakahiaka, sabaidee kākou. Chair Molina and Councilmembers, mahalo for your consideration on my appointment to serve on the Fire and Public Safety Commission. Yes, my name is Makalapua Kanuha. Although I was not born and raised on Maui, my family has been here for many generations. My mother is from Mākena and Kahakuloa, my dad is from Kaupō. I have a wonderful husband who is very supportive in my community efforts. And after 30 years of service in the Maui County Fire Department, he is now a retired fire captain since 2010. We have a blended family of eight adult children, and blessed with 20 grandchildren, ages from 4 months to 21 years old. So I have a large lahui in my family, and our family serves in our church as well. So I'm currently employed by the Westin Kā'anapali Ocean Resort Villas and the Westin Nanea Ocean Villas. I am the Complex Director of Culture, and I oversee our culture department at both properties. As a member of the resort leadership team, safety, education for our associates, guests, and community is always at the forefront. In fact, right after this meeting, I have a hurricane preparedness training. I'm a little tardy, but that's okay, they can wait. And I would like to serve on the Fire and Public Safety Commission to support the efforts of MFD because I too have been...I am a 30-year resident in Lāhainā. I have grandchildren and children, and I want them to grow in a safe, thriving community. So I have served in multiple boards, just to name a few, as you know Cultural Resources Commission representing Lāhainā District One and Two. Relay for Life, Lāhainā. I do understand the importance of consistent attendance, which my employer supports 100 percent. So I currently serve on...I am the Vice-President for Kaupō Community, Inc., and we are currently working on a plan for wildland fire awareness education for our community. As a pelekikena for Friends of Pu'u Kukui Watershed, we held a wildland fire awareness training as well. So with that, I'm here to serve. I'm always looking for opportunities to serve in my community, and yes, I do love my community.

CHAIR MOLINA: Okay. Mahalo, Ms. Kanuha, for your opening remarks. And what we'll do, we have five Councilmembers requested your presence today, Members Paltin, Sinenci, King, Johnson, and Rawlins-Fernandez. We'll start with our West Maui representative for her line of questioning. Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Kanuha, for your willingness

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to serve. I actually don't have any questions for Ms. Kanuha. We've spoken thoroughly, and I just would like...I wanted her to come to publicly endorse and give my support. Although like the previous nominee that we did accept, she works in the hotel industry and...and is heavily involved in the church, she checks a whole lot more boxes as well, and...and she has a direct source to information about how the Fire Department is run in her husband. She's a wahine koa for West Maui. And just full support. Thank you.

CHAIR MOLINA: Okay. Mahalo, Member Paltin. Let's go to Member Sinenci, questions for Ms. Kanuha?

COUNCILMEMBER SINENCI: Mahalo, Chair. And aloha, Makalapua. Nice to see you on. And I...I speak in full support of Makalapua's nomination. She is ohana from Kaupō side, and so I...I know that her experiences and her...her work, her past work ethic with cultural...within her...the Cultural Resources Commission. So we look forward to...to her bringing her expertise as part of this commission. Yeah, mahalo, and...and support.

MS. KANUHA: Aloha.

CHAIR MOLINA: Okay. Thank you...thank you very much, Mr. Sinenci. Moving on to Councilmember King, any questions for Ms. Kanuha? Okay. I believe Ms. King did inform me earlier she had to leave temporarily, so we'll move forward from Ms. King. Let's go to Councilmember Johnson, any questions for Ms. Kanuha?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Ms. Kanuha. I only have one question for you today. As someone who works in the hotel industry, what role do you think the resorts play in working together with our first responders to keep our tourists safe?

MS. KANUHA: They play a...well, we have opportunities to connect. And how we support our Fire Department or our first responders is we have educational programs, we have so many leaders on our property, and we have partners on our pool areas. And I have a resource center on both properties, so in this culture resource center is where we have that opportunity to talk story. And if it's raining in the mountains, don't go in the river. There's places that you do not go. And if there's heavy winds on the ocean, you do not go out and go windsurfing or...or paddle boarding. So we have opportunities to support our MFD by doing prevent...taking preventive measures with education. Education is key to everything. I hope I answered your question.

COUNCILMEMBER JOHNSON: Yeah. Thank you. And you're exactly right, Ms. Kanuha, education is key. Thank you so much.

MS. KANUHA: Yes.

COUNCILMEMBER JOHNSON: Thank you, Chair. I have no further questions.

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CHAIR MOLINA: Okay. Thank you, Member Johnson. And let's go to Committee Vice-Chair Rawlins-Fernandez, questions for our nominee?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Kanuha. Mahalo for being with us today and for your willingness to serve our County.

MS. KANUHA: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: I...I just have a few questions. My first question is regarding attendance. Do you foresee any concerns with attending all of the commission meetings?

MS. KANUHA: I have no concerns because, you know, we're always encouraged to give back to our community. And being that I actually sat on the Cultural Resources Commission during...during Tavares' term, and then I completed my term during Arakawa. So our leaders here...everybody is like sitting on boards or in community outreach. So yes, it's very much supported, no problem.

VICE-CHAIR RAWLINS-FERNANDEZ: Absolutely, we...we wear many hats.

MS. KANUHA: Totally, totally.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for serving again. So my second question is regarding the kuleana of the commission, which...two of which are reviewing the Mayor's proposed budget, and then selecting a new fire chief, which is actually, you know, happening right now. So my first question regarding the budget is, I was hoping that you could share with us any kind of experience you have in reviewing budgets that would help to explain your qualification for...for that.

MS. KANUHA: So mahalo for that question. I really appreciate that. And because in my capacity as a leader, I do the hiring in my department. Of course, my department is very unique and it's different because it's a culture department, so part of the expectations is my team need to read, write, think, and understand Hawaiian because it's a culture department. However, if I'm looking...not looking, but what I am looking into hiring that new applicant, whoever that person may be, is are they effective communicators? You know, I mean, the skills, are they organized? Organization and effective communication is very vital. Do they have any training certifications? Are they a team player? How do they take care of their team? So I even get scored from my team. So the...the hope is that with all of these experiences that I can actually contribute to the commission, as well with my background. And what I would look for too, as well, is honesty, openness, accountable, and dedicated, dedicated to the Maui County. And communication is...is important as well. How do they communicate strongly with their departments, Administration, County Council. Sorry, tita, I hope I answered your question.

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VICE-CHAIR RAWLINS-FERNANDEZ: Yeah. Mahalo. And I...I love that you have that holistic accountability, holding yourself accountable to your team as well. I love that so much. So my last question is regarding...so you shared that your...your...your kane is a retired fire captain. Mahalo for his service as well. Sometimes it's a double-edged sword, you know, because on one hand you have the experience via the lens of your husband to...you know, into the Department and its operations. And on the other hand, with personalities, sometimes feedback from, you know, your kane's perspective, you know, is not your own. And so my question is, would you be able to remove yourself from any potential biases to make a...you know, a just decision in moving forward with...

MS. KANUHA: The answer is yes. And my husband, he truly understands his wife, and you're welcome to give me your feedback; however, that is not my decision. And he's very maika'i with that. But yes, I...I do stand...many who know who I am, I love my husband dearly and my family, but I welcome everybody's feedback, but at the end of the day I am able to make my own decision, what is best for the greater cause.

VICE-CHAIR RAWLINS-FERNANDEZ: 'Eo 'anakē. I love that so much, and I love your husband too. You have my full support.

MS. KANUHA: *(audio interference)*

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Mahalo. . . .*(timer sounds)*. . . Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair Rawlins-Fernandez. And right on time too. Well, I just would like to express my thoughts on you, Makalapua. I have no questions, but if anything, just some comments. I got to see you in action several years ago at the hotel when I was working for the former Administration, and I must say, you have this wonderful innate ability of educating people and bringing people together, especially tourists. You know, you've got to sometimes educate them, but you do it in such a nice positive way. It's in an intangible that I think you...you just have in you, and not found in a lot of people. So and I think that...that'll be very important, an asset that's important for you in serving on this commission. And you just have a wonderful ability to bring people together to see very important and tough issues and just keep things, you know, moving forward in a...in a great and wonderful way. So you certainly have my support. And I want to thank you for...for joining us and responding to our questions. Okay. With that said, Members, if there are no other questions, we're going to excuse Ms. Kanuha for this morning.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Mahalo.

MS. KANUHA: Mahalo nui loa. . . .*(spoke in Hawaiian)*. . . A hui hou.

CHAIR MOLINA: A hui hou. All right. Members, the Chair has a recommendation, Chair

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would like to place...move...ask for a motion to place the names of Ross Takashima for the Board of Variances and Appeals, Juanita Reyher-Colon for the Board of Water Supply, and Doradeen Makalapua Kanuha for the Fire and Public Safety Commission on Exhibit B for approval. Chair will entertain a motion.

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER PALTIN: So move.

COUNCILMEMBER SUGIMURA: Second.

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Okay. Moved...Moved by Committee Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura. Any discussion? Seeing none. All those in...oh, sorry, Committee Vice-Chair Rawlins-Fernandez, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll make it quick, Chair. I just wanted to again thank the Mayor for submitting three awesome names for the boards and commissions. I really appreciate, you know, the Mayor and Mr. Mossman, the Administration working together with the Council to really get highly qualified people to serve on these boards. And I know it's not easy going through the Council's questions, but as you can see with these three nominees, they're so qualified, they...they may have been a little nervous, but they went through our gauntlet, you know, with ease, and that's what happens when, you know, nominees are qualified like these. So I...I really want to extend my appreciation. And you know, when we have these nominees who are invested in the community that they come from, you...you can see and hear their heart and their desire to really serve the community that their children and grandchildren are a part of. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Vice-Chair Rawlins-Fernandez. Very well stated. Any other discussion on the motion on the floor to approve these three nominees? Seeing none. Then the chair will call for the vote. All those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed? Okay. All right. Chair will mark eight "ayes," with one excusal, Member King. These individuals' names will be forwarded to the next Council meeting for a final vote.

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**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,  
Councilmembers Johnson, Kama, Lee, Paltin,  
Sinenci, and Sugimura.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember King.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTIONS TO APPROVE ROSS  
TAKASHIMA TO THE BOARD OF VARIANCES AND  
APPEALS; JUANITA REYHER-COLON TO THE BOARD OF  
WATER SUPPLY; AND DORADEEN MAKALAPUA KANUHA  
TO THE FIRE AND PUBLIC SAFETY COMMISSION.**

CHAIR MOLINA: So thank you very much, Members, for your questions, and to all of our nominees.

**GREAT-2(14) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS  
(COUNCIL ON AGING) (CC 21-42)**

CHAIR MOLINA: Members, I know we're getting a little late and getting prepared for our quick morning break, but before that I'd like to ask if I could indulge your...your support to addressing the next item, GREAT Item 2(14) which is a nomination to the Council of [sic] Aging. That will be Helen Tabura, and this will be a term expiring on March 31st, 2026, and this is to fill a vacancy due to the resignation of Dorothy Yoza. I'd like to ask Mr. Mossman to give us some brief opening comments on the nominee.

MR. MOSSMAN: Thank you, Chair Molina. Ms. Helen Tabura has...is a retired Lānaʻi person that is very well respected within the community. Very excited to work with the Council of [sic] Aging. I think she brings so much to the table for us. And with that being said, I'd love her to kind of share her mana'o with you at this time. So thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Mossman. Ms. Tabura, if you're on the call, you can let us know. Ms. Tabura? I understand she is or was available to attend. Let me see. Okay. We don't see her on the call at this point. When she does, we'll ask her to give some comments. But what we'll do, I'll recognize the Lānaʻi representative, Mr. Johnson, if he has any comments or statements to make to the Committee about

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Ms. Tabura. Mr. Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. I stand in strong support of Helen Tabura because she is a powerhouse. She is one of those kupuna that have gotten stronger in age, more...more willing to share her mana'ō with everyone. She is a leader in our community. She has a long family history here. Her boys, you may know, Lanai Tabura, and all of her famous sons are all over doing great things. But Helen has...has kept the fort down, as they say, and has been a leader of our kupuna in our community, and I...I couldn't ask for a better...a better candidate. So I hope all you folks join me in supporting her because we would be remiss without recognizing the...the strength that she carries and the...the wisdom that she has. So I'm here to rise in strong support for her. She's great. That's it. Thank you.

CHAIR MOLINA: Okay. Very...thank you very much, Mr. Johnson. And for the record, besides yourself, Committee Vice-Chair Rawlins-Fernandez, Councilmember Sinenci, and Councilmember Paltin requested Ms. Tabura's appearance. But based on my colleague, Mr. Johnson's, comments, and I too have heard some very good things about Ms. Tabura, I'm fine with supporting her nomination. Members, any other comments before the Chair makes a recommendation? Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And again, I'll make it quick. I...I only requested her presence so that I could see her and say aloha because I...I agree with everything that Member Johnson said. What a powerhouse. Such a privilege to have her serve on this commission, and I fully support her. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair Rawlins-Fernandez. Any other comments before the Chair makes a recommendation? All right. Seeing none. Then Chair will ask for a motion to recommend adoption of the proposed resolution to approve the nomination of Helen Tabura to the Council on Aging.

COUNCILMEMBER SUGIMURA: So move.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR MOLINA: Okay. Moved by Member Sugimura, seconded by Committee Vice-Chair Rawlins-Fernandez. Any further discussion? Seeing none. Then Chair will call for the vote. All those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: Okay. All those opposed? Okay. The Chair will mark it eight "ayes," with one excusal, Member King.





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**GREAT-2(15) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (COST OF GOVERNMENT COMMISSION) (CC 21-42)**

**GREAT-2(16) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (LANAI PLANNING COMMISSION) (CC 21-42)**

CHAIR MOLINA: Members, with regards to the other two matters, the nominations for the Cost of Government Commission and the Lānaʻi Planning Commission, your Chair, based on the assumption that you do have a lot of questions which relates to GREAT-36, would likely take up the rest of the day. Of course I want to excuse you at 12:00 because we do have a 1:30 meeting with Mr. Sinenci's Committee. So if there are no objections, I'm going to request a deferral on GREAT Items 2(16) and GREAT Items 2(15). Any objections to deferring those two items?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

CHAIR MOLINA: Okay. So ordered, Members. And that way I don't want to keep you any longer than I have to, so thank you for that, Members.

**GREAT-36 CONSTRUCTION ON LOWER HONOAPIILANI ROAD (NAPILI) (CC 21-242)**

CHAIR MOLINA: Okay. Let's get on to GREAT Item 36. As I mentioned, this relates to the Construction on Lower Honoapiilani Road in Nāpili. Members, we've been receiving...we just recently received a correspondence from Mancini, Welch, & Geiger, LLP, the law firm representing owner Greg Brown, which has been uploaded to this item. And we have from the Planning Department, Planning Director Michele McLean, as well as I believe Mister...Deputy Director Mr. Hart standing at the ready. I've asked Director McLean to provide us a PowerPoint presentation. But before that, let me just get into a few details on this matter. The Committee's in receipt of County Communication 21-242, from the Planning Director, transmitting the matter related to construction on property located at 5385 Lower Honoapiilani Road in Nāpili. The Committee may discuss the matter, including the permitting process and related concerns. And the Committee may also consider the filing of County Communication 21-242 and other related action. And of course if the body so chooses, the Chair will certainly hear any potential request for executive session as well. So with that said, I'd like to ask Director McLean to please provide us some opening comments. And she has also...or will be providing a PowerPoint presentation, or a share screen as we say these days for the Committee Members to get up to speed on this matter. Good morning, Director McLean.

MS. MCLEAN: Good morning, Chair, and good morning, Committee Members. I don't really have any introductory comments. I think what I would say is covered in the PowerPoint. So Chair, if you want me to proceed with that, I can share my screen.

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CHAIR MOLINA: Please proceed.

MS. MCLEAN: Let's see if this works. Okay. Chair, can you see the presentation?

CHAIR MOLINA: Yeah, I see a blue screen right now, but I did see the first page of it earlier.

MS. MCLEAN: Okay.

CHAIR MOLINA: Okay. Here we go, we see the first page.

MS. MCLEAN: Is that back?

CHAIR MOLINA: Yeah.

MS. MCLEAN: Okay. Great. Thank you for scheduling this item today. The PowerPoint just gives an overview of the property and the main permitting and processing issues that have come to our attention. First is a location map. The property is outlined in blue there right on Lower Honoapiilani Road at the intersection with Hui Road. So it's a prominent location, a little bit of a higher elevation, so it's...any construction on that site would...would certainly be obvious to the community driving by.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Go ahead, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha, Director McLean. Mahalo for your presentation. On the top right there's two arrows pointing diagonally. Would you mind clicking on that so it can be a bit bigger?

CHAIR MOLINA: There you go.

VICE-CHAIR RAWLINS-FERNANDEZ: Perfect. Mahalo.

CHAIR MOLINA: Good suggestion. Mahalo.

MS. MCLEAN: Thank you for that.

VICE-CHAIR RAWLINS-FERNANDEZ: You're welcome.

MS. MCLEAN: And this is a...the zoning map. You'll see in the purple checkered overlay, that is the zoning for the Nāpili Bay Civic Improvement District. That is a somewhat unique zoning district. It has not been amended once since the County Code was adopted back in 1960. The uses allowed by the district are those that are allowed in the Hotel zoning district. And the Hotel zoning district allows all of the uses in the Apartment districts

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and in the Residential districts, so quite a variety of uses are permitted in this district. There are 59 parcels with this zoning designation, and very few remaining undeveloped parcels. The height, the building height in the Nāpili Bay Civic Improvement District is two stories. And most of our zoning districts, as we've gone through and amending them over time, we have replaced the reference to stories with feet, which is much more precise than stories. This is one of the few remaining zoning districts that still uses stories. This is the existing West Maui Community Plan map. You'll see that the parcel is designated Multifamily. And in the proposed West Maui Community Plan update, the property is designated for Residential. Here's a timeline of some of the significant permitting actions. In April of 2018, the applicant applied or submitted an SMA assessment application, and almost a year later, the County issued an SMA exemption for the structure. Under State law and under the Maui Planning Commission's SMA rules, an exemption can be granted for single-family homes that are less than 7,500 square feet. This home is 7,483 square feet, so it is within the threshold to be able to receive an SMA exemption. In April of 2019, soon after the SMA exemption was issued, the applicant submitted a grading permit application. And just after that, the SMA exemption that the Planning Department issued was listed on the Maui Planning Commission's report. Under the Commission's SMA rules--and this is true for all of our planning commissions--when SMA exemptions or minor permits are issued, those are issued administratively...excuse me, that...that's not the case for all three planning commissions, each commission has different rules. With the Maui Planning Commission when SMA exemptions or minor permits are issued, we are required to notify the Commission at its next meeting. And so at each Planning Commission meeting attached to the agenda and listed on the agenda is the report of SMA exemptions and minor permits. And so this SMA exemption was included in the report at the next Commission meeting after the exemption was issued. In May of 2019, the County issued the grading permit. Also in May of 2019, the applicant submitted building permit applications for a swimming pool and spa, and for the main dwelling. And soon after that, the County issued the building permits, that's just about one year later the County issued those building permits. The Planning Department reviews most building permits for zoning compliance and other land use requirements as well, things like SMA and flood. In this case as I mentioned the zoning district building height is two stories, it doesn't have a specified number of feet. Through the SMA and building permit processes, we confirmed with the applicant that the intention was to use this as a second home for the applicant and not a vacation rental, and so our reviews were based on that representation. And so in March of this year, when these issues were brought to my attention, we confirmed in writing with the applicant that the applications did not contemplate vacation rental use and we consider that use to not be allowed in the structure. As you saw on the timeline, it took us just about a year to issue that SMA exemption. These were the original plans that were submitted. Part of the reason that the time took that long is we wanted to work with the applicant to revise the plans and improve the plans. So as you can see, these are...it's pretty modern looking, it's pretty boxy. This lower image would be the view from Lower Honoapiilani Road. Here this...again, this bottom image would be the view from Honoapiilani Road. And this is the original roof plan with two pools and two hot tubs. And the access to the property

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under the original plans would be off of the Hui Road, with six parking spaces, which is not adequate parking. Under the Parking Code, they would need seven parking spaces on site. The revised plans broke up some of the massing, took away some of the boxyness. Admittedly, it's still a very large building. The roof plan calls for just one pool and spa rather than two. And the site plan has two parking areas with four spaces each accessed off of the...of the lower road. And the site plan also includes four public beach parking spaces on the property line...on the subject property, not in the right of way, but on the subject property. And here are some photos of the structure under construction. You can see...if you can see my cursor, I don't know if you can, in the center of this image, you see the...the concrete or the...the block column there, that is the elevator shaft that would go to the roof. And then to the left of that, a similar column that goes to a high point. There is the same kind of structure on the other side of the elevator shaft, those are stairwells that go up to the roof, one on either side of the elevator shaft. And this image to the left of the equipment is the stairwell going up to the...to the roof. So the roof height...the regular roof height of the structure is at about 35 feet, and then the two stairwells and elevator shaft go to about 45 feet. In preparing for this meeting, I had talked with our Staff. Because the number of feet aren't listed in the district, we wanted to see what other structures in the district look like and what has been approved previously. So this is an image of Nāpili Gardens. And apparently when these were approved, the ground floor garages must not have been considered stories because they're two stories above that, two livable stories. So at 3...excuse me, 5335 and 5355 Lower Honoapiilani Road, those are the top two images left and right. The one on the left has a roof deck with a stairwell. The one on the right has lofts or pop-up windows that go above the second story. Nāpili Point is on the lower left, that appears to be three stories or two stories and a loft perhaps, and same thing on...on the right is Nāpili Kai, either lofts or mezzanines. And that's one of the reasons that we are working to use actual measurements, number of feet rather than stories because questions have come up in the past about lofts and mezzanines and how those are counted, as well as things like the rooftop decks and the stairwells that get to them. The issues to consider and the next steps that the Planning Department is taking is first to confirm that the square footage of the structure is less than 7,500 square feet, which again is the threshold for us to be able to issue an SMA exemption. We're also looking at the zoning standards of the zoning district and that two-story height limit, and confirming that our signoff on those building permits was appropriate, although it's unusual, although the building is large. We're also confirming that the actual construction is keeping in line with the building permits, including the building pad height and then the height of the structure itself. There's also a makai wall that does not appear to be permitted, so we...we want to ensure that that wall is...is properly built and properly permitted. And the most significant way to address the situation to make sure that it doesn't happen again is to amend the zoning district to change stories to feet. Again, as soon as the situation was brought to my attention, we started a draft...we started to draft a bill to do that. Councilmember Paltin also drafted a bill, and the Council adopted a resolution to send that bill to the Planning Commission. That's scheduled for their next meeting on July 13th. In addition to changing stories to 30 feet, the bill also addresses future vacation rental use. Based on the feedback that we've

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heard from the community, the Department's recommending to prohibit future vacation rental use except for B&Bs, and that means that existing TVR uses would be grandfathered, and that any new TVR use would need a special permit, which is already a process that the district allows. I did want to note that as Councilmember Paltin said, the property is on the market for \$12.85 million. It was purchased by the current owner in 2017 for 1.2 million. And the Real Property Assessment Division has it listed, for the land value, as 1.275 million. And Chair, that concludes my presentation.

CHAIR MOLINA: Thank you very much, Madam Director. Appreciate the...getting the Members up to speed on this project which has certainly generated a lot of discussion. I myself went out and...and took a look at the property back last week and, you know, to get an up-close view of it. The picture, in my opinion...pictures just don't tell the whole story. When you see the structure up live and personal and from street level, and it seems like there was...if I may ask the first question, Madam Director. The topography of the land, did they have to add any additional fill? Because the...I mean admittedly, the building just stands out height-wise. Can you comment on that part?

MS. MCLEAN: Yes. And that is one of the things that we're checking. They did receive a grading permit which would allow for cut and fill, but the height of a building is measured from finished grade or natural grade, whichever is lower. And so we want to check...confirm what the building pad height is. We have a predevelopment topographic map of the site, so we know what the natural grade was, so we want to compare that with the pad height of the building to make sure that that's not any higher.

CHAIR MOLINA: Okay. Thank you. All right. Members, I'm going to recognize the...our West Maui representative and an individual who actually lives out in Nāpili as well, Member Paltin who's very well versed on this issue to ask questions. And Members, I'm going to put everybody on a clock because we have...I'd like to get you out of here by 12:00. Three minutes each, Members. So have at it, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to share, I did request Director McLean to bring this up because I didn't want to be the only one with the full knowledge because decisions we need to make as a Council. And I asked her to explain what happened and how they would prevent it from happening in the future. But some of the initial questions are, I think the building permit was for 2 million, and so wouldn't that have been an SMA major? Does SMA major have an exemption? And really looking at the blueprints, the media room, the den really look like additional master bedrooms, and...and kitchen and an identical wet bar. I mean in...in any normal common sense person's purview this would not look like an eight-room single-family home, it would like a 12-room hotel development or something. So those are my initial questions.

MS. MCLEAN: Thank you, Councilmember Paltin. The valuation comes into play when a permit is needed. So there's a process when an SMA...when action in the SMA comes forward it can be exempt or it can need a permit. If it's exempt, the valuation doesn't matter. If it needs a permit, then the dollar threshold is the difference between a...a

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minor and a major, which is \$500,000. So in this case, because an exemption could be granted, the valuation didn't come into play. If it was determined that it's a development then yes it would have been a major permit.

COUNCILMEMBER PALTIN: And maybe if you can go over a little bit the criteria for exemption here, because obviously the public is very upset, they didn't get a chance to be heard.

MS. MCLEAN: Yeah. In State law, in HRS 205...in 205A-22, it lists a list of actions that are...that can be exempt, and it says simply a single-family home of less than 7,500 square feet. It...at the end of that list of exemptions, however, it says that even if you're an action that's on that list and could be exempt, if there could be potential environmental or ecological effects, then it might not qualify for an exemption. In this case, it was determined that the property or the development wouldn't have significant environmental or ecological effects. There...there weren't issues about drainage, impact . . .(timer sounds). . . to the marine environment and so forth so that an exemption could be granted.

CHAIR MOLINA: Okay. Director, I think that was our...our timer, our first round, three minutes. So let's go on to the next Member. Chair Lee, you have three minutes for any questions for Director McLean in open session.

COUNCILMEMBER LEE: Thank you, Chair. Director McLean, do...who's...who's monitoring any project of this size? Because I'm wondering how does it get this far without, you know, being caught and/or reevaluated as to whether the developer is exceeding limits of square footage, of whatever? Who...who is...like is it DSA inspectors that are...are looking at these things, or is it...would it be Planning inspectors?

MS. MCLEAN: It would depend on the nature of the concern. In this case, we are working with DSA inspectors because they have building inspectors. We...we don't have building inspectors. So you're working with them, and with the applicant's contractor to check the height, to check the square footage to make sure that it's being built according to the approvals...

COUNCILMEMBER LEE: Okay. So Director, so are they...is this developer in compliance with all County Code?

MS. MCLEAN: To date, we have not found noncompliance. We haven't confirmed all the things that we need to look at, but we have not found non...we have not found any noncompliance so far.

COUNCILMEMBER LEE: Okay. Is there anything we can do to restrict this building because it's turning out to be a monstrosity?

MS. MCLEAN: Well, to keep these things from happening in the future, there's the Code change, there are other changes that we can do. But for this particular building,

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I...I...Corp. Counsel, if we were there in person, would probably be poking me telling me to be cautious in that response, maybe answer that in executive session.

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

CHAIR MOLINA: Okay. Thank you, Chair Lee. Let's go on to Committee Vice-Chair Rawlins-Fernandez, your...your round, three minutes.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for your presentation, Director McLean. So my first question is does this property have a STRH permit?

MS. MCLEAN: No.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And in the presentation that you showed us that gave examples of building height in the area, does...are they hotels? I think two of them might be, yeah?

MS. MCLEAN: They probably are because that use is allowed in the district.

VICE-CHAIR RAWLINS-FERNANDEZ: Um-hum. Okay. I guess dovetailing off of what Chair Lee is talking about, so has there been an application for an STRH permit for this property?

MS. MCLEAN: No, they...they wouldn't qualify for an STRH permit. STRH permits have a maximum of six bedrooms, and the structure has to be built and has to be owned by the owner for at least five years, so they wouldn't be eligible to apply.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So that's for an STRH permit. Is there an application for a special use permit to use as transient accommodation?

MS. MCLEAN: No, one has not been submitted.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. All right. I guess, you know, what everyone is trying to figure out is, you know, the damage has been done to the community, and how do we rectify this situation legally. So I think that's all what we're trying to figure out. I think it's clear that the property owner was pretty disingenuous and really skirting our laws and finding whatever loopholes he was able to get through, which is really disappointing. Mahalo. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Vice-Chair Rawlins-Fernandez. Let's go to Councilmember Johnson. Your...your turn, go ahead. Three minutes.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Director McLean. I just have one question for you. How...how many times did the Department visit the site since 2018?



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MS. MCLEAN: Gosh, I am aware of four times this year. Prior to that, I don't know.

COUNCILMEMBER JOHNSON: Is it common to visit a site like this four times in one year?

MS. MCLEAN: No. No.

COUNCILMEMBER JOHNSON: So was that being like reactive to complaints?

MS. MCLEAN: Yes.

COUNCILMEMBER JOHNSON: So before the complaints, you...you don't know if you visited it once, twice or any? I don't mean you, but the Department.

MS. MCLEAN: I don't know. I don't know if we did.

COUNCILMEMBER JOHNSON: Okay. So I'm just going to change real quick in regards to the pictures that you showed of the...of the other places that had three stories. When those were built, we...the two-story maximum was already in effect, correct? So if we didn't follow the two-story rule, and then we're going to switch to a 30-foot rule, how are we going to...how...you know, how can we guarantee that the 30-foot rule is going to fit when we didn't follow the two-story foot rule...or two-story rule beforehand through the history, yeah.

MS. MCLEAN: That's a great question. I think with the first example with the garages, at the time, for whatever reason, the Department didn't count the garages as a story. For the other examples that I showed, I don't believe those additional components were complete third stories. They were stairwells, lofts, or mezzanines.

COUNCILMEMBER JOHNSON: Okay. So...

MS. MCLEAN: By...by changing the...let me...if I may just say --

COUNCILMEMBER JOHNSON: Okay. Sure.

MS. MCLEAN: -- by changing the Zoning Code to a specific amount of feet, that is black and white. That...there's no way to interpret that any differently. This is stories which...yeah.

COUNCILMEMBER JOHNSON: So the...the...the premise is, is the garage was technically not a feet [sic], so that's why they got around it. I mean we...even though we can count with our eyes and we can see, and even though they're...the other one you actually showed three stories, you...they call it a loft or some kind of other word besides a story. So you're saying that actually having the feet will be black and white, and then that you're confident will solve the issue?

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MS. MCLEAN: Yes.

COUNCILMEMBER JOHNSON: Okay. All right. Thank you. Thank you, Director. Thank you, Chair. I have no further questions.

CHAIR MOLINA: Okay. Thank you very much, Member Johnson. Councilmember Kama, any questions for Director McLean? Member Kama, you're muted. Could unmute please.

COUNCILMEMBER KAMA: Sorry, Chair.

CHAIR MOLINA: Okay. There you go.

COUNCILMEMBER KAMA: My mouse was kind of like not cooperating. So Director McLean, Miss...earlier, Alice Lee had asked if this house is in compliance, and I was looking to hear either a yes or a no. So could you just give a yes or a no?

MS. MCLEAN: As of today, yes; but there are still things we are following up on, so the answer might be different...

COUNCILMEMBER KAMA: Yes. Okay.

MS. MCLEAN: But today, yes.

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

CHAIR MOLINA: Okay. Thank you very much, Member Kama. Member Sinenci has informed me he has no questions at this point, so let's go to Member King. Questions for Director McLean?

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Director. I appreciate your presentation. I'm a little baffled by the statement that there...that everything is in compliance because in your presentation, it says there's a makai wall that's not permitted. To me that would be out of compliance if they built something. And I...I don't know if it's a good practice to permit something after the fact so that people get the idea that, you know, just build it and get your permit later. Can you comment on that?

MS. MCLEAN: Yes. There were permits shown in the system that look like they were cancelled. So we haven't completed our review of those permits to be able to say definitively that the makai wall is not permitted. It does not appear that it was, but I can't...if...if...if I would say it's not permitted, we would be initiating enforcement, and we haven't --

COUNCILMEMBER KING: Okay.

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MS. MCLEAN: -- got to that point.

COUNCILMEMBER KING: But you did say they still need to get their permit. So they need to get their permit, that was what you said. So if they didn't have a permit, why would they be allowed to build it?

MS. MCLEAN: Well, if they didn't have a permit and they built it, that's correct. It would be not compliant, we would...we would pursue enforcement of that.

COUNCILMEMBER KING: Okay. Rather than just giving a permit?

MS. MCLEAN: Excuse me?

COUNCILMEMBER KING: You would...what would your enforcement look it? Because it sounded like you were willing to give them a permit after the fact. So that...I was just wondering, what would the enforcement be if you found out it was not permitted?

MS. MCLEAN: Initially it would be a notice of warning, and then if they did file an application, they would have to pay after-the-fact fees. And if they didn't do that within the time prescribed, then it could be a violation with additional fines.

COUNCILMEMBER KING: Okay. Because you know, my point is that, you know, there might be cause to not give them that permit, but it sounds like since they started building, it's just like almost an automatic permit. So that's a little bit of a concern because that sets a bad precedent. I have another question about the Nāpili Bay Civic Improvement District. So we...we looked at different buildings in your...in your presentation, it looked some were hotels. So I'm assuming within that district there's hotel zoning, there's single-family zoning, there's multifamily zoning. Is that true, there's like different zoning? Because we...we looked at hotels. And so do all these different zones have the same two-story limit, or are they different for residential versus hotel?

MS. MCLEAN: There is one zoning district that allows the uses of other zoning districts. So all of these properties are still zoned Nāpili Bay Civic Improvement District, but you can have a hotel, you can have multifamily, you can have single-family.

COUNCILMEMBER KING: Okay. So the multifamily designation was a community plan designation?

MS. MCLEAN: Well, it is Multifamily on the community plan, but the zoning district allows . . . *(timer sounds)* . . . all the uses allowed in the Hotel District, the Apartment District, and the Residential District.

COUNCILMEMBER KING: Okay. So just...I'm sorry, Chair, just wanted to clarify. So that height of two stories, which we don't know, that applies to everything in that --

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MS. MCLEAN: Yes.

COUNCILMEMBER KING: -- zoning district? Okay.

MS. MCLEAN: Yes.

COUNCILMEMBER KING: Hotels and houses alike. Okay.

MS. MCLEAN: Yes.

COUNCILMEMBER KING: So we have to clean that up. Okay. I think my time's up. Thank you, Chair. Thank you, Director.

CHAIR MOLINA: Okay. Thank you very much, Member King. Let's go to Councilmember Sugimura, questions for Director McLean.

COUNCILMEMBER SUGIMURA: Thank you. So I think that all these questions and the concerns from the community heard, but going forward...and this might be an executive session question is, how do we rectify the situation that we're looking at? And...but the Members, just by hearing their questions, I think that's where we're going toward. So I wonder if Director could explain to us or request for executive session if it needs to be. Thank you.

MS. MCLEAN: Well, there...there are two things, what to do about this property in particular, and how to make sure this doesn't happen again. And to make sure it doesn't happen again would be amending the Code, and that bill is going to be heard by the Planning Commission in another couple of weeks, then it will come back to the Council. In terms of this situation, we have noted to the applicant that they did not indicate vacation rental use when they applied for the SMA exemption. Rectifying the Code would also address that situation for this property. In terms of the height, if they are building in accordance with the...with the plans, there...there are options we could discuss in executive session about how to address the height, but I don't see that that height is...is a violation that we would pursue any sort of remedy for.

COUNCILMEMBER SUGIMURA: Thank you. So in other words, the existing plans would remain. I know that you're still doing...you're investigating it, but you're...you're saying that existing plans would remain as is? As long as they're in compliance.

MS. MCLEAN: Yeah. Well, while I certainly have questions about our signoff of the building permit, I can't go so far as to say it was wrong or that the permit should be rescinded.

COUNCILMEMBER SUGIMURA: Oh, okay. Thank you.

CHAIR MOLINA: Thank you very much, Member Sugimura. Director McLean, I'm going to ask questions related to that letter that was sent in by Mr. Brown's representative with

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regards to the...this matter. And in a portion of the letter, it states that he was, I guess, surprised...well, it says after construction commenced, Greg was surprised to learn of the community opposition to the construction of this home, as he had studied the area and felt that the home, while large, fit into the area. Well, just for me, I'm...I'm...I know Mr. Brown is a very...you know, he's experienced in the business, and to say that he would...he experienced surprised at the community's reaction for something that stands out at least height-wise, I...I just find that a little troubling, but that's just me. Is there anything in this letter that you have concerns with that was expressed from Mr. Brown's representative that you would like to respond to?

MS. MCLEAN: It does suggest that the idea...in the first paragraph that his idea was that the home would be utilized as a vacation rental when not in use. That is in direct conflict with what they told our Staff when we were processing the SMA assessment. Our Staff specifically asked that question, and was told no. So if that was the intent all along, then that conflicts with what our Staff was told when we asked that specific question.

CHAIR MOLINA: Okay. Thank you. Anything else in there that you'd like to comment on with regards to the response from Mr. Brown? And for the record, Mr. Brown applied for this as a single-family home? I mean, it doesn't fit the bill of a typical single-family home, if you will. He is a...I guess he resides on the Big Island, and this...their intent was to use this as a part-time home, I guess, if you will? Am I correct in that understanding?

MS. MCLEAN: That's what was represented to us. Yes.

CHAIR MOLINA: Okay. All righty. Okay. Members, we'll go one last round. We'll go a minute or two. We'll start reverse order now. We'll go with Member Sugimura. Questions for Director in open session?

COUNCILMEMBER SUGIMURA: No further question. I look forward to your exec session. Thank you.

CHAIR MOLINA: Okay. Well, I haven't made that decision yet on executive session. I...well, since you brought that topic up, let's ask Corporation Counsel because I know there is no litigation at the moment, and what are the parameters for executive session? Either Corp. Counsel or our OCS Staff, if you could respond to that question. Mr. Murai?

MR. MURAI: Yeah. Yes, Mr. Chair. Of course, executive session, we're guided by HRS 92-2.5 and it's...I guess it kind of depends on the reason...well, not kind of depends, it...it depends on the reason why the executive session is sought. My...my guess is that it may be because, you know, the Director may want to discuss matters that may affect the...

VICE-CHAIR RAWLINS-FERNANDEZ: Point or order. Point of order. Point of order.

CHAIR MOLINA: Okay. Vice-Chair Rawlins-Fernandez?

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Can Corporation Counsel not guess and ask what is the purpose for executive session? Mahalo.

CHAIR MOLINA: Okay.

MR. MURAI: Well, I'm just...I'm sorry --

CHAIR MOLINA: *(audio interference)*

MR. MURAI: -- but I...I guess I don't get to ask questions. I was asked what conditions we may go into executive session under, and I was about to say that one of them...one possible reason could be to consult with counsel or to discuss the...the, I guess, the County's powers, duties, liabilities, that sort of thing. I'm going to have to leave it up to the Director to explain, you know, the reason why she is seeking an executive session...or requesting one rather. And I suppose it would be framed in such a way that the Members can frame their motion for an executive session, should they decide to...to make that motion.

CHAIR MOLINA: Okay. Thank you, Mr. Murai. And I asked that question again because typically, when we go into executive session, the primary reasons for going into executive session is to discuss legal strategy if the County is being sued, but there currently is no litigation at the moment. So that's why I'm somewhat hesitant to support going into executive session, at least for today on this matter, but that's just me. Okay. Let's go on to our next Member, last round. Member King, one question for the Director or a minute, whichever comes first.

COUNCILMEMBER KING: Yes, I...I actually have a question for the Director and a question for Corp. Counsel. Let's see if I can get through this. So I just want to clarify something you said, Director McLean, that the zoning district takes precedence over an ordinance that might describe single-family housing as...in feet. So you know, the...the...the community is under the impression that we have ordinances that describe a single-family residence as maximum 30 or I think it was 30 or 35 feet. But are you saying that...does that exist, first of all, and if it does, does this zoning open that up or ignore the definition in order to use this vague idea of two stories?

MS. MCLEAN: In the County Code, the definition of single-family does not have a height limit. The Residential District has a height limit, but this zoning district itself has a height limit. The uses are those allowed in other districts, but not the development standards of the other districts.

COUNCILMEMBER KING: So it's...so the standards are different for this zoning district is what you're saying?

MS. MCLEAN: Yes.

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COUNCILMEMBER KING: Okay.

MS. MCLEAN: Yes.

COUNCILMEMBER KING: Okay. (*audio interference*) wanted to clarify. And then, Chair, I just wanted to find out that, you know, is...what are the options...and I think this is the question that Chair Lee asked, that what are the options that the Council has? And...and that's when they talk about going into executive session. So maybe not just responding to litigation, but we do have the powers to open up investigations and, you know, that might be a reason to go into executive session to discuss that if we want to do that. But is that something I can ask the Corp. Counsel?

CHAIR MOLINA: Proceed, Member King.

COUNCILMEMBER KING: Okay. So I'm not sure if it's Mr. Murai. I saw Stephanie Chen. Okay. Mr. Murai, so the powers of the Council extend to investigative powers, and if we wanted to open up an investigation to find out how we got to this point and what we can do about it, would that be a reason to go into executive session to discuss that?

MR. MURAI: I believe that would be appropriate, especially if you may be discussing the theories of...things, for example, like theories of liability . . . (*timer sounds*). . . or you may want to...you may have possession of facts that may...may...may involve issues of potential powers, liabilities that may attach to the County. So I would say this, yes, for limited purposes, you...even when the...when the...when the Committee is thinking of initiating an investigation, the actual formation of the investigation itself may have to be discussed and voted on in an open session. But certainly, any matters that may...that may require an executive session such as, as I said, potential liabilities, should be...would be appropriate for a closed session.

COUNCILMEMBER KING: Okay. All right. Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member King. Member...Member Sinenci, if he...you have any question, the one question for the Department? Otherwise I will move on to the next Member for this last round. Okay. Let's go to Member Kama, anything to ask of the Department or Corp. Counsel on this matter?

COUNCILMEMBER KAMA: Just one last thing. I think...I'm not sure who to direct it to, but you know, this morning we heard testimony from a testifier who said that he had participated in the...the taking or maybe the giving of a bribe from a previous employer to the Planning Department. So I was wanting to know is that something that the Department could comment on?

CHAIR MOLINA: Okay.

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COUNCILMEMBER KAMA: I don't know (*audio interference*)

CHAIR MOLINA: Madam Director, now...now...Member Kama, I presume this is related to the Nāpili project?

COUNCILMEMBER KAMA: Absolutely, sir.

CHAIR MOLINA: Okay. Member...I mean...sorry, Director McLean, your response to Member Kama's question?

MS. MCLEAN: Thank you. That would be surprising to me. I did hear that testimony this morning. If that is someone who's still with the Department, that is surprising. It's disturbing. And I would like to...to pursue that further internally.

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

CHAIR MOLINA: Okay. Thank you, Member Kama. Member Johnson, a question for...last question for the Director?

COUNCILMEMBER JOHNSON: Sure. Thank you, Chair. Just a quick question for you, Director. SMA assessment application, does it usually take about a year?

MS. MCLEAN: It depends on...on the project. SMA assessments can be very small simple things which can be turned around quickly. In this case, as you saw in the presentation, we worked with the applicant quite a bit to make changes to the project, and that...that took a while.

COUNCILMEMBER JOHNSON: So...okay. There's empty...there's spots all over Nāpili that this same scenario could happen again, right? People put up applications all the time. Do you...moving forward, if someone came up and had this similar design, do...would you...would you do it all over again, the same thing?

MS. MCLEAN: Well, I...I myself didn't...didn't do this, but I have directed Staff that when we do get SMA assessments for homes that are approaching that threshold that those should come to the Deputy Director or me for review before the exemption is issued. Anything that pushes the limits like that, we would like to see.

COUNCILMEMBER JOHNSON: Okay. So you've set up like some kind of protocol where like if it's getting to that edge, talk to us? And of course I didn't mean you, Director, I just meant, you know, you as the editorial you. Okay. Thank you, Chair. I have no further questions. Aloha.

CHAIR MOLINA: Thank you, Member Johnson. Committee Vice-Chair Rawlins-Fernandez, a question for...last question for Director McLean?



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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Okay. My one question, Director, is regarding the SMA exemption that was granted. All right. So my understanding is before the Planning Commission, the property owner represented that...that the...the building would not be used for transient accommodation use, and that is one of the ways the...or reasons the Commission granted the SMA exemption. And in the letter that we received from the representative from counsel...the property owner's counsel is that it was always envisioned that it would be used for transient accommodation. So it was a misrepresentation before the Commission, and so I don't understand how...oh, I'm sorry, that wasn't the Commission, I guess to the Staff. And so this misrepresentation, there...there has to be some kind of recourse for the community and for the Planning Department for trying to do their job.

MS. MCLEAN: I believe the...the recourse for that is to...is for vacation rental use to not be used in this structure, and that can be accomplished by the Code change, and also confirmed in the letter that we sent to the applicant earlier this year. Basically --

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo...

MS. MCLEAN: -- this is what you represented, and we're going to hold you to that.

VICE-CHAIR RAWLINS-FERNANDEZ: That's exactly it. Mahalo, Director. I really appreciate that. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair Rawlins-Fernandez. Chair Lee, question...last question for Director McLean?

COUNCILMEMBER LEE: Director McLean, I am wondering if the property owner made any good-faith effort to try and compromise so that the community wouldn't be so disturbed and upset. Any...any efforts there?

MS. MCLEAN: Yes. As...as described in the letter that you just received from their counsel, they are willing to reduce the height, but they do want to be able to conduct vacation rental use. And that didn't seem to be...both of the...those are the two key issues that I understand are...are the community's main concerns, right? The height and the vacation rental use. I don't see trading one for the other. The vacation rental use with the Code change and with what the applicant represented I feel is addressed. The height right now, I...I don't...I don't know that we have a basis to require a lower height. So...and we can address one of the community's concerns, but...but not the other.

COUNCILMEMBER LEE: Yeah.

MS. MCLEAN: Unless we get into a different level of discussion with the Council.

COUNCILMEMBER LEE: Right. Yeah, I don't blame...I don't blame you for choosing not to allow vacation rentals because that would mean less traffic in the neighborhood, and it

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would be...if this is truly a second home, then the usage would be, you know, fairly minimal. The only problem, the downside of that is that you have to deal with this...this high...this structure that is out of place. But . . .*(timer sounds)*. . . okay. That...I just wondered if there was any room for compromise or anything. But I totally agree that vacation rentals are out of the question. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Chair Lee. Finally Member Paltin, any final question for the Director?

COUNCILMEMBER PALTIN: Thank you. It looks like a...kind of a he said, she said. I met with Mr. Brown and Mr. Ueoka with Mr. Hopper, and he repeatedly had said that he was very clear that this was for short-term rental use and for large family reunion type things. But can you clarify if Nāpili Bay Civic Improvement District currently allows short-term rental use as part of the hotel use in existing homes? What is the conversion factor? If somebody buys an existing home, do they still need to wait five years to do the short-term rental use? If somebody were to come in and buy Greg Brown's property, five years later, could they just automatically do the short-term rental use if the other bill doesn't get passed?

MS. MCLEAN: We would again, look at the basis that the SMA exemption was issued, and part of those representations were that it was going to be...I do agree with...with what you were told in terms of Mr. Brown using it as a vacation home for his family. So he would use it with family gatherings, but we clarified that it was not going to be a vacation rental just on the...on the open market. And...

COUNCILMEMBER PALTIN: On check box or in writing some how, was that clarified in writing before *(audio interference)*

MS. MCLEAN: It was emails with the...with the applicant, with his consultant.

COUNCILMEMBER PALTIN: Okay. And then the other question about 8 bedrooms, 12 bedrooms, master, media room, den, is that not something...wet bar, kitchen, is...is that nothing that comes under scrutiny by the Staff?

MS. MCLEAN: It...it...it does . . .*(timer sounds)*. . . because I agree that the...the two dens and the two media rooms certainly look like master suites. But whether it's 8 bedrooms or 12 bedrooms doesn't change the criteria. The criteria is 7,500 square feet. It...

COUNCILMEMBER PALTIN: Two kitchens in a single-family home kind of does though, right?

MS. MCLEAN: I'm sorry?

COUNCILMEMBER PALTIN: Two kitchens in a single-family home.

MS. MCLEAN: It...it's not allowed to have two kitchens. The Code allows homes to have two

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wet bars, this one has one. So I think the original plans did show two kitchens, and we told them you can't have two kitchens, so they...they changed one to a wet bar, which isn't uncommon. We...we see that in large homes, inside and outside the SMA.

COUNCILMEMBER PALTIN: Okay. My time is up. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Members, it's...I know it's getting late, we did ask Mr. Nakoa to be a resource. Does anyone have a question for Mr. Nakoa at this point prior to the Chair's recommendation on this matter? Okay. Seeing none. Well, you know, looking at the letter now, Director McLean, it seems like the applicant's representative has stated that the developer has slowed construction, but they need to know what they're going to do, and they're giving us basically a deadline of July. Now whether that is next...earlier next week or the end of the month. I'm...for me I'm just going to leave it to the Department's due diligence to do what you have to do. And I'm glad you brought up the subject of the retaining wall. I spoke to the neighbor, he expressed concerns about it, unpermitted wall, so I'm hoping that can be addressed by the Department as well. So I guess the option we have, Members, is to file this communication or leave it open. Now certainly, if...looking down the road, if there is any litigation, you know, then certainly, this matter will come to this Committee again, and at that point we will likely have to consider executive session. But we're not there yet, and hopefully we don't get to that point. So my recommendation at this point would be to defer. I'll ask if Members would like to file this item? Because again, there could be some new developments after this meeting and we could bring it up for discussion provided we address the deadline that the developer has indicated to us. Member King, your thoughts?

COUNCILMEMBER KING: Yeah, thank you, Chair. I...I...I support deferring it, but what...when you talk about the deadline the developer is giving us as...is it us the Council to do what?

CHAIR MOLINA: Good question. As I interpret the letter, it seems like...I'm trying to find that page. Okay. I'll read from page 2, the bottom. It says, please do not interpret this a threat or ultimatum; however, as previously stated, we believe that the home has the proper permits and approvals, and if a resolution with the County is not reached in early July, we will advise Greg that he should move forward with the building as planned and permitted. So that's --

COUNCILMEMBER KING: So...

CHAIR MOLINA: -- that's what I'm referencing to, because it sounds like until a resolution is reached or if it's not reached they're going to tell their...their client, Mr. Brown, to go ahead.

COUNCILMEMBER KING: But it...but it's saying the resolution with the County, does that mean the Department, or the Administration? It doesn't sound like they're asking for

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that from the Council.

CHAIR MOLINA: Yeah, it's very...it's very broad. It sounds more like...I guess I interpret it as with the Department. So Director McLean, how do you interpret that from...from the applicant? When they say the County I'm guessing it may be more Department first.

MS. MCLEAN: Thank you, Chair. There are things that could be discussed to address some of these concerns, but I...I'm not comfortable discussing those in open session.

COUNCILMEMBER KING: Okay. But just the...can you answer the question of when the...in that letter it says, you know, if the County doesn't reach a resolution, are they talking about the Planning Department, the Administration? You know, to me, this is an administrative matter because it happened because of an administrative action. So I'm not sure what...other than us launching an investigation into how those actions were taken or waiting...I mean I think what we're waiting for right now is to find out if there is noncompliance. You know, to me, if you find out there was...building any parts of it like that wall without a permit that's noncompliant. So is that what they're asking for in that letter, the resolution?

MS. MCLEAN: I don't believe so. I think there are...there are ways to address the concern about the height that would involve the County Council.

COUNCILMEMBER KING: On this particular one, not *(audio interference)*

MS. MCLEAN: Yes.

COUNCILMEMBER KING: Oh, okay. All right. Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member King. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, that's what I was going to say, it says that our hope is that if the County and Greg can reach some type of understanding regarding the height, then the new owner can have a fresh start with the community, potentially being accepted into it. And so what we heard from Director is that they're looking at reducing the height in exchange for it to be used as a vacation rental. And so that looks like what the resolution they're asking. Mahalo, Chair.

CHAIR MOLINA: Yeah, yeah. Mahalo. Yeah, it sounds almost like a quid pro quo kind of situation. You know, if we do this but we want this in return, yeah. So anyway, that's...that's how I'm interpreting it. Chair Lee?

COUNCILMEMBER LEE: I'm hoping that you will defer this matter because we need to explore all options, and one is condemnation, and it's no \$12 million, it's...it's...I think the Director talked about \$2 million as the assessed value. So I mean, you know, that...that's probably a nice location for affordable housing. Thank you.

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CHAIR MOLINA: Okay. Thank you, Chair Lee. All right. If there's no other comments, Members, with that said we will defer this item, and we'll see what happens along the way. Because this is certainly an administrative function, the Planning Department as well as the Mayor, we cannot mandate this Department to do whatever we want, it is ultimately up to them. And again, depending on the circumstances as to what happens after today in the discussions with the Planning Department and the applicant, we'll see what happens, and you know, we could bring this matter back sometime in the near future. So assuming there are no objections to deferral, we will defer this matter. Before we do that, Member Paltin?

COUNCILMEMBER PALTIN: Oh, I just had a question about that Charter duties of the Council for investigation. Is that...that's like us contracting somebody or the audit that they were talking about, that's not like us doing like an investigation because we're not qualified to do that, right?

CHAIR MOLINA: Yeah. I would assume so. We would, I guess, put out an RFP or what have you, and have, you know, upon approval of the Council approve someone, and of course the funding for an investigation. Yeah, we're certainly not trained experts in...in that area.

COUNCILMEMBER PALTIN: And also it kind of sounded as though the Director was going to initiate an internal investigation as well.

CHAIR MOLINA: Director, can you confirm that?

MS. MCLEAN: Yes, on the...on the alleged bribery, yes, we will investigate that.

COUNCILMEMBER PALTIN: And I...I guess I wonder, you know, since it's been asserted that he was always upfront about the TVR usage, maybe you can point it out to him the emails where you specifically asked and he specifically said no because that would be kind of a slam dunk kind of issue if there are emails. Thank you.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: No...no objections to deferral.

CHAIR MOLINA: Okay. Thank you very much, Member Paltin. And certainly the Director will take your request to explore this matter further. So with that said, Members, we will defer GREAT Item 36 with no objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

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CHAIR MOLINA: And we previously deferred...thank you, Members. And we previously deferred GREAT items, I believe it was 2(15) and 2(16). So Staff, is there anything the Chair needs to be made aware of before we adjourn?

MS. ESPELETA: No, Mr. Chair, there's nothing further.

CHAIR MOLINA: Very good. All right. Members, the Chair would like to thank you for your hard work, and also to the Administration, and of course Committee Staff and everyone involved with testifying on our agenda items today. So with that being said, it is seven minutes after the hour of noon, the GREAT Committee meeting for June 28 [sic], 2021 is now adjourned. . . .(gavel). . .

**ADJOURN: 12:07 p.m.**

APPROVED BY:



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MICHAEL J. MOLINA, Chair  
Government Relations, Ethics, and  
Transparency Committee

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Transcribed by: Daniel Schoenbeck

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 63 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 22nd day of July 2021, in Kula, Hawai'i



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Daniel Schoenbeck