

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

September 17, 2021

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD ONLINE ONLY VIA BLUEJEANS, ON FRIDAY, SEPTEMBER 17, 2021, BEGINNING AT 9:01 A.M., WITH CHAIR ALICE L. LEE PRESIDING.

COUNCIL CHAIR ALICE L. LEE: The Maui County Council regular Council meeting of September 17, 2021, please come to order.

Mr. Clerk.

DEPUTY COUNTY CLERK JAMES G.M. KRUEGER: Chair, proceeding with roll call. In accordance with the Governor's most recent emergency proclamation related to the COVID-19 response, Members should state who, if anyone, is present with them as part of roll call.

ROLL CALL

DEPUTY COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha, Pō'alima kakou my Maui hikina and habari, Chair from the Hana Cultural Center. I'm here with my EA Dawn Lono. Aloha.

CHAIR LEE: Aloha.

DEPUTY COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Habari and good morning to you Madam Chair, my colleagues and everyone else joining us on this Aloha Friday. For the record I'm broadcasting from home in Makawao, with the virtual background of the Council chambers. Aloha.

CHAIR LEE: Aloha.

DEPUTY COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: Good morning, aloha kakahiaka, ohayo gozaimasu, everyone. I am alone in my space here. Wish I was on the farm, but I'm not really there. But there's no one else in the room with me.

CHAIR LEE: Good morning.

DEPUTY COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Good morning, Chair. Good morning, Members. Habari to all and it's Friday and I look forward to an exciting meeting. Aloha.

CHAIR LEE: Aloha.

DEPUTY COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka kakou, and habari from the Council chambers.

CHAIR LEE: Habari.

DEPUTY COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Aloha, aloha everyone from Kula. And I'm at, in a room by myself, my husband's in the other room, no one else is here with us and, or with me. And good morning, and I just wanted to say the lei that I'm wearing is from Mayor Hannibal Tavares' family, and I look forward to enjoying it for this Council meeting.

CHAIR LEE: Good morning.

DEPUTY COUNTY CLERK: Presiding Officer Pro Tempore Tasha Kama.

COUNCILMEMBER KAMA: Aloha kakahiaka, and habari to each and every one of you, especially to you Chair Lee. I am here in my bedroom, with my granddaughter sleeping on the bed, she's not feeling well. So this is my office, and it doubles as a bedroom sometimes, but good morning everyone.

CHAIR LEE: Good morning.

DEPUTY COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, my Moloka'i Nui ahina. I'm in the Moloka'i District Office by myself. Hope your granddaughter feels better quickly, Pro Tem Kama and habari kakou.

CHAIR LEE: Habari.

DEPUTY COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: Habari, everyone. That's a greeting from South Africa. I am home alone and look forward to a great meeting with all of you today.

Please proceed, Mr. Chair.

PRESENT: COUNCILMEMBERS SHANE M. SINENCI, MICHAEL J. MOLINA, KELLY T. KING, GABRIEL JOHNSON, TAMARA A.M. PALTIN, YUKI LEI K. SUGIMURA, NATALIE A. KAMA, VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ, AND CHAIR ALICE L. LEE.

DEPUTY COUNTY CLERK: Chair, there are nine Members present. A quorum is present to conduct the business of the Council.

For the record, I am Deputy County Clerk James Krueger. Also present from the Office of the County Clerk are County Clerk Kathy Kaohu; and Legislative Division staff Joyce Murashige, Lauren Saldana, and Dell Yoshida.

Joining the meeting from the Department of the Corporation Counsel is Corporation Counsel Moana Lutey and First Deputy Corporation Counsel Richelle Thomson.

CHAIR LEE: Our opening remarks will be provided by Councilmember Shane Sinenci.

OPENING REMARKS

The opening remarks were offered by Councilmember Shane Sinenci.

CHAIR LEE: Thank you for that beautiful message, Member Sinenci.

Now, everyone, please join me in reciting the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council rose and recited the Pledge of Allegiance.

CHAIR LEE: Before we proceed with today's agenda, may I please request that everyone keep their microphones muted unless it is your turn to speak. Decorum shall be maintained at all times.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with testimony on the ceremonial resolution. The first person signed up to testify is Sandy Ma, of Common Cause. To be followed by Donna Oba, of the League of Women Voters of Hawaii.

CHAIR LEE: You're muted. Please turn your microphone on.

PRESENTATION OF ORAL TESTIMONY

MS. SANDY MA, COMMON CAUSE:

Good morning, Chair, Vice-Chair--

CHAIR LEE: Good morning.

MS. MA: --Councilmembers. Can you hear me now?

CHAIR LEE: Yes, we can.

MS. MA: Thank you. My name is Sandy Ma and I'm with Common Cause Hawaii. Thank you for allowing Common Cause to testify on this ceremonial resolution. We applaud the Maui County Council for recognizing September 28, as National Voter Registration Day. This is a very important day for our representative democracy, and we applaud Maui County Council for recognizing September 28 as voter, National Voter Registration Day. And civic education and voter engagement is so important to our representative democracy, so we thank the Maui County Council for doing this.

And we also sincerely appreciate the Maui County Council for recognizing the vital work of our elections officials and supporting our representative democracy. We have

always said that our elections officials are the backbone of our democracy, so this is so important. We're so glad to see that they are appreciated in this ceremonial resolution. Thank you again for letting us testify in support of this resolution. And thank you for the work you do. Thank you.

CHAIR LEE: Thank you, Ms. Ma.

Member King has a question.

COUNCILMEMBER KING: Yea, I've got a really quick question. Thank you for being here, Sandy. I really appreciate all the work that Common Cause does. And it reminded me that I have a donation I was going to send out. How much of that, when we get those requests, how much of that makes it to Common Cause Hawaii, to your office?

MS. MA: Thank you for that, Councilmember King. If it's a, if you request it to be spent in Hawaii, earmarked for Hawaii, all of it goes to Hawaii.

COUNCILMEMBER KING: Okay. Good to know. Thank you. Thank you, Chair.

MS. MA: Thank you.

CHAIR LEE: Okay, great. Any more questions? If not, Thank you, Ms. Ma.

MS. MA: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: The last person signed up to testify on ceremonial resolutions is Donna Oba.

MS. DONNA OBA, LEAGUE OF WOMEN VOTERS OF HAWAII:

Aloha. Can you hear me?

CHAIR LEE: Could you speak a little louder, please, Ms. Oba.

MS. OBA: I'm sorry, but I'm not able to get my video on.

CHAIR LEE: That's alright. We can hear you.

MS. OBA: Okay. Thank you. Aloha, Chair Lee, Vice-Chair Rawlins-Fernandez, and Councilmembers. And thank you for this opportunity to speak to you today. I'm Donna Oba, president of the League of Women Voters of Hawaii. The league strongly supports the proposed resolution "RECOGNIZING SEPTEMBER 28, 2021 AS NATIONAL VOTER REGISTRATION DAY". The League is a partner organization in the NVRD 2021 and has been for a number of years. Like Common Cause, Sandy Ma said, voting is at the core of our democracy and representative democracy, but in order to vote you have to be registered to vote. And we're lucky in Hawaii, because Hawaii is very modern in its selections, and especially how we register to vote. We have multiple choices: online, application by mail, in-person on Election Day, and of course, in-person at our County Clerk Offices.

Tuned with the passage of Act 126 this year, voter registration will be automatic with an option to decline when resident citizens renew or get a Hawaii ID or driver's license.

For over 101 years, the League has been a nonpartisan, activist organization, empowering voters in defending democracy. We understood from the beginning that not everyone who is eligible to vote does, can, or is willing to vote. Sometimes you have to remind them, remind them why it's important to vote, to register to vote, and then remind them again to vote.

This adoption of this resolution raises public awareness of the importance of the first step, just registering to vote. We acknowledge and thank the Office of the Maui County Clerk, for its ongoing voter registration service, and outreach to the residents of Maui County. The League of Women Voters of Hawaii urges you to adopt this resolution. And thank you again for the opportunity to submit testimony.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, you're muted.

CHAIR LEE: Members, do you have any questions for Ms. Oba. If not, thank you, Ms. Oba.

Mr. Clerk.

MS. OBA: Thank you.

DEPUTY COUNTY CLERK: Chair, there are no other individuals signed up to testify on the ceremonial resolution.

CHAIR LEE: Members, do you have any objections to closing public testimony on ceremonial resolutions?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. So, ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with the ceremonial resolution.

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 21-144

RECOGNIZING SEPTEMBER 28, 2021 AS
NATIONAL VOTER REGISTRATION DAY

CHAIR LEE: Councilmember, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ON YOUR
BEHALF, ENTITLED "RECOGNIZING SEPTEMBER 28, 2021,
AS NATIONAL VOTER REGISTRATION DAY".

COUNCILMEMBER KING:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Councilmember Kelly King, to adopt the resolution.

Discussion, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I request that the Clerk, or Deputy Clerk, read the resolution in its entirety?

CHAIR LEE: Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR LEE: Vice-Chair? Any more discussion, anyone?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yes. Mahalo, Deputy Clerk. I fully support and thank you for introducing this resolution, Chair Lee. And I'm proud to be, be a part of Hawaii where we've continually made strides in making voter registration easier. From enabling voter registration, same day voter registration to automatic voter registration now, and mail-in ballots. Inclusion is critical to democracy. And before voting, in order to vote, you have to register to vote. And this is a critical piece in protecting and ensuring democracy. Mahalo, Chair.

CHAIR LEE: Thank you.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for introducing this resolution. It's, I think it's really important. I almost, you know, I, I join Member Rawlins-Fernandez in being proud to be from Hawaii where we're encouraging, you know, this expansion of voter registration. And I almost wish we could have put something in here calling out the recent . . . of voter suppression laws across the country that are just shamefully trying to keep people from voting in order to direct the outcome of elections. But I know we want to stay positive, so I appreciate the wording.

One of the, one of the, I was hoping to make a friendly amendment to paragraph 4 of that, that speaks to where the copies of the resolution. And if we could add Sandy Ma of Common Cause Hawaii and Donna Oba of the League of Women Voters, to receive copies of this resolution, I think that would be very appropriate.

CHAIR LEE: I think that's a great idea.

Vice-Chair, friendly amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: No objections. I support it.

CHAIR LEE: Okay.

COUNCILMEMBER KING: But yea, I wholly support this and I, and again I'm so proud of Hawaii to be one of the State's that's increasing voter registration opportunities instead of trying to, you know, suppress them. Thank you.

CHAIR LEE: Thank you. Yes, I helped with initiating this resolution. But it was really the County Clerk who asked me to do it. And so, Kathy, Kathy Kaohu, are you on the call? I wanted to ask you about the young voter registration program. Kathy?

COUNTY CLERK KATHY L. KAOHU: Thank you, Chair. Hold on, I got my mask on.

CHAIR LEE: Okay.

COUNTY CLERK: I'm all tangled up in wires. The, I don't have any of my notes, sorry. The voter, the young voter registration program is a program coming out of the Office of Elections. And it's an annual incentive to the high school students. From what I understand, this year, they're going to be sponsoring, Olelo on Oahu has a youth video conference, I mean a video contest. And Office of Elections is going to be sponsoring one of the subject matters so that the high school students would put together a video. And they would use, Office of Elections would use the video during election time to encourage more voter registration and voter activity by that demographic group.

CHAIR LEE: Great. And so, is Maui, Maui office helping?

COUNTY CLERK: Yes. We're working with the Maui, well, we're going to work with how we can enhance what Office of Elections is doing. But I'm working directly with the Maui Board of Education representative Kili Namauu. And her, her suggestion is to have the student board member launch this program for us.

CHAIR LEE: Wonderful. Wonderful. Thank you.

COUNTY CLERK: Thank you, Chair.

CHAIR LEE: I just want to say thank you for your hard work, Madam Clerk, and your Deputy, and the entire staff, for getting us through the last election. And, you know, helping us move forward with even a greater registration, greater registration numbers. It's really great to see the numbers increasing every year. And, and a lot of it is, you know, the fruit of what you guys are doing and so, congratulations.

And Members, I'm assuming you have no objections to sending this copy to the two people that Member King suggested, yea?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. I think we have one more question from Member Sugimura.

COUNCILMEMBER SUGIMURA: I just wanted to also extend my congratulations to Kathy, and James Krueger, and your team that really pulled off amazing election as, as Chair Lee also gave her congratulations. But that's exactly what I was going to say. I mean, it's amazing the outcome of a first-time mail ballot statewide. And I think that you

handled this so smoothly. It looked like you were doing this for a lifetime, Kathy, and James, and your team, Joyce, and everybody. Thank you very much for your hard work for us.

CHAIR LEE: Yes, Madam Clerk?

COUNTY CLERK: I, I just want to thank you for that, and recognize the team that we do have. It's a small group, but everybody worked together for the goal of pulling off a really good clean transparent election.

CHAIR LEE: Great. Anybody else want to make a comment? If not, all those in favor of the motion, please raise your hand and say "aye", to adopt the resolution.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: I see nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is RESOLUTION 21-144.

Up next is item F. on the agenda, setting the Consent Calendar.

SET THE CONSENT CALENDAR

CHAIR LEE: Okay. Members, at this time we will set the Consent Calendar. As a reminder, the calendar can still be adjusted even after it is set. Are there any requested changes to the Consent Calendar at this time?

Member Sugimura?

COUNCILMEMBER SUGIMURA: I'd like to ask the first two items on the agenda, 21-437 and 21-438, be removed from the Consent Calendar.

CHAIR LEE: Alright. Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. So, ordered.

Mr. Clerk, please do that.

Member King.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to pull out some of the contracts to and ask that they could be referred to the CARE Committee. These all have to do with recycling. There are a lot of them that had to do with recycling, so I tried to pull out the ones that had the most, the most requests from the community.

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order.

CHAIR LEE: Let me go to Member, I mean, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, we'll just remove CC 21-440 at this time. And we'll take it up--

COUNCILMEMBER KING: Oh, from the Consent Calendar. Oh, okay. Then I can wait, I'll hold, I'll hold onto those requests.

CHAIR LEE: Okay. Great.

Mr. Clerk, did you get that?

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: James? Okay.

Anybody else want to make any changes to the Consent Calendar? Alright. Are there any objections to setting the Consent Calendar?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. The Consent Calendar is set.

Ms., Mr. Clerk, please proceed with testimony.

DEPUTY COUNTY CLERK: Chair, proceeding with the presentation of testimony on agenda items. Members of the public may testify by connecting to the Council's online meeting by phone or video conference through the information posted on today's agenda.

Individuals connected by phone are currently on mute and will be unmuted when it is their time to testify. Individuals connected by videoconference should keep both their video and microphones off and should turn them on only when it is their time to testify.

Testimony is limited to the items listed on the agenda. Individuals may testify for three minutes per item. When testifying, please state your name and the name of any organization you represent, as well as the items on which you will be testifying. Please also identify to the Council if you are a paid lobbyist.

After your testimony has concluded, please disconnect from BlueJeans. Once the testimony period is closed, only the Councilmembers, staff, and designated resource persons will be connected to the meeting. All other individuals will be disconnected. The remainder of the meeting can be viewed on Akaku: Maui Community Media or on mauicounty.legistar.com. Individuals may also be disconnected from the meeting at any time for breaking decorum.

Chair, the first person signed up to testify is Vera Sredanovic. To be followed by Kristin Mills.

CHAIR LEE: Vera? Sorry, didn't get your last name. Vera?

PRESENTATION OF ORAL TESTIMONY

MS. VERA SREDANOVIC (testifying on Committee Report No. 21-85):

Yes. Hi. Good morning, dear Councilmembers. I guess I'm trying to turn on the camera, but it's not working for some reason.

CHAIR LEE: We can hear you. We can hear you clearly.

MS. SREDANOVIC: Oh, oh good. Okay. Hi. Good morning. So, my name is Vera Sredanovic, I'm calling you regarding CR 21-85. I'm alone here in my room. I live next door to the Maui Dragon Fruit Farm. Please deny renewal of their CUP based on multiple repeated violations. I will give example of typical day of living here. Throughout the day we hear screams from tourists ziplining and two, on two parallel ziplines, and Aqua-Balls rolling down the hill. We also hear very loud farm tours as

guides are having to yell to large groups of tourists. And these tours are conducted right along our property line. In the afternoons and late into the night, we have large weddings with loudspeakers, DJ's and singing guests.

Once they all leave and dragon farm close for business, we hear staff that lives on the property party, frequently party at night. They also invite friends who will drive up the hill and join their late-night parties. Those temporary unpaid farm workers are young adults from all over the world and U.S. They're not locals. They work as tour guides, zipline and Aqua-Ball operators. On occasions, very rarely we've seen them farming, even though they arrive here on the farm programs. We did not receive notice regarding this CUP and other amendments for, from the farm owners.

I found out about this meeting couple days ago by chance. That would explain why you didn't receive more complaints about the farm operations and the farm. We never received a copy of CUP from farm owners either, neither did our neighbors. I had to locate it on the County website. I will try to keep it short, but the list of CUP violations is very long.

Land and . . . is much less than 15 acres of planted crops. More than two events are, more than two events are held per month. Occasionally, there are larger than 50 guests, like this week. Amplified sound is used for every wedding. Owners not available to address noise complaints the same day. Professional event planner information is not provided. Events don't stop at 8:00 p.m., but last much longer. Lights are not turned off or down-shielded. Last wedding a couple of days ago had cars parked on the . . . streets as well. Event clean-up is never done on the same day, typically, the next day. Set-up is done the day before. Department of Health compliance and COVID rules is very questionable. Just yesterday afternoon, there was a group of 30 people gathered at the ceremony . . . Currently, outside gatherings are limited to 10 people. And you may want to check with . . . Crystal today, because . . . people. Tents larger than 700 square feet are used frequently. County should investigate this Fire Department is reviewing and approving those. I have video proof and audio proof of all of the violations, so they can be verified.

Considering that so many conditions have been repeatedly violated and that owners are aware of them, it would be pointless to give any extensions as further rules will be violated again. I understand and commend your desire to support job opportunities and promotional agriculture, but this dragon fruit farm is not providing support for local employment on this particular property. The main focus here is to generate profits from tourist attractions and weddings, not . . . Let's keep farms for farmers and other . . .

CHAIR LEE: Vera.

MS. SREDANOVIC: Thank you so much. Yes?

CHAIR LEE: You can take another 30 seconds or a minute to complete your testimony.

MS. SREDANOVIC: Oh, thank you so much. I was just trying, I know I'm speaking too fast to cram it all, but there is so much violations. And it has been happening over the years. So, it's really difficult for me to see how this can be further allowed. And I really appreciate you folks considering this. Please contact me. I have videos and audios to prove all the dates, the numbers of people, size of tents, anything you need. Thank you so much.

CHAIR LEE: Thank you. Are there any questions, Members?

Member Paltin and then Member Sinenci.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Vera, for your testimony. I just was wondering if you have been in contact with the Planning Department about this. Because when we received the presentation there wasn't that type of violations reported. So, it's kind of has to be--

MS. SREDANOVIC: Yea, oh--

COUNCILMEMBER PALTIN: Okay. Sorry, go ahead.

MS. SREDANOVIC: Yes. Absolutely. As I said in my testimony, we never received any notices from the owners or anybody else to be able to comment on anything. So, even though I, you know, I never even got conditional use permits from the owners, and I've been reading it since I had to locate it online. I did ask the owners once, I contacted by text and I provided that text in my testimony, which you will clearly see the text from Crystal--

COUNCILMEMBER PALTIN: Excuse me, Ms. Vera, the question was, have you been in contact with the Planning Department about violations to the conditional permit?

MS. SREDANOVIC: No, because I, no, because I was never aware of any conditional permit rules. I didn't know where to get it. I know I was supposed to get it from the owners, but I just found out now. I didn't know how the system operates. Nobody, there was no way for me to find out, unless, until Michele, this wonderful lady, I forgot her last name. She works for the County. I found her name online because I was reading about ziplining because we hear screams here constantly. And I found her name in the paper online. So, I contacted her by email regarding that. And I just mentioned to her other noise disturbances we hear. So, she asked me, she was the one who pointed

me to the County website, and she said this is actually coming up this Friday. And this was just this week, all happened this week just by chance. Said you better write to them and have the testimony, and to say about your experiences. So, there was no way for me to know how to address the County or . . . And because I was never, I was never provided a copy--

COUNCILMEMBER PALTIN: Thank you. And my other question was, you know, due to the fire there and the change in Administration, there was a delay between the permit application and our Council taking it up because in 2018, there was a fire. So, I just was wondering, were you living there in 2017 when the notices went out?

MS. SREDANOVIC: I was here on and off of the island. So, I would spend like six days here and some time in California. Since COVID happened, both me and my husband, who is a doctor, and I work in the medical field also, that's why I'm really concerned about these COVID violations happening at the farm, too. We, we basically don't have work anymore due to COVID, so we moved here permanently as of April this year. And that's how I was able to document these people. So, I didn't document everything because I, I wanted to be a good neighbor so I would text Crystal in the middle of the night when I'm being awoken by the noise and ask her to stop it. But she would text me the next day saying that it wasn't even happening from her property. So, she kept denying that the noises are coming from her property. At one point, she blamed another neighbor. I have it all in texts.

So I, I was just at the end of my rope. So, I had to start calling police, which is a horrible thing do. And I didn't want to do it on the weddings, which were lasting, you know, like I had one that was lasting at 11:00 p.m. with loudspeakers, lights, noise, screaming. And I had to call the police, but I didn't want to do it on the, on the weddings, because I really feel bad for the people. I don't want them to have their wedding day remembered that day. So, I called it on their farm workers, who I don't even know how many live there. But there's tents set up for them. I know that they don't have the best living condition there either. And they'll have also their friends come up there to the farm. One day I was over there because one duck was--

COUNCILMEMBER PALTIN: Thank you. You answered my questions.

MS. SREDANOVIC: Thank you. Sorry. So, much, I'm so sorry.

CHAIR LEE: Alright. We have another question from Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a question, see if Ms. Sredanovic had sent in her written testimony?

MS. SREDANOVIC: I'm sorry, I didn't get the question.

COUNCILMEMBER SINENCI: It looks like Member Paltin said that you did send in your testimony. Thank you.

MS. SREDANOVIC: Yes. Yes, yes, I did send in. I sent some supporting, I had to, I sent you short, very short clips because I couldn't load more through the email, of the screaming of one the, you could see the noise, the speakers, and all of that. But I have much more because of the, the files are too big to send by email.

COUNCILMEMBER SINENCI: Thank you.

CHAIR LEE: Okay. Vera? Vera, how far--

MS. SREDANOVIC: Yes?

CHAIR LEE: --how far away do you live from the, the fruit farm, Maui Dragon Fruit Farm?

MS. SREDANOVIC: Okay, so, if you see my testimony, I attached also the map that Crystal attached to your presentation from the prior meetings. So, I kind of outlined their, their farm and what's really going on in terms of land usage. But, so, if you look at that map, you'll see me. I'm right above them. Because their driveway where they have a parking for tourists is right along our property line, like right . . . But our house is, luckily is not there, we only have ohana which is further down. So, we are kind of, they are L-shaped . . . like a hockey stick. And we are wedged on two sides. So, we see their, their zipline and the, and the rolling Aqua-Ball is right on our, towards the ocean on the west, sorry, southside. And on the north side, they are also bordering us. That's where the driveway, and the parking, and the weddings. And there is this area where they used to be natural run-off. And I know that they created, they kind of cover it for the wedding tents. So, that's--

CHAIR LEE: Okay. I just, I just wanted to know how far away you were. Thank you. So, you're like a next neighbor almost.

MS. SREDANOVIC: Oh, yes. We're right, we're the closest. We, so we have like two sides of our property are wedged inside of their property.

CHAIR LEE: Okay. Thank you. Thank you.

MS. SREDANOVIC: You're welcome.

CHAIR LEE: Any, we have another question for you from Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you for testifying. And I just wanted to clarify, Chair, make this point of order, but the, what's before us today is not about the zipline permit, agriculture related activities and their production. So, I just wanted that clarification maybe from the Clerk's Office or Corp. Counsel, as this testimony sounds like it has a lot to do with the zipline.

COUNCILMEMBER PALTIN: Chair, did you want me to answer that?

COUNCILMEMBER SUGIMURA: Well, actually--

CHAIR LEE: She asked for, she asked for Corp. Counsel, but you probably know the subject matter better than most of us. In your, it is, it is actually included in the committee report. But go ahead. Member Paltin.

COUNCILMEMBER PALTIN: So, this is for a extension of the conditional permit. And it, the owners have withdrawn their TVR request. Zipline activities will require an additional conditional permit after August 13, 2022. So, this is for the farm tours and the selling of products that aren't grown on the premises, and I believe the Aqua-Ball rides.

COUNCILMEMBER SUGIMURA: Right. So, thank you. I just wanted that clarification because I, from, from what I could hear, the testifier had quite a lot of concerns about a future conditional use permit if they are to do that for the zipline. So, thank you.

CHAIR LEE: Well, we'll leave it up to Member Paltin. Alright, any other questions for the testifier? If not, thank you to the testifier.

And may we have the next one, Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Kristin Mills. To be followed by Elyssa Tsolis.

COUNCILMEMBER PALTIN: Oh, Chair, I'm sorry. In the chat, they also said wedding, weddings, too. I'm sorry. I missed that one. Weddings as well.

CHAIR LEE: Okay. We can talk about it further when we get to that item.

Ms., Ms. Mills.

MS. KRISTIN MILLS (testifying on County Communication No. 21-453):

Thank you. Thank you, Chair, Vice-Chair, and all Councilmembers. I would like to comment on 21-453, bicycle tour public safety concerns. I am a Pukalani resident and an avid cyclist Upcountry. For a very long time, I have been concerned about safety con, surrounding the bike tours on our Upcountry roads. These concerns have only worsened recently as numbers have increased. There are too many tour cyclists on our roads. When I ride from my home in Pukalani up, uphill--

MS. SREDANOVIC: They'll come back to it. . . .

CHAIR LEE: Alright. Anyone not, not testifying, please turn on, turn off your audio please.

MS. MILLS: Thank you.

CHAIR LEE: Alright.

MS. MILLS: When I ride from my home in Pukalani uphill toward Kula Lodge and sometimes beyond, I will see up to 50 tour cyclists, oftentimes even more than that, they are mostly unaccompanied. And I'll preface at that, the amount that I see is probably within one hour. That's about how long it takes me to ride from my house to up, to Kula Lodge. They ride in the middle of the vehicle lane, very slow, and often looking very scared. I've actually had conversations with cyclists, and they're saying, well, I ride in the middle lane because I'm terrified. Well, you have ten cars driving behind you. So, cars end up passing them fast in the opposite lane. All of a sudden, they look up from looking at the road and see a car speeding right at me. And it's horrifying.

So, then, sorry, I lost where I was on my what I wrote down. There is a lot of road rage because of too many tour cyclists, which we don't need any road-rage on our roads. So, we need to, one, limit the number of tour bikes on our roads. They need to be accompanied. And then the vans and cyclists need to pull over when there's vehicles behind them. Once again, here's another topic where we need to put residents before tourists. Yes, we need visitors. Yes, our mainstay income is from tourism. But we need to find a balance between being open and showing aloha to our, our visitors, but respecting the, the fact that our residents need the roadways to get to work, and to school, and also to our own recreation.

Our roadways are not a Disneyland ride, but that's what they've become. So, we need to limit the tour cyclists, how many are on our roads, so we can protect everyone's safety. Thank you, everyone.

CHAIR LEE: Member Molina has a question for you, Ms. Mills. Ms. Mills?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Ms. Mills. Thank you very much for your testimony. You know, we've been getting a lot of calls about the, you know, injuries, and the inconveniences causing the residents. What, you mentioned limiting the amount of rides. What would you suggest? That, so, I guess a workable and, in your opinion, an acceptable number of rides to deal with?

MS. MILLS: Okay. So, and I'll also preface though, I am testifying as a private citizen, but I'm also a health educator with the Health Department here. I've written articles on this topic a lot. I, in all honesty, I would have to put some thought into that. I have spoken with some tour companies, just when I happen to be out and they're out. And these are some of the smaller companies. I was looking at the list on the, on this discussion. And so, when I talked, sorry, that's a side note. When I speak with other bike companies, some of the smaller bike companies, and I don't want to name names, but this is just from having those conversations. They all say that the concerns are with Haleakala Bike Company. And you'll see the number of bicycles they have, over 200. And they are, all those 200 are going out all at once.

And from what I can see and speaking with the, I've even stopped and spoken with some of the cyclists from that company. And they're not given any instructions to stay to the right. I mean I'm aware as a cyclist we have very limited bicycle lanes, but the rule of thumb is typically you ride in the bicycle lane when you are, when you're able to, and if you are unable to you stay as far to the right as possible, and they are not. They are just five miles an hour, right down the middle of the lane. So, to answer your question, Council, Councilmember Molina, I apologize, I don't have a recommendation. But I could definitely put some thought into that if you'd like.

COUNCILMEMBER MOLINA: Okay. Great. Thank you for your testimony. And when this matter does come to Committee, we certainly invite you to participate and share your thoughts.

MS. MILLS: Thank you, I'd be happy to.

COUNCILMEMBER MOLINA: Thank you. Thank you, Madam Chair.

CHAIR LEE: Thank you. Any other questions, Members? If not, thank you, Ms. Mills.

MS. MILLS: Thank you.

CHAIR LEE: Mr. Clerk, next testifier.

DEPUTY COUNTY CLERK: The next person signed up to testify is Elyssa Tsolis. To be followed by Warren Watanabe.

MS. ELYSSA TSOLIS (testifying on County Communication No. 21-453):

Aloha, County Councilmembers. My name is Elyssa Tsolis. I am a resident of Makawao. I am speaking regarding CC 21-453, bicycle tour safety. I mahalo Mike Molina for transmitting this proposed resolution. We are in now year two of this thing we call the pandemic. It has been very trying on all of us citizens in Maui County. And I know all of you have been doing your job, helping to keep Maui safe. And I mahalo you all for that.

My current concern is this bicycle tours, and that they are utilizing Baldwin Avenue. My 9-year-old son attends Kula Kaiapuna at Paia. And the traffic in the morning and also the afternoon is very, very busy, especially during drop-off and pick-up times.

My question is why are these bicycle tours being allowed to operate during school drop-off and pick-up hours? Baldwin Avenue, as you know, is a narrow two-lane road, with oftentimes no shoulders, no guardrails. And there has been many times we have had to come to a complete stop because we get stuck behind these bicyclists who take up the whole road.

You know, the risk of a head-on collision is often because there is no place to, we're not allowed to pass a lot of these places, because there's no room. A lot of these cyclers are oblivious to, to us. And this also goes for the cyclers that's traveling in the opposite direction, coming up the hill, whether they are training for some kind of cycling events or not. They also create that traffic jam. And the drivers do get very irate, and they are trying to pass, and it becomes very, very dangerous.

We have witnessed cyclers fall off their bikes. We have seen them flying down at speeds they can't control, because of the obvious decline of the road. A lot of them are kids, inexperienced bikers, and also, they are unguided. I don't understand how these groups of tourists are allowed to bike down an island that they have no knowledge of, without a guide. Where is the accountability for these tour companies?

There needs to be some ordinance in place with restrictions of times. The whole Upcountry area is being affected of these bicyclers being able to bike down the volcano during peak school hours. Take into account, take into account how many schools are being affected. There's King Kekaulike, there's Makawao School, Seabury. Sorry.

CHAIR LEE: Ms. Tsolis. No, no could you just summarize and conclude your testimony?

MS. TSOLIS: Okay. You know, we're just looking to provide a safe environment, getting our kids to school safely and in a timely manner. These bicycle tour companies, my, my proposal is to just not allow these guys to be do, riding down the hill during drop-off and pick-up times for school, cause it creates so much traffic. They have no regard for anybody else on the road.

CHAIR LEE: Alright. Thank you. Members, questions?

MS. TSOLIS: Thank you.

CHAIR LEE: Are there any questions for Ms. Tsolis?

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. And good morning, Ms. Tsolis. And thank you for your testimony. Just quickly, the, I guess the worst, I guess the peak time, you said is pick-up and, pick-up in the morning and pick-up in the afternoon. So, those times, you would suggest maybe between say 7 and 8, and maybe what, 1:30 and 2:30?

MS. TSOLIS: Yea.

COUNCILMEMBER MOLINA: Would that be . . .

MS. TSOLIS: Definitely. Because, you know, it's like parents are also trying to get, get to work, you know? So, it creates so much traffic, you know. We were stuck in Paia traffic one day and these bikes were just weaving through the stopped traffic, you know. We're stopped all the way up at the top by the Heritage Hall and, you know, they're just weaving through traffic with no regard for safety, you know? So, it's, it's a huge concern. We've seen bikes flying down in front of Paia School and they don't know how, how steep that decline is, you know. And they're just, they're flying over that speed bump. And, you know, we see so much, so much of them almost eat it, you know. It's crazy.

COUNCILMEMBER MOLINA: Well, thank you for that information. That'll be certainly very helpful when we have this matter discussed in Committee. Mahalo. Thank you, Madam Chair.

MS. TSOLIS: Mahalo.

CHAIR LEE: You're welcome.

Member King.

COUNCILMEMBER KING: Oh, thank you, Chair. I think Member Molina may have just answered my question. But I was going to ask Ms. Tsolis if, you know, you mentioned asking, requesting for an ordinance. And so, are you working with Member Molina? All I saw was a resolution urging the Mayor to address, but it sounded like Member Molina is working on this as a possible Committee issue too, to go forward? Okay, that's all I wanted to know, is I wasn't sure if we were trying to go beyond the resolution but I'm glad you are. So, that was my question. Thank you, Chair.

CHAIR LEE: I think we have another question from Member Johnson. Did I see your hand up, Member Johnson?

COUNCILMEMBER JOHNSON: No, Chair. I don't have my hand up. Thank you.

CHAIR LEE: Okay. I guess that's all. Thank you, Ms. Tsolis.

MS. TSOLIS: Mahalo.

CHAIR LEE: Appreciate it for your--

MS. TSOLIS: Aloha.

CHAIR LEE: --testimony.

Mr. Clerk, next testifier, please.

DEPUTY COUNTY CLERK: The next individual signed up to testify is Warren Watanabe. To be followed by Noah Okuley.

MR. WARREN WATANABE, MAUI COUNTY FARM BUREAU (testifying on County Communication 21)

What was that? Yea, I . . .

COUNCILMEMBER KING: Chair, you're muted.

CHAIR LEE: Warren? Yea, let's try with your video off. Try again. No, not your audio off. Your video off.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR LEE: Yes?

VICE-CHAIR RAWLINS-FERNANDEZ: It's not, it's not a video thing. It's . . .

CHAIR LEE: So, Warren, do you have more than one device on?

VICE-CHAIR RAWLINS-FERNANDEZ: Some, sometimes the BlueJeans software opens twice on, on your device and that's what creates the feedback. So, perhaps we can go to the next testifier while Mr. Watanabe logs out of BlueJeans and comes back in--

CHAIR LEE: Then logs back in.

VICE-CHAIR RAWLINS-FERNANDEZ: --and you can take him.

CHAIR LEE: Okay. Warren, can you log out and then log back in, so we can take the next? We'll take the next testifier and come back to you, when you're ready, okay?

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next testifier is Noah Okuley.

MR. NOAH OKULEY (testifying on Committee Report No. 21-85):

Good morning, Council. I'm here on item CR 21-85. I'm here in support of the Maui Dragon Fruit Farm. I've been an employee here for almost two years now, a paid employee. I know the issue in the air is kind of hard to understand right now with the testimony from earlier. I would just like to say that in the two years I've been here, we have had nothing but progress as far as agriculture goes. We have planted hundreds if not thousands of plants. And we are constantly growing fruit, and sharing with tourists and locals, and other farms around us.

In the past three to five months, we have suffered harassment from Ms. Vera, who seems to be determined to shut us down. This harassment has come in the form of drone photos and videos, which she has flown over our property numerous amounts of times. She also watches us daily, from her property, with binoculars. And at nighttime, she even comes out to the edge of her property and shines spotlights at us.

And even accuses us of poisoning her coconut plants that I have yet to see her take any time to work on.

At this point, in the past three to five months with all the complaints that she's come to us with, we have tried to be nothing but compliant, and good neighbors and quiet. Because we know people like their quiet when the sun goes down around here. And at this point, we just feel violated, and our privacy has been invaded.

And all I can really say is that I'm here in support of the farm. I've seen numerous amounts of employees and people come to this place and absolutely enjoy themselves. I personally love how I live, and where I live, and what I do. And thank you for listening.

CHAIR LEE: Okay. How do you pronounce your last name?

MR. OKULEY: Mr. Krueger had it right, it's Okuley.

CHAIR LEE: Okuley. Members, any questions for Mr. Okuley? If not, thank you very much.

Mr. Clerk.

MR. OKULEY: Thank you.

DEPUTY COUNTY CLERK: Chair, I do not see Mr. Watanabe on the call. Therefore, the next testifier is Gaia Giannotta.

MS. GAIA GIANNOTTA (testifying on Committee Report No. 21-85):

Aloha. Aloha, Councilmembers. My name is Gaia Giannotta. I'm here addressing item CR-21-85. And I'm here in support of Maui Dragon Fruit Farm. I've been an employee here for two years, I'm a paid employee. And in the time that I've been on this farm, actually, so I want to address a couple points that she made in her complaint. One of them was that we don't farm here. And in the time that I've been here, I've planted thousands of plants. And probably 80 percent of those plants are actually harvestable produce, edible things. And I've made meals from what I've made. We've shared it with our community. We'd even shared with local restaurants down in town.

And then, another thing that I wanted to address was her claim that we try and blame the neighbors above us, when it's not true. I actually personally am friends with the people who live in the property right above us. And I have been at their property when, and no one's been at the farm or the farm has been relatively quiet. And the neighbor, Ms. Vera has actually gone out and shined strobe lights at our neighbors, assuming

that it's us. And now so her, you know, her impact is now not only affecting the farm, but it's also affecting the neighbors in, in our community.

Beyond those two complaints that she made, I also just want to emphasize how impactful this farm is for myself, as well as the people that are here. I am part, one of the managers that hires and brings people onto the farm. And I also check in regularly to make sure that everyone's happy, and this is a safe space. And I can 100 percent confirm that everyone here is happy, and taken care of, and provided for, and enriched.

This is not just a farm, but it's also an educational experience. And everyone who comes here is able to learn about organic agriculture, as well as the aina, as well as Maui. And we are, through our tours we're able to share that knowledge with the tourists that come on. So, we're able to make a positive impact on the individuals that are here, and then the people that visit us as well. So, I just want to stand here in support of the farm, because I think it's a really important opportunity that Crystal has been providing for the community and for us. Thank you.

CHAIR LEE: Alright. Thank you. Are there any questions for the testifier?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here. Sorry on your, Ms. Giannotta, on your square it says "Schmi". But I just wanted to, wondered if you could speak to the issue of late night, you know, events going on till 11 with loudspeakers and, and what your intention is going forward with the zipline? Because the zipline issue is a big issue and we've heard, you know, other areas of, of residents next to agriculture, where the zipline, you know, have the same experience for, you know, sleepless nights and noise all day long. So, what are the intentions going forward with that?

MS. GIANNOTTA: We don't do any ziplining at night. Is that kind of what you are asking? We, after 1:00 p.m.--

COUNCILMEMBER KING: Yea, the nighttime complaints were late night events, like weddings, you know, using loudspeakers and going till 11:00.

MS. GIANNOTTA: Yea. No, I don't, that doesn't happen. Crystal is on property throughout all of the weddings. The owner is on property through the weddings and follows what the mandates of the time restraints.

COUNCILMEMBER KING: Okay. Alright. Thank you, Chair.

CHAIR LEE: Any other questions, Members? If not, thank you, Ms. Giannotta. Thank you.

MS. GIANNOTTA: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person signed up to testify is Cameron Richards. To be followed by Elijah Martinez.

MR. CAMERON RICHARDS (testifying on Committee Report No. 21-85):

Aloha Councilmembers. My name is Cameron Richards. I'm here to testify on item CR-21-83; 85, I'm sorry. I just want to give my experience that I've had here. I've been on the farm for two years now. You know, I put my heart and soul into this place. It's been a blessing to be able to come here on Maui, you know, get my foot in the door here. You know, learn about organic farming, do organic farming, learn about the history and the culture here in Hawaii. Normally, that I get a chance to educate people that come here and want to learn more about that. So, I'm very, very fortunate for that.

But, unfortunately though our neighbor, Ms. Vera, has been harassing us for the past five months, I would say. A lot of these cases I've been experiencing firsthand. One that I would like to talk about was, so we have ducks here on the property. And one day, Ms. Vera comes down the residential driveway and carries this wounded duck over to us. We had no clue who she was. She was coming around snooping the whole time. She was asking us questions and when we would answer them, she just wouldn't accept our answer and would keep snooping around. You know, and the harassment goes on in various ways. She comes through the edge of her property. She'll eavesdrop on us like they were saying previously. You know, she shines strobe lights, she flies drones over our property. And you know, I feel very violated personally, because I do everything I can for this community. And that's something that we really stand for here, is to, you know, provide. And with her being around here, she kind of dampers everything that we're working towards. And that's pretty much it, you know. I'm very appreciative for your guys time today.

CHAIR LEE: Thank you, Mr. Richards. Questions, Members? If not, thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person signed up to testify is Elijah Martinez. To be followed by Jeff Schlenske.

MR. ELIJAH MARTINEZ (testifying on Committee Report No. 21-85):

Good morning, Council members. My name Elijah Martinez and I am speaking on the item CR-21-83; 85, excuse me. I'm here to, in support of the Maui Dragon Fruit Farm. I have worked here for about a year-and-a-half now. It's been an awesome, nothing but an awesome experience. As Cam said, perfect foot in the door on Maui. And I've met, met and learned so many amazing things. And unfortunately, the really big damper on this whole situation is the harassment that I can attest to that Ms. Vera has been putting on our farm through various, various methods such as kind of spying, as well as dropping that injured duck off on the farm, when that was not agreed to by anybody here, expecting us to take care of the situation.

And I, I work very closely under Crystal and Larry Schmitt, our owners, the owners and boss of the farm. And I look up to them as mentors. And I can speak firsthand that, that through this whole situation, they have both personally tried to accommodate and work things out with Ms. Vera. And each time she, instead of trying to get an understanding, she rather retaliates or escalates the situation. And I can only speak good things about the farm. That's about all I, all I have to say. Thank you.

CHAIR LEE: Thank you, Mr. Martinez. Any questions, Members? If not, thank you.

MR. MARTINEZ: Thank you.

CHAIR LEE: May we have the next testifier?

DEPUTY COUNTY CLERK: The next individual signed up to testify is Jeff Schlenske. To be Dominique Scaltrito.

CHAIR LEE: Ms. Schlenske?

MR. JEFF SCHLENKE (testifying on Committee Report No. 21-85):

Good morning, Councilmembers. How are you all doing today?

CHAIR LEE: Good.

MR. SCHLENKE: Awesome. Yea, I'm just here on behalf of the Maui Dragon Fruit Farm, item CR-21-85. I just want to say that throughout this whole situation, I'm also a paid worker on the farm. And I've been here for about six months, been able to have an amazing opportunity. I've worked at farms and ranches around the United States and

other places in the world, and this is an amazing opportunity. It's one of the most beautiful places I've ever been. And it's just very kind of amazing to me that someone would kind of attack this kind of place that's been around for a while. And, you know, invading our privacy and feeling pretty violated, honestly, for, you know, us having lived here for a while and her just showing up, which is pretty crazy.

But I think that this farm is an amazing opportunity for organic farming. We share with the community. I've gotten to know a lot of amazing people. And basically, just share what we, what we do here with not only just tourists, but other people, such as myself that come and work here. And that's all I have to say on that matter, so thank you.

CHAIR LEE: Thank you. Are there any questions, for the--

Yes, Ms., Member King.

COUNCILMEMBER KING: Thank you, Chair. Oh, testifier. So, Mr. Schlenske, you all seem to be testifying from the same room. Are you all living on the farm? And how many of you are there?

MR. SCHLENKE: I want to say there are about 15 of us workers here.

COUNCILMEMBER KING: And you all live on the farm?

MR. SCHLENKE: Eight permanently, yea.

COUNCILMEMBER KING: You have eight folks permanently. Is the, is the living conditions permanent because, you know, we don't really have provisions right now for a lot of housing?

MR. SCHLENKE: Yea, we have, we have air-conditioned RV's. It's honestly an amazing living system that we have here.

COUNCILMEMBER KING: RV's, you live on the farm? Okay. And then most of you are from out-of-state it sounds like?

MR. SCHLENKE: Yea, most of us are from out-of-state. I would say the majority are, yea.

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you for testifying. So, you're living in a recreational vehicle? Is that what you said, RV?

MR. SCHLENSKE: Not, not a, not a full RV, no.

COUNCILMEMBER SUGIMURA: What does that mean?

MR. SCHLENSKE: A luxury RV.

COUNCILMEMBER SUGIMURA: So, it is a RV, but it's just a fancy one?

MR. SCHLENSKE: Yea, a pretty fancy one.

COUNCILMEMBER SUGIMURA: I think that's not allowed. Thank you.

MR. SCHLENSKE: Yea.

CHAIR LEE: Any other questions, Members? If not, thank you.

Let's have the next testifier.

DEPUTY COUNTY CLERK: Chair, the next person signed up to testify is Dominique Scaltrito. To be followed by Ajay Draper.

CHAIR LEE: Hello, Ms. Caldito *[sic]*.

MS. DOMINIQUE SCALTRITO (testifying on Committee Report No. 21-85):

Aloha, dear Councilmembers. My name is Dominique Scaltrito and I'm here today to testify for item CR-21-85, in favor here of the Maui Dragon Fruit Farm. So, I have been a paid employee of the Maui Dragon Fruit Farm for about five months now. And I can honestly say that in my 28 years of life, it's one of my most favorite jobs I've ever had. I'm here today because I love this place. I want to support this place and keep it going. The reason that it's one of my most favorite workplaces is because it's rewarding to work here. I have learned more about the earth and growing and organic farming than I could have ever expected. I actually visited a farm over in Oahu and I can compare, you know, like this farm is incredible.

We are watering every day. We're planting, we're pollinating, we're propagating, we're harvesting. I didn't even expect to, you know, do all of these beautiful things and learn as much as I have about the land. So, really, I'm, just want to, you know, testify that

this is a really happy workplace. We're taken care of here and we are, you know, I feel like this is a really safe place. And I'm just really confused and kind of heartbroken that it's been attacked by our neighbor, who is, you know, just ignorant about what is really going on here. So, thank you so much for your time, and I appreciate it.

CHAIR LEE: Thank you. Members, questions?

If, Member, Vice-Chair Rawlins-Fernandez, then Member Paltin.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. How many of you, aloha, mahalo for your testimony. How many of you folks live on the farm?

MS. SCALTRITO: There is, it varies, yea. There's about eight of us here now that are living here.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, it, it ranges. So, there's eight now, but there could be less sometimes and more sometimes?

MS. SCALTRITO: Correct. It's always kind of like a constant change of people. Not constant. Some people stay a little bit longer, you know, some people stay shorter. Kind of just depends.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo. Mahalo, Chair.

MS. SCALTRITO: Mahalo.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you. I didn't write down your name. But just following up on Member Rawlins-Fernandez question. Wondering if everybody lives in the luxury RV, or if there is camping going on?

MS. SCALTRITO: Yes, everyone stays here in the RV. Very comfortable conditions. We're really blessed.

COUNCILMEMBER PALTIN: Is it one RV or more than one?

MS. SCALTRITO: We have two.

COUNCILMEMBER PALTIN: Oh, okay. Alright. Thank you.

MS. SCALTRITO: Thank you so much.

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you for being here this morning. My question is, you know, we've heard from various testifiers from your same company that the harassment has been going on for at least five months, is that correct?

MS. SCALTRITO: Yes.

COUNCILMEMBER KAMA: And if it has, I can almost imagine how horrible that must be, or that must feel to all of you.

MS. SCALTRITO: It's a bit uncomfortable for sure.

COUNCILMEMBER KAMA: So, my question is have you ever thought to maybe invite your neighbor over, and to show her what you folks are doing? And maybe give her a different perspective of whatever it is she's thinking that you are doing with all of her inquiries that she does through her night light and her, I don't know, whatever other tools she might use to investigate all that you are doing? You ever thought to invite her?

MS. SCALTRITO: That's a good question. I don't really believe she's kind of given us the chance. But, you know, we would be happy to do that.

COUNCILMEMBER KAMA: You folks are going to be neighbors for a long time. And five months of being harassed is a long time.

MS. SCALTRITO: Yea.

COUNCILMEMBER KAMA: And here in Hawaii, we'd like to make sure that people have aloha for one another. And that begins with having good, honest conversations. So, that's just my thoughts towards you folks and what you are doing. Thank you.

MS. SCALTRITO: I appreciate that. Thank you very much.

CHAIR LEE: Any more questions? If not, thank you for coming by and testifying.

MS. SCALTRITO: Mahalo. Thank you.

CHAIR LEE: Next testifier.

DEPUTY COUNTY CLERK: The next individual signed up to testify is Ajay Draper. To be followed by Crystal Schmitt.

MR. AJAY DRAPER (testifying on Committee Report No. 21-85):

Hello, Council. My name is Ajay Draper. I'm here to talk in favor of Maui Dragon Fruit Farm, on item CR 21-85. And I'm a paid employer of Larry and Crystal Schmitt. And what attracted me to this farm is that they're organic. And I really like that about farming, is that you're organic and you help the earth. And I was really hurt when our neighbor, Ms. Vera, accused us of having poison and then using it there, on her palm trees. It confused me, because that's not what we're about. We're about helping the earth, and we want to grow food that's healthy and sustainable.

Another thing that we're hurt about is that our neighbor accused us of not farming too much. And like Dominique said, constantly watering, we're weeding, cause we really want our farm to be good and productive and look nice too. So, we're constantly weeding. And I just want to say I'm really happy and fulfilled working here, because we're growing really delicious fruits and our customers seem to really love it. It tastes really good and I'm happy to be contributing to the community. I like working here. Thank you.

CHAIR LEE: Thank you. Any questions, Members? If not, thanks again.

Next testifier, please.

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Crystal Schmitt. To be followed by Rod Antone.

CHAIR LEE: Ms. Schmitt?

MS. CRYSTAL SCHMITT (testifying on Committee Report No. 21-85):

Aloha, Council Chair and Councilmembers. I have so much to say, and I just wanted to say Maui Dragon Fruit Farm is a organization with a mission. We are here to grow organic food. We are here to take care of our aina. The pandemic has been really hard. I mean, last year, we started, you see how quickly the grocery stores, the shelf just went empty. I was panicked in the beginning.

And I was thinking to myself, what happen if Costco's containers stop coming? What's going to happen to this island? We actually used to be one of the major Costco lettuce

supplier. We used to do truckloads of organic lettuce to Costco, weekly basis. I was thinking to myself and to the community, just imagine if 80 percent of Costco, Maui Costco's food items are all grown by people here. We don't have to worry about if Costco's containers not coming. Not only we can do that, we also can supply maybe other island, like Honolulu.

So, organic farming is key because you make soil more and more productive. The longer you farming, the better. Instead of if you do chemical farming, the longer you do the bet, the worse the soil.

So, I have a great, great group of staff members. They're awesome people. They basically want to help. They want to produce healthy food for people. They're passionate about it. They're just very motivated, intelligent kids who could be our future organic industry leaders. That's what we're here for. I'm inspired by them, you know. They, they're just such wonderful respectful kids. So, we here as a family, we're very, very happy as a group. We just want to say we want to contribute and thank you. Thank you for your time.

CHAIR LEE: Member Sugimura has a question.

COUNCILMEMBER SUGIMURA: Thank you. So, we heard from many of your employees. And I just wondered if you could verify that you have luxury recreational vehicles on your property?

MS. SCHMITT: You know, actually the County inspector came yesterday afternoon. And they actually took pictures. They went inside. You know, its summer, so my electricity bill is really, really high because the place is 24 hours air-conditioned. I don't even get to live there like that. I mean, there's massage chairs inside. So, they will get back to me to say as far as if it's okay. We also, actually one of them is drivable. You can put the key and move anywhere. So, it is actually very nice.

COUNCILMEMBER SUGIMURA: And, and how many employees do you have living there, from all the people that we've seen?

MS. SCHMITT: So, we, so, we basically constant right now on payroll is eight. Occasionally, we have more and less. It a slowdown season, but it does varies a little bit. But this is a good level that for us to be, feel productive and feel it's, you know, it's just very nice. We constantly adjust. So, we have Gaia, who was, testified earlier. I do want to say one more thing; how nice those kids are.

So, Ajay, Ajay is the last one who testified. I overheard a conversation, just overheard it. She said, Ajay, what is the biggest fear you have in your life? And he was like,

thought about it, he's like, my biggest fear is dealing with people with no aloha. I mean that, that's, they're just wonderful people. And I just, I cannot say enough. I'm happy that we have kids out there who take up agriculture, take up with passionate and want to contribute.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR LEE: Any other--

Member, Vice-Chair Rawlins-Fernandez. Did I miss anybody in between?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Oh, I'm sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: I was just going to ask--

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: If we, if we can just ask if Ms. Schmitt would be available when the item comes up? Because the questions are not clarifying questions, and then we can continue on with the public testimony.

MS. SCHMITT: Absolutely. We will stay here until our item comes up.

CHAIR LEE: Member Tasha Kama, you had your hand up.

COUNCILMEMBER KAMA: I was going to ask the same, because it seems like there's so many questions that are being asked, and they are not actually germane sometimes to the testifiers. So, if we could maybe have them as resource people. I concur with our Vice-Chair. Thank you, Chair.

CHAIR LEE: Any objections to having Ms. Schmitt return when the item is discussed?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections. So, ordered.

Ms. Schmitt, could you continue to watch our program and then when your item comes up then stay on, come back on the call, okay?

MS. SCHMITT: Okay. Thank you.

CHAIR LEE: Alright.

VICE-CHAIR RAWLINS-FERNANDEZ: Or, Chair?

CHAIR LEE: Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Or, or if staff can get her number and then just call her when the item is coming up? So, she doesn't need to monitor the meeting.

CHAIR LEE: Okay. So, Clerk, Mr. Clerk?

COUNCILMEMBER PALTIN: I can give it to them, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

CHAIR LEE: Alright. Thank you.

Mr. Clerk, may we have the next testifier?

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Rod Antone. To be followed by Kevin Watkins.

MR. ROD ANTONE, MAUI HOTEL LODGING ASSOCIATION (testifying on Committee Report No. 21-85):

Aloha and good morning.

CHAIR LEE: Aloha.

MR. ANTONE: Aloha. Rod Antone, registered lobbyist with the State and County for the Maui Hotel & Lodging Association. This is in regards to the bill to establish a new Chapter 3.47 of Maui County Code, to create a three percent transient accommodations tax, TAT, on all gross rental, gross rental proceeds, and fair market rental value as, as considered taxable under the definitions of Section 237D-1, Hawaii Revised Statutes.

You know, the main thing about my testimony here today is the industry just wants to make sure that when the, when the new tax is collected, it's not something that happens

in the middle of a, a guest's billing. For example, if the guest checks in on September 28 and doesn't check out until October 2, we don't want them to pay one bill and then, at the end of it say, by the way, we got to add three percent to it. So, we, MHLA respectfully requests that the new TAT collection date be delayed until after October 1, 2021, and preferably sometime in 2022. Again, guests pay in advance. The State of Hawaii, when they increase TAT, they, they gave some time for notification and changes to be made. There's computers software systems that we need to change. Third-party sales agents must update their computer systems with the new taxes, internal prices. Basically, we're just asking for a little bit more time. And that's my testimony as a lobbyist.

And I'd just like to mention as a individual resident, thank you, Councilmember Sinenci for your acknowledgment of, you know, this is suicide prevention month, and mental health is a very real thing out there. And we need to be able to talk about it so that people don't feel bad about getting help. And that's my testimony.

CHAIR LEE: Thank you, Rod.

Members, questions?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Antone, for your testimony. I just wanted to clarify when you said October 1, if not later. Is that because, I mean, do, I don't understand how that would make it not in the middle. Like, if someone right now booked a stay in November, then you could add it on, or nobody stays from September to October? I just wasn't clear on that.

MR. ANTONE: Okay. So, let me, welcome back from France, by the way.

COUNCILMEMBER PALTIN: Thank you.

MR. ANTONE: I enjoyed your pictures. So, let's say you book a stay, and it's September, and it's after. Cause I, from what I understand, October is when you folks will vote, October 1 is when the Council will vote. And if your vote, yes, it goes into effect October 1. Did I get that right? Is that the schedule right now?

CHAIR LEE: Yes, Rod.

MR. ANTONE: Okay. Okay. So, we cannot add a three percent before the Council enacts it. And if it goes into effect that day and there's, you know, if it's, if you're applying it to everything after October 1, all new reservations, that's, that's much less of a problem.

If it affects everybody in the hotel on October 1, you understand what I'm saying right now? These people, the people in there right now, it's not just people that checked in on October 1. There's people there that checked in before that paid and agreed to price, that signed a piece of paper that says we agree to pay this price. And then, the hotel is going to have to go back and say, by the way we gotta add another three percent.

I think Kauai has, I think they passed it yesterday. And if I'm not mistaken, they've agreed to only have it to apply new, to new reservations after October 1. Does everybody understand that?

CHAIR LEE: Yes.

COUNCILMEMBER PALTIN: I think so, yea. Thank you.

MR. ANTONE: Okay. Okay. Took me a while too, guys. Don't worry about it.

CHAIR LEE: Okay. Any more questions for Rod?

Vice-Chair, and then Member Molina.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Chair. I, I know Member Molina had his hand up before me, but I'm hoping that I can provide clarification. And it may answer his question before he asks. As the author of the, or introducer of the bill, and so, to answer and address the concern, I guess, this isn't a question. But my proposals to amend, as we all were aware in Committee, that we would be getting language from the State with recommendations on how to amend the bill. And it would amend so that bookings as of October 1 would only apply, and not any bookings previous, prior to October 1. So, that should address your concern there.

And then, I do have a question. But I'll wait until after Member Molina.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair, and mahalo Vice-Chair Rawlins-Fernandez. Good morning, Mr. Antone. Before I ask you my clarifying question, congratulations on your Las Vegas Raiders resounding victory the other night on Monday Night Football. And speaking of--

MR. ANTONE: Fantastic. Thank you, Mr. Molina.

COUNCILMEMBER MOLINA: And speaking of Las Vegas, which is a resort area like our County. So basically, you're asking us with the implementation, delaying the implementation date of this tax. So, at least your future hotel guests have an idea that, okay this is what's going to be added to your bill, just be prepared for it, so they're not blindsided. Am I correct with that assessment?

MR. ANTONE: Yes. So, the main concern is that the, we don't have to apply it to folks that are presently staying, that might be staying extended into October 1 and all of a sudden have their bill change. That was the number one concern. Number two, if the Council is, is open to it is to delay the collection, I don't know, maybe to the start of 2022 just so some other, we can change pricing and have the third-party pricing folks change and change software. There, there's a bit of an adjustment time. And again, we can't really make, we can sort of prepare but we can't put em into effect until after you guys actually vote on it on October 1. So, to, to vote on it and then to implement it all on the same day is a little daunting, especially when, you know, we're also dealing with making sure we comply with the new COVID restrictions out there. But yea, those are my, yea.

COUNCILMEMBER MOLINA: Alright. And as quickly, you don't think the taxes would deter visitors from coming? I mean, it's not enough to keep them away when they see this additional three percent, right, added to their bill?

MR. ANTONE: I mean, I would also make that argument. But I, but I also understand the State has, has taken away the County's TAT. So, the County is kind of in a corner and has to come up with a, you know, a replacement. But yea, no, I mean, you know, going back to other discussions we've had, we would like to see, we understand we want to make money off our tourist industry. That's how we pay for our, you know, community infrastructure and everything. Can you get it in another way, directly from the tourists instead of always tacking it on to an accommodations bill? I think, yes, we would really like to see something like that. And that's why we've talked about beach parking for, for non-residents to be charged, etc., etc.

COUNCILMEMBER MOLINA: Okay. Thank you very much for your responses, Mr. Antone. And I don't know if it did help, but I guess from hereon in, maybe if the hotel industry can start alerting future visitors that, hey, such and such tax will be added to your bill. So, just sort of, you know, prepare them for it, so they're not, you know, have sticker shock, so to speak. But thank you for your input, Mr. Antone. Thank you, Madam Chair.

CHAIR LEE: Vice-Chair, and then Pro Temp Kama, and then Member King.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Mahalo for your testimony, Mr. Antone. So, my first question is, has the Association and hotels been following this bill, so HB862 from its inception, and then its veto, and then override, and then Council, and the other counties looking to, to pass it as quickly as possible?

MR. ANTONE: I, I understand. I wouldn't be doing my job if I wasn't here bringing up these other points.

VICE-CHAIR RAWLINS-FERNANDEZ: Absolutely.

MR. ANTONE: At least informing the Council of all of the elements surrounding this bill.

VICE-CHAIR RAWLINS-FERNANDEZ: So, in following its inception to now its first reading, would it not have been possible, I understand that they can't charge, hotels can't charge the tax. But would it have been possible for them to have put a disclaimer, alerting them that this tax would be possible?

MR. ANTONE: A disclaimer? As in, hey, this might come up, we're not sure, they haven't voted yet. But other counties, I mean, there were a lot of questions. And, and we still needed clarification. In the beginning there was no, I just saw County legislation in regards to this because it came from the State. So, all we had was the State legislation, right? As you mentioned, the vote, the override. And, and the State's legislation was very vague. It was just we want to give the County the power to do this, correct? So, there were a lot of questions and we just recently became aware of some of the plans.

And there were a lot of concerns about how do we let, how do we rectify letting guests know, especially when they've already paid? It became a question about, it's almost, you know, it's a legal contract. Okay, you want to stay at this hotel, you're going to pay this much. And okay, what do we, what happens if they pass the three percent? So, I, you know, could they have issued a disclaimer? We weren't sure. And maybe we should have reached out, or, to you guys or talked to Corporation Counsel.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, I'm on my last question.

MR. ANTONE: But this is a lot, this is, you got to understand this is all happening very quickly while there are many other things going on. We have been overwhelmed with trying to get clarification on some of the restrictions passed by the Administration, of course, now the, the Biden Administration, so there's been a lot--

CHAIR LEE: Okay, Rod. Rod, we have to move on.

MR. ANTONE: Sorry. Go ahead. Hope that helps.

CHAIR LEE: Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Thanks. Okay, my, my, my last two questions is, one, did you not see the Mayor's press release during Budget session back in April, expressing the intention of charging up to three percent? And then, two, would the grant, would the clause . . . contracts that were already made, bookings already made, address your concern about not adding a tax to bookings already made and just future bookings as of October 1?

MR. ANTONE: Vice-Chair, I am afraid I was on personal leave because of events that happened last year, you know, in April. So, I did miss that.

VICE-CHAIR RAWLINS-FERNANDEZ: I, I'm sorry. Not just, not just you, Mr. Antone, but those that you represent.

MR. ANTONE: Yea, no, I, I understand what you're saying. But I was not available.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. And then, the second question regarding addressing your concern? Yes or no?

MR. ANTONE: I'm sorry, you were coming in and out. What is the second one again?

VICE-CHAIR RAWLINS-FERNANDEZ: The second question is, would it address your concern of bookings already made, not being, not having the three percent added to it? And then future bookings as of October 1 having the three percent added?

MR. ANTONE: No, you, you did. You did address that. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Great. Mahalo, Mr. Antone.

MR. ANTONE: I'm still, I'm still hoping we get maybe the 2022 push-back. But I mean, that's just a, I'm still going to ask.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. Mahalo, Chair.

MR. ANTONE: You understand? There you go.

CHAIR LEE: Okay, Rod. We heard that one already.

MR. ANTONE: Okay.

CHAIR LEE: Who else? Oh, Member Kama, and then Member King.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Chair. Thanks for being here, Rod. So, that's what I just wanted to clarify. If I did hear you correct in saying that the October 1 date for the industry would be maybe too cumbersome for you folks to respond and to react in a manner that would be okay for the industry, and that you were looking at something closer to 2022? And that's my question.

MR. ANTONE: Yes. Yes. Yes.

COUNCILMEMBER KAMA: Okay.

MR. ANTONE: Thank you.

COUNCILMEMBER KAMA: Thank you.

CHAIR LEE: Okay. Then we, Member King, did you have a question?

COUNCILMEMBER KING: I did, and it's, it's kind of related to that, that issue of pushing this out to 2022 in order to give some notice. But I just wanted to clarify with you, Rod, that isn't the hotel industry very volatile of any way, as far as the rates? I mean, you can log on as a, as a potential client and get one rate one day and another rate the next day, and then that rate could be gone by the time you decide to book it. So, it's not like the tourism industry has any stability to room rates or that they give the general populous any notice about their changes in room rates. So, I'm not sure why we're, you're concerned. Is there some deeper reason why you're concerned about, you know, giving people notice? Because, you know, I, as a person who stayed in a lot of hotels, I never get notice when, notices when I'm looking at a hotel room and then suddenly it goes up another \$100.

MR. ANTONE: I think the difference is, when you pay the bill, when you pay to stay and then it changes afterward--

COUNCILMEMBER KING: Right, but . . .

MR. ANTONE: --that is, that is the concern. Also, again, to, there's billing computer systems that need to, there's a lot of changes that need to be made. I'm sure there's going to be folks from the industry that'll testify after me that will be able to explain a little bit better in more detail.

COUNCILMEMBER KING: Okay. But, but, yea, I think we already addressed the concern about, you know, the existing reservations. So, you know, anyway, that was just my, my question to you, is, you know, is there some reason that, is the hotel industry wanting to stabilize its rates because it never has been stable? And you can't, there's no, there's no rhyme or reason between one day and the next sometimes and, and even one hotel and the next.

MR. ANTONE: In my written testimony, I talk about the computer systems, the third-party sales that have to update their computer systems with the new taxes, travel agents who have booked clients who would need to reach out and advise people of the changes. There's, we would appreciate some time is all we're saying.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

CHAIR LEE: We have another question from Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Mr. Antone. Just a real quick question. We've talked about taking the money, but can we talk about what we're planning to use it for? Do you have a stance on this money going towards affordable housing or certain things that you're for and against?

MR. ANTONE: Honestly, I'm glad you brought that up. We would like to see this TAT money that is going to be taken, designated. We would like to see, instead of, you know, we've, we've had a bad taste in our mouth because the State takes it and, you know, we've heard they apply it to the early retirement system, you know, instead of infrastructure and projects for Maui. So, yea, if the Council, we, we would love to send you guys, I don't know, some priorities, you know, affordable housing, infrastructure, parks. I mean, we would love to see what you guys collect designated for something specific.

COUNCILMEMBER JOHNSON: Okay.

MR. ANTONE: So, we can at least say, well, that's where our money is going to.

COUNCILMEMBER JOHNSON: Yea, I'd love to hear you guys' stance on that. And if you want to write, write it to us, that'd be great too. Alright, thank you, Chair. I have no further questions.

CHAIR LEE: Any more questions for Mr. Antone? If not, thank you. Good seeing you, Rod.

Let's see, Mr. Clerk, how many more testifiers do we have?

DEPUTY COUNTY CLERK: Chair, there are currently six individuals signed up to testify.

CHAIR LEE: Members, do you want to take your break now? Okay. So, let's take a break until 10:55. And return at that time. So, the meeting is in recess until 10:55.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:41 A.M., AND WAS RECONVENED AT 10:56 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER JOHNSON, EXCUSED.)

CHAIR LEE: Will the regular Council meeting of September 17, 2021, please reconvene?

Mr. Clerk, please proceed with testimony.

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Kevin Watkins. To be followed by Lana Coryell.

CHAIR LEE: Mr. Watkins?

MR. KEVIN WATKINS (testifying on County Communication No. 21-455):

Aloha. Can everyone hear me clearly?

CHAIR LEE: Yes.

MR. WATKINS: Good morning. And thank you guys for your dedicated hard work and all the wonderful things that you guys are doing to keep our County running on a daily basis. I wanted to take the time to testify on, I don't remember the number off the top my head, but the COVID, for sending that over to the Mayor's Office. There's a couple of things I wanted to put on testimony. I'm surprised that there's not a lot of other people here testifying on this. This is really important.

So, firsthand experience is we just had these new rule changes here that are requiring, whether it's the Federal changes from the Biden Administration or the different changes with the Health Pass that now there are requirements for employees to either have a vaccination, or a test. And for many reasons, some people may choose not to get a vaccination. This has just been an ongoing thing. We may never hit 100 percent vaccination rates. Furthermore, many people were vaccinated back in January. And if you look to countries like Israel or even at our own numbers, you can see that the efficacy of vaccination wanes. Whereas, months ago, that wasn't a question. . . . everyone just assumed that breakthrough cases were very rare. And now we're seeing that vaccination is waning, people are needing to get boosters.

And so, what I propose, so, further, to add to this is from October 15 of 2020 up until June 8 of this year, we had a very effective Safe Travels Program that required all passengers coming into the State, trans-pacific passengers to have a test 72 hours prior to arrival. If you look at the data from that time period, until June 8, we had a very flat curve. You see at the onset of June 8, and I'll happily share this graph, but I'm sure you've seen it going around online. After that, we have an exponential curve of COVID cases.

Now, I know from talking to the company that won the bid for the RFP that was put out by the Mayor's Office to do secondary testing at the airports, that they were letting people be exempt from the secondary testing if they said they had a vaccination card. I know from firsthand experience from people that have traveled with their vaccination card there were not adequate staff verifying that.

And then, with the information that I just shared that even though you may have the vaccination, it doesn't mean that you can't carry it, or that you can't be an asymptomatic carrier, or that your, your symptoms are lessened. You know, we know that the vaccine does make it to where you don't have to get hospitalized, and it does lower your chance of death. However, with people traveling, now they're not going to feel those symptoms and they may become a asymptomatic carrier. Which we can see if we look at your data that prior to June 8 we have low numbers and now we're at the highest our cases have ever been. And that's . . . different vaccines on the marketplace.

CHAIR LEE: Kevin?

MR. WATKINS: So, if I may just summarize?

CHAIR LEE: Kevin, yes, could you conclude? Thank you.

MR. WATKINS: So, if I could just summarize, I'm proposing that in your communication with the Mayor, that you do mandatory zero exemption pre-arrival and post-arrival testing for all trans-pacific passengers for a minimum three-month period. So, that way we have the opportunity to see that data be reflected accurately, if, if these are the issues.

CHAIR LEE: Okay. Great. Members, questions?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Kevin. I just wanted to ask you if you had made this request directly to the Administration?

MR. WATKINS: I have written to them several times, multiple times. I think, I've got the RFP pulled up right here. I think Jared is one of the contacts. I've tried contacting Josiah Nishita, the Deputy Managing Director. I've emailed them, I've called them, I've left them voicemails.

COUNCILMEMBER KING: Are you getting any response?

MR. WATKINS: And who else? Jared Masuda. Jared Masuda, Josiah Nishita, and then the MEMA contact. I can't remember his name off the top of my head.

COUNCILMEMBER KING: Are you getting any response?

MR. WATKINS: Zero.

COUNCILMEMBER KING: Alright. Thank you, Chair.

CHAIR LEE: Member Paltin.

(Councilmember Johnson returned to the meeting at 11:01 a.m.)

COUNCILMEMBER PALTIN: Thank you. I just wanted to clarify. This was for a second resolution, because I think that's not within the Mayor's purview. We would resolution it to the Governor, perhaps. Or did you mean--

MR. WATKINS: Well, so, the Mayor's Office had put out the bid previously for the secondary testing and they worked together with the airport. I know that the airport DOTA is State-managed. So, I know that the previous RFP did come out of the Maui County. It wasn't a State bid. So, that's why, you know, I thought that coming here and talking to you guys with your communication with the Mayor, that maybe you guys would find the pathway forward with that. I've also emailed the Governor several times throughout the pandemic, suggesting changes like this, and you know, you just, you hit a wall.

COUNCILMEMBER PALTIN: And to clarify on that secondary testing that you were referring to, I believe that was voluntary. Were you wanting the resolution for a voluntary second testing, or mandatory second testing?

MR. WATKINS: I think for a three-month period, we should have mandatory secondary testing until we get our numbers down. A year ago, we didn't have vaccines, but a year ago we didn't have our numbers this high. So, where, where, where's the discrepancy? Now we have three . . . going on, vaccines available in the marketplace, but our numbers have never been higher. So, you know, our testing program was effective until the rule changes allowing exemptions to the rules.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR LEE: Any more questions, Members? If not, thank you very much, Kevin.

MR. WATKINS: Thank you. And you guys stay safe out there.

CHAIR LEE: Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person signed up to testify is Lana Coryell. To be followed by Cara Flores.

MS. LANA CORYELL (testifying on County Communication No. 21-453):

Aloha, Councilmembers. My name is Lana Coryell, and I've been a resident of Upcountry, Maui, for my entire life. First, let me say that I'm so grateful to all you for your hard work and care for our community and for hearing my testimony today. I'm here today to testify in favor of resolution CC 21-453, to address bicycle tour public safety.

Nearly every day, I drive from Kula to Makawao. On most days, I encounter both guided and unguided groups of downhill bikers and I regularly observe unsafe behavior, both from the tour bikers, and drivers. And I worry for our collective safety. Our Upcountry roadways are simply not safe for bicycle tours. The tour route, particularly the Haleakala Highway section, has many twists and turns with no visibility, no bike lane, little road shoulder, a steep grade, relatively high car speed, and few safe passing zones.

Just some months ago on my drive home, I came upon an ambulance attending to an unguided tour biker who was laying on the ground. It just makes your heart drop. As our hospitals are filling up, I really continue to question the wisdom of this extremely dangerous activity. And ultimately, I feel that these bike tours are both unsafe and unnecessary in the Upcountry area. And I support any measures to limit and restrict this activity so that we can improve road safety for all.

And I want to be sure to mention that I support cycling on Maui for those who ride for sport. These riders show great understanding of the rules of the road. In contrast, the unguided bike tours show the least respect for basic road rules. They don't ride to the far right, they make unexpected stops, neglect to signal when turning, ignore stop signs

and the list goes on. I've even seen a tour rider ride on the yellow line and nearly veer into an oncoming lane. The guided tours are slightly better, but the groups are simply too large and there are too many of them.

After facing group after group of tours when locals are just trying to get to work or school, impatient drivers pass in unsafe places creating problems for everyone. While I am a patient and responsible driver, I have regularly been put in unsafe positions and seen scary maneuvers by other drivers. I've also seen that many bike tour participants look unprepared for the demands of the ride, not realizing the speed or grade of Haleakala Highway, how much traffic there is, or how narrow the shoulder is. Some riders can't control their bike physically and many show a complete lack of awareness for basic road rules. Every day, I feel like there are accidents just waiting to happen with these bike tours.

I recognize that bike tours do create some economic activity, but I wonder who pays the ultimate price. I'm a big supporter of local business, but I'm not a supporter of businesses that compromise our public safety. So, I please, I urge you to please take action to support limits on these bike tours in the Upcountry area. Thank you.

CHAIR LEE: Thank you, Ms. Coryell. Members, questions? If not, thank you very much for your testimony.

MS. CORYELL: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Cara Flores. To be followed by Kui Aipa.

CHAIR LEE: Ms. Flores?

MS. CARA FLORES, HALE HAWAII [testifying on County Communication No. 21-455 and Bill No. 95 (2021)]:

Aloha. Can you hear me?

CHAIR LEE: Yes.

MS. FLORES: Hi. I'm Cara Flores. I'm the founder of Hale Hawaii and I'm testifying on 455. I wanted to say thank you, many mahalos, to Councilmember Paltin for this resolution. And we support it. We do feel that we need a lot more testing available to our residents.

It's something we're seeing frequently in the COVID-19 . . . group, and other places on social media, and hearing from friends.

A lot more people are being required to have testing now. And of course, all of our keiki are getting a lot more exposure than they were. So, it's nice to have that easily available. A lot of the testing right now is not available during after school hours or after work hours. So, I would say that is something else that we need. The pandemic is our huge crisis that we're having right now, and I'm glad to see anything related to it on the agenda. I hope to see a lot more on every agenda until we're out of this, because we're having a lot of death. We've lost 80 of our residents here in Maui County. And we need to do more. And we need to do better.

And I agree with Mr. Watkins' testimony. We need post arrival testing required. We had it for a very short period of time on Maui. It was at the airport. It would be more effective a few days after arrival, because it is a antigen test. And we, we need to bring back pre-arrival testing, too. So, I encourage the Council to encourage the Governor to bring that back, and the Mayor to put pressure on the Governor to bring that back.

If you guys have been paying attention, our numbers have actually gone down in this week, as well as our arrivals. And I don't think that's coincidental. So, there is community spread, and that is harder to get under control. But in general, we see that the residents of the State of Hawaii are much more compliant, and cognizant of their effect on others. And in general, our residents have much better behavior. Of course, we have that small percentage who don't. But in general, we have amazing residents who've been doing their part.

So, we need our government to do its part because we are the most vaccinated State in the union, and we are in competition with the highest hospitalization rates in our ICU's. So, that doesn't add up. There's a disconnect there. So, our residents are doing their part. We need the government to step in and do a little more. And we thank you for this resolution.

And regards to Bill 95, I also just wanted to make a quick comment. I appreciate that we're trying to get our County's plan in alignment. And I would just like to see it go with the 2018, any, anything looking towards the future and planning to put into the content House Bill 2182 that was passed in 2018, where the State committed to become carbon-neutral by 2045. So, just because that was a goal that the State set, I think it'd be nice to align the County goals to such a big ambitious goal. And ambitious goals like that take a lot more ambitious action. But I think it's nice to have them all tied together when you have something like that. So, that's all I had to say. Mahalo.

CHAIR LEE: Thank you, Ms. Flores. Members?

Member King, question?

COUNCILMEMBER KING: Chair. Thank you for being here, Cara. I really appreciate, and I appreciate your ongoing work cause I know it's all volunteer. Just on the comment on the Bill 95. It's on second and final reading, so we're, we're not going to be adding anything substantial. But it was based on, I mean, the statewide requirement for 100 percent by 2045 already covers the entire State. And I'm actually hoping we can make more ambitious goals at some point than the State's goals because I don't think we have till 2045 to get there.

But on the, on the 21-455, have you, I'm going to ask you the same question I asked Kevin. Have you reached out to the Mayor, the Administration, and the Governor with these same concerns, and have you gotten any response?

MS. FLORES: We have been actively reaching out throughout the pandemic, and we don't really get much of a response. And so, it's frustrating. But I think in general, the community has been reaching out and trying to get, you know, more done. And I know I feel personally that the tourism industry is being over-catered to, and residents aren't being listened to as far as implementing more mitigation measures that'll actually do something. So--

COUNCILMEMBER KING: No, I was just asking you about that because, you know, we, we've, we've passed quite a few resolutions and we don't get, you know, sometimes I think maybe it would be more effective for residents to contact them. But you get nothing. We just get press releases saying they're not going to do . . . resolutions urging the Administration to do something. But we are getting some response, but it's not the response we want. But keep trying. Keep at it. I want to encourage you. And you know, I'm behind your efforts. So, thank you for being here.

MS. FLORES: Thank you.

CHAIR LEE: Any other questions, Members? If not, thank you, Ms. Flores.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual we have signed up to testify is Kui Aipa. To be followed by John White.

MR. KUI AIPA, KĀ'ANAPALI BEACH HOTEL (testifying on Committee Report No. 21-79):

Hi. Good morning, Council Chair, Council Vice-Chair, and Councilmembers. My name is Kui Aipa, I'm the Director of Finance here at the Kā'anapali Beach Hotel. And I just wanted to speak on behalf of the Committee Report 21-79. And just kind of echo some of the sentiments that we heard earlier from Rod Antone, regarding timing of when the, this proposed new tax will be implemented.

So, as an operator, I can tell you as we've gone through State tax changes, you know, normally they would give us anywhere from 90 to about 180 days, sort of notice so we can kind of, you know, send out the communications to our travel partners, wholesalers. Send out communications to guests that may have already booked. A lot of our guests, you know, they book sometimes three to six months out. And again, it allows us sufficient time to make the necessary changes within our systems, allows our third parties to make the same changes in their systems. But again, I'm kind of concerned that if this goes into effect October 1, and I've heard from Councilmember Rawlins that it would be just on new bookings that would be applicable as of October 1. That, too, can be somewhat of an administrative challenge.

But, you know, I guess what I'm hoping is that we could, you know, once the law is passed, normally again, we would get sort of a tax information release from the State. I'm not sure what we'll receive from the County. But I would hope that we could get some sufficient time to get things set up, you know, do the proper communications to our third parties, to our guests that are coming in, especially here in the Fall. And, you know, I hope that we can, you know, that this won't have, you know, an impact on our future bookings as we kind of continue to struggle here through the pandemic. But that's all I have. And thank you for your time.

CHAIR LEE: Thank you, Mr. Aipa. Members, questions? If not, thank you again.

Mr. Clerk, next.

MR. AIPA: Alright. Thank you.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is John White. To be followed by the individual calling in from the phone number ending with these last four digits, 0083. These are the last two testifiers we have signed up to testify. If there's anyone else in the meeting who wishes to testify and has not done so yet please let us know in the meeting chat now. Again, next up is John White.

MR. JOHN WHITE, KĀ'ANAPALI BEACH HOTEL (testifying on Committee Report No. 21-79):

Aloha, Chair and Maui County Councilmembers. Greatly appreciate your time and hearing a variety, a wide variety of topics today. I'm talking about CR 21-79. I am the Director of Sales and Marketing at Kā'anapali Beach Hotel. I'm also a steering committee member for the Maui Destination Management Area Plan. So, I, I understand a lot of the community's comments, both pro and maybe not so pro, towards the tourism industry. And we've put a lot of that effort into the DMAP for Maui to make sure that we move forward.

As we've experienced, House Bill 862 and the ramifications of that, it's been such a blow to the tourism industry, and specifically to Maui, because now we have a puka in the budget of anywhere from \$24-25 million. So, from a logistics perspective, we understand the need to, to look at supplementing that. Our question is do we need the full three percent to supplement that \$24-25 million?

Secondly, I think we need to also look about where is that money going to go? And specifically telling the story that if you come to Maui, and you're going to be taxed at the highest amount of tax in the United States, with the current TAT, this additional surcharge, and the GET, what are you getting for it? That's an important thing. At the same time, I am a resident of Maui and understand the needs for affordable housing, the needs for natural resource management. There's, there's tons of needs out there. So I just want to make sure that we think about the, the upfront understanding what the industry has gone through over the last two years, and how we are also residents of Maui and want to support things here.

There were also some earlier questions I think that the people talked about, about dynamic pricing, how things are affecting. And I'd be happy to share that. But in the limited time that I have, I also want to echo our Director of Finance, Kui's comments, and ask for, for some time to implement this. I have been fielding a ton of questions from wholesale partners, AAA, Costco, etc. And they're trying to understand how to go back to bookings and ask for more money on a trip that's already been purchased. So, I thank you for your time. I thank you for going through and thinking holistically about this. Mahalo.

CHAIR LEE: Thank you, Mr. White. Members?

Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. White. Mahalo for your testimony. You talked about if we need to implement the three percent. How much is the average room? If it's about \$400 to \$500 that would be a tax of about 12-15. Is, is that about right? \$12-15?

MR. WHITE: Well, if you're, which tax are you applying? The GET, the TAT, or the TAT surplus, surcharge?

VICE-CHAIR RAWLINS-FERNANDEZ: This County TAT for three percent.

MR. WHITE: Yea, it would be another three percent on top of whatever that daily rate is. If it's \$400, then yes.

VICE-CHAIR RAWLINS-FERNANDEZ: \$12? Okay. Mahalo, Mr. White. Mahalo, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Oh, yea, thank you, Chair. I thought Member Rawlins-Fernandez was going to clarify this. But I just wanted to clarify, because you testified about previous bookings. But this would not apply to previous bookings before October 1. So, just any new bookings as of October 1.

And, and then as was mentioned earlier during Mr. Antone's testimony, would it, would you be in a position to at least put a disclaimer that there may be a three percent added on for bookings as of October 1? Because if, if we pass this today, then, you know, there's a good likelihood it goes into effect on October 1 and, and you and other hotel managers may want to start alerting, you know, future bookings that that will be added on top.

MR. WHITE: Yea. Good point. In our booking systems for direct bookings, we do have taxes that are subject to change. We definitely have that. If it's a new booking, that's not a problem. If it's an existing booking, and we're talking about booking through March of 2023, so we book that far out.

COUNCILMEMBER KING: No, no, we're not talking about, about previous . . . previous to October 1.

MR. WHITE: Yea. I, I think making sure that we have enough time to implement that, because now your, we would be required as a provider to have basically two books for being able to track what we book to this tax rate, existing on the book, versus what is new on the books. So, we would need do some significant accounting set up across all the hotels for that.

COUNCILMEMBER KING: Thank you, Mr. White. Thank you, Chair.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Oh, sorry. So, nice to see you, John. I was, I wanted to ask you, in your testimony you said that there's a puka of \$24-25 million. So, are you talking about the existing TAT that the counties are not getting? What is the puka?

MR. WHITE: Correct. Correct. Yea. So, the amount that the County receives from the State TAT.

COUNCILMEMBER SUGIMURA: Oh, okay. Okay. Then I understand. Cause they're still collecting what they are collecting and then this would then fill the puka. So, thank you very much for the clarification.

MR. WHITE: Mahalo.

CHAIR LEE: Anyone else? Other Members?

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And aloha, Mr. White. Mahalo for your testimony. Just following up on Member King's line of questioning. Do, does the hotel have, like, a disclaimer on some of the COVID rules and regulations before, before residents, visitors show up?

MR. WHITE: Yes, most definitely.

COUNCILMEMBER SINENCI: Oh, okay. And then, so, yea, I was just wondering if, if you did include a disclaimer, would the hotel be open to giving members the option to cancel with no penalty?

MR. WHITE: Yes.

COUNCILMEMBER SINENCI: Okay. Great. Thank you.

MR. WHITE: Within a certain timeline.

COUNCILMEMBER SINENCI: Right, right.

MR. WHITE: Like 48 hours before.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR LEE: Other questions, Members? If not, thank you, Mr. White.

MR. WHITE: Thank you so much.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual we have signed up to testify is the individual calling in from the phone number ending with these last four digits, 0083. To be followed by Josiah Nishita. 0083, I see that you are unmuted. It is your time to testify, if you wish to testify.

CHAIR LEE: Okay, let's move on to Mr. Nishita. Mr. Clerk. Call Mr. Nishita.

DEPUTY COUNTY CLERK: There he is, Chair. And then to follow Mr. Nishita is Mike White.

MR. JOSIAH NISHITA, DEPUTY MANAGING DIRECTOR (testifying on County Communication No. 21-455):

Aloha. Good morning, Chair Lee, Vice-Chair Rawlins-Fernandez--

CHAIR LEE: Good morning.

DEPUTY MANAGING DIRECTOR: --and Members of the Maui County Council. Apologize, I'm going to go kind of quickly through, because I only have a short period of time to try to get a lot in. Just in response to a couple of the things that were said earlier. In terms of Kevin's communications, I think what was just left out of there was that he's a--

CHAIR LEE: Okay, Mr., Mr. Nishita? Mr. Nishita, are you talking on CC 21-

DEPUTY MANAGING DIRECTOR: I apologize, Chair. Yes, County Communication 21-455.

CHAIR LEE: Okay. Thank you.

DEPUTY MANAGING DIRECTOR: Okay. Thank you. Just specific to the previous testimony. Kevin is a prospective vendor to the County of Maui. And communications, at least that I'm aware of with Jared Masuda and myself, is as a prospective vendor with relations to ongoing procurements. So, it is County policy that we don't give

prospective vendors an unfair advantage over other vendors during the procurement process. But questions that he did submit to our Office are outlined in all of the addendums that are included in any procurements that are issued. So, the questions do get answered, but just in a fair process, so all vendors get the same information at the same time. Specific to the, the, and I can go over some of that other testimony later, if needed.

In 2021 Maui County was nationally recognized through a National Association of Counties achievement award in the category of health for ongoing community-based COVID-19 testing and surveillance programs. And it's, you know, been modeled by other counties around the State, as well as the U.S. In terms of tests administered per capita, Maui County has done 8 percent more than Hawaii County, 17 percent more than City and County of Honolulu, and 22 percent more than Kauai.

And just for the community's sake, I would just like to offer some clarifications. COVID-19 testing is free for community members in the sense of no out-of-pocket expense if an individual meets criteria to be tested. For example, if an individual is symptomatic or has had close contact exposure to a confirmed case such as a child at school. Individuals should really contact their healthcare provider for testing in these circumstances, especially because they could use, you know, the medical oversight in that sense. Even if they lack healthcare insurance, COVID-19 testing is still being covered by the Federal government for these individuals.

And individuals do not need to wait to seek out a County or State-sponsored program to have access to what we generally call "free testing". For others in the community, there are a variety of resources that are available; [preventCOVIDhi.com](https://www.preventCOVIDhi.com), [hawaiiCOVID19.com](https://www.hawaiiCOVID19.com), and [minutemed.com](https://www.minutemed.com).

But we do encourage people to seek care from your medical provider if you are sick or had exposure. And it, and while it's completely understandable that community members want immediate access to testing, the day that they have exposure to someone with COVID-19, it is generally recommended public health principles that an individual be tested about three to five days after exposure, as the virus may still be incubating.

For additional clarification, the language of the resolution, I did look up the numbers as of yesterday, Maui County currently has the lowest seven-day rolling average positivity rate in the entire State at 4.46 percent. Madam Chair, if I may have a minute to conclude?

CHAIR LEE: Sure. Go ahead.

DEPUTY MANAGING DIRECTOR: Kauai is at 4.78 percent. Hawaii County at 6.91 percent. And City and County of Honolulu is at 7.81 percent. Maui County also has the lowest seven-day rolling average of new positive cases per 100,000 in the entire State at 36.95, followed by City and County of Honolulu at 43.42, Kauai at 45.25, and Hawaii County at 47.14.

For additional testing options, we have been working diligently with Department of Health, expand testing resources in school and these are currently available at 26 schools throughout Maui County, through programs called "Increasing Community Access to Testing", and another program called "Operation Expanded Testing". We're the first County in the State to establish a program for employees to ensure that they had free and ample access to testing for those that have chosen not to be vaccinated.

Managing Director Baz went over some of the problems with the removal of the procurement exemptions in HRS 103D the other day, so we won't discuss that. But there are additional market forces that play, bigger than the County of Maui, such as large states and employers mandating testing and the ability of the Federal government to take our test kit allocations.

Staff for testing can be for the same specialized labor resources that are prioritized for surge capacity at hospitals with long-term care facilities, vaccination clinics, monoclonal anti-body treatment centers, and other emergency care.

Having said all that, undoubtedly, the County can always find a way to do better, and we must do better, and we'll continue to strive towards that goal. Really appreciate the resolution put forward by Councilmember Paltin, as well as all of the Council's support in funding during the COVID-19 pandemic. And a big mahalo to all of our partners out there that have really collaborated to provide COVID-19 testing and other support for the community.

And finally, Madam Chair, I would just like to thank the wonderful staff at the Office of the County Clerk and the Office of Counsel Services for all their hard work putting these meetings on. And to you, Chair Lee, Vice-Chair Rawlins-Fernandez, Councilmember Paltin for introducing the resolution, and the rest of the Members of the Maui County Council for all of your support in allowing me the opportunity to testify today. Thank you.

CHAIR LEE: Thank you, Mr. Nishita.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. That was a lot longer than one minute, Mr. Nishita. But I know you have a lot of information and that's why I'll request if when this item comes up, if you're available, perhaps we can have Mr. Nishita as a resource person?

COUNCILMEMBER KING: No objections.

CHAIR LEE: Would you be available, Josiah?

DEPUTY MANAGING DIRECTOR: Yea, if, if staff from the Office of the County Clerk is able to reach out to me when it's nearing that time, I'll definitely try to make myself available. We have a variety of other things going on, so I will definitely try my best.

CHAIR LEE: Yea, probably be after lunch sometime.

Member King

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Then Member Paltin.

COUNCILMEMBER KING: Thank you, Chair. So, a couple of clarifying questions. So, are you, were you saying that, that Kevin Watkins is, has, is a potential bidder for testing?

DEPUTY MANAGING DIRECTOR: Yea. My understanding, Mr. Watkins runs a company, I believe it's called, like Maui Sustainable Solutions, and they do, one of the things that they offer is to sell test kits to entities.

COUNCILMEMBER KING: Okay. I just wanted to clarify that. And then, the other question I have is, you know, when you're talking about positivity rates, they're usually relative to how much testing we're doing. So, are we doing at least as much testing as we were doing, you know, in the, the immediate months following lockdown?

DEPUTY MANAGING DIRECTOR: Yea, actually, we're doing more testing now. The thing is that there's more demand for testing, of course, with the increase in the Delta variant. So, you know, as positivity rate increases, more people have a desire to get tested. The return to in-person learning at schools, you know, now we have students that are getting notified that they may have had a close contact exposure. And so, you know, previously they may have been distanced learning or what not. So, there's an increase in demand there.

COUNCILMEMBER KING: Okay. Maybe we can talk about this further. But it just seemed like, it just seemed like, you know, during the lockdown there was testing, you know, a couple times a week in, in my community. Now, there's no, you know, Representative Wildberger actually had to organize testing in South Maui because there was no testing available. So, it doesn't feel like it's the same rate, and I think that's the purpose of the resolution; asking for expanding, expanded testing.

But we won't really know, I mean, we don't get, we don't get or do we, we don't get positivity rates relative to how many people we're testing? And so, if we're not testing, I mean this goes back to President Trump saying we don't want the numbers to go up, so let's not test. So, you know, that's why testing, I think, is so important. And it's hard to take the positivity, positivity numbers relative to other, other communities or other states if we don't know how much testing is being done. Cause if we don't do enough testing, we're not going to find the positive numbers that we need to find.

DEPUTY MANAGING DIRECTOR: Yea, Madam Chair, if I may just clarify that?

CHAIR LEE: Sure.

DEPUTY MANAGING DIRECTOR: Okay. Yes, that's more specific to asymptomatic cases. If you look at it in the sense of like a rationing healthcare situation, when there's more demand for testing then there is supply. Medical providers will triage people to determine who gets testing at the appropriate time. So, in all actuality it's kind of flipped, because when, when supply of testing exceeds demand, anyone can get in at any time. When demand exceeds supply, then medical providers will make a determination as to who they actually think is positive. So, the people who are getting the testing through Kaiser, you know, Maui Medical Group, others, are people who they actually think have a significant chance of being positive. Whereas--

COUNCILMEMBER KING: But there are also people that have been there, they're not the people walking around the street that may be positive. They're just the people that have been to the medical facility. So, that's what I'm saying, is that we don't have a number. And I think I said this in the beginning, we don't talk about how many people we're testing and then how many of those are positive. Then it's hard to really say how we're doing compared to other states.

DEPUTY MANAGING DIRECTOR: Yea, and Madam Chair, just a last thing. One thing that the County of Maui does more than any other county in the State, which actually skews our positivity rate upwards, is that we do a significant amount of antigen testing. So, what happens is providers will do antigen testing to find probable cases. And then those individuals will then go get tested on a PCR test or another molecular test that actually gets counted in the counts. And so, they may do 100 tests to find that one

person. But the counts that get reported is they did one test and found one positive person. So, it actually skews our positivity rate upwards a little. But yes, we completely agree, there needs to be more testing. You know, we need to provide more opportunities for people to get in and we're definitely committed to working with the Council to make that happen.

COUNCILMEMBER KING: Okay. Thank you, Mr. Nishita. Thank you, Chair.

CHAIR LEE: Member Paltin. Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I got a lot of questions. But to keep it limited to clarifying, I was wondering if, it seemed as though that you were reading from something. And if you could send that into us? Cause you were talking real fast because of the time limit.

DEPUTY MANAGING DIRECTOR: Yea, I apologize. I just have some kind of bullet points noted, but I'll try to kind of clean it up a little bit and then send something in.

COUNCILMEMBER PALTIN: Thank you.

CHAIR LEE: Okay. Anybody else? So, we'll be in touch with you, Josiah, to see if you can come back when we take this up.

DEPUTY MANAGING DIRECTOR: Okay. Thank you very much.

CHAIR LEE: Okay? Thank you. Do we have anyone else signed up to testify?

DEPUTY COUNTY CLERK: Chair, the last individual we have signed up to testify is Mike White.

CHAIR LEE: Okay.

MR. MIKE WHITE, KĀ'ANAPALI BEACH HOTEL (testifying on Committee Report No. 21-79):

Good morning.

CHAIR LEE: Good morning.

MR. WHITE: Thanks for, good to see all of you onscreen. I'm testifying on CR 21-79. As you can imagine, anything having to do with the TAT, I've, always piqued my interest because the counties have been getting the, the short end of the stick from the State

for a very long time. I'm just asking for you to give us more time to implement. When the additional one percent TAT was implemented to fund Rail on Oahu, it was passed in August and took effect on January 1. Even with that four-month lead time, we had a number of wholesalers who refused to go back to their clients and ask for the one percent back. And so, we ended up having to pay for that out of our funds. We'd like to avoid having to do that with the three percent increase.

There are major problems with trying to separate those that are booked prior to August, or October 1, and those that book afterwards. I think it's much better to have a specific start date. But it needs to be far enough out so that we can allow our partners time to notify everyone who has already made a reservation. For every, every reservation that comes later, they're going to be able to see that the three percent is there, and they'll make a decision whether they want to come here or go to Mexico, which is much less costly.

One of the things that I feel comfortable asking for the delay of implementation from October 1, is that the County is in, is not in any kind of financial problems. The County of Maui generates from the visitor plant about \$210 million per year. Oahu, last year, generated 193 million. Kauai, I think was around 63 million. And the Big Island only generated about 12 million. So, Big Island and Kauai need this three percent because the, the amount that they lost is going to be made up pretty closely by this three percent. I think Big Island will get about, both of them will get between \$3 and \$5 million more than they got under the separate \$103 million allocation from the State. On the other hand, Maui and Oahu will get an additional 37 million with the three percent. Our, ours will be around 61 million, which is significantly higher than the 23.5--

So, we, we just ask that you postpone this until January 1. Give us time to allow our guests to be notified and do this graciously and gracefully rather than giving people the sense that they're, we're just going to ram this down their throat whether they like it or not. Thank you for the time this morning.

CHAIR LEE: Thank you, Mike.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, former Councilmember Mike White. Mahalo for your testimony today. I have two questions. My first question is regarding tracking separate books. And we know that they're not physical books, that you use some kind of accounting software. And so, I, I guess I don't understand what the difference would be in starting the tax on October 1, versus starting it on November 1 for those that have booked to stay in 2023? I would imagine you would still need to have some kind of separate tracking system. Is that not correct?

MR. WHITE: Well, we have, we have bookings. Once you book, we confirm the rate and the appropriate level of taxes. So, that's in your reservation record. But from an accounting standpoint when we report revenue to the State and the County, we're going to be having to report a different level of revenue to the State, versus the County if we're only charging the tax on those bookings that are done after a certain date.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. So, what I'm saying is, and I'm sorry if I'm not understanding you, you're asking us to hold off and not start the tax on October 1, because you're going to have to have separate books? And so, what would be--

MR. WHITE: No, my main--

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

MR. WHITE: No, my main, yea, my main reason for asking for the, the time lag is for us to go out and let everybody know that this tax is going to be applied. And then they can, they can cancel their reservation if they choose to, or they can hold it. But at least they know they're going to be paying that three percent when they come. So, it's all a matter of being, being gracious to our guests, as opposed to doing something that's going to put them in a little bit of discomfort, to say the least. Because they've already budgeted their travel, they've already made their reservations, they've already paid their deposits and everything else. So, it's just a kinder and gentler way of tax policy. And the State, as Kui mentioned earlier, generally gives us--

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. White?

MR. WHITE: --90 to 180 days.

VICE-CHAIR RAWLINS-FERNANDEZ: As your two . . . employees testified, and we clarified for them, as well as Mr. Antone, that we are going to be amending it so that any existing bookings would not be charged the three percent; only new bookings. And so, you wouldn't need to be gracious in letting your guests know that they will be having to pay an additional tax. And as I asked your employee, the other Mr. White, about the average room rate cost. So, if it's about \$400, or even \$500, your average room rate, that three percent tax would be about \$12 to \$15. So, are you telling us that you think that for an additional \$12 or \$15 that your guest may cancel their rooms and go to Mexico instead?

MR. WHITE: It's unknown whether this will have an impact on, on the demand for Maui. We've had tax increases previously, and it has not had an impact. So, I'm just suggesting that Mexico is a much less expensive place to go, and I don't believe they

have the same level of taxes either. So, to go to, to go to Mexico, the airlines, the airfare is cheaper, hotels are cheaper by generally about 25 to 40 percent, and then they don't have the same level of taxation.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, my last question, I guess, is, this Council has made a push for inviting tourists that believe in contributing more and protecting our environment; so, quality over quantity. It, do you, do you believe in that same vision for Maui County?

MR. WHITE: I think as a concept, it makes sense. The reality is that, you know, not all of us run, you know, hotels that have really high rates, that have people with lots of disposable income. So, yea, we're, I would hate to say that by going after that, the Council is actually not wanting my guests to come who are more middle America than, than the folks that are staying at the higher end resorts.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. White. Mahalo, Chair.

CHAIR LEE: Any more questions for Mr. White? If not, thank--

Member Sugimura.

COUNCILMEMBER SUGIMURA: I just want to say nice to see you, Mr. White. Thank you for testifying.

MR. WHITE: Thank you. Nice to see all of you.

CHAIR LEE: Great to see you, Mike. Thank you again for stopping by. Appreciate your testimony.

MR. WHITE: Alrighty. Thank you so much. Aloha.

CHAIR LEE: Aloha. Mr. Clerk, who else do we have?

DEPUTY COUNTY CLERK: Chair, there are no other individuals signed up to testify. So, we'll do a last call.

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: If there's anyone else in the meeting who has not testified, but wishes to do so, please notify us now. You can unmute yourself and identify yourself. I repeat, this is our last call for testifiers. Please identify yourself now. Chair, no one else has indicated that they wish to testify, and we have received written testimony.

CHAIR LEE: Members, are there any objections to receiving written testimony into the record and to closing public testimony?

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Sandy Ma, Common Cause Hawaii;
2. Donna Oba, League of Women Voters of Hawaii;
3. Vera Sredanovic;
4. Elyssa S.L. Tsolis;
5. Crystal and Lawrence Schmitt, Maui Dragon Fruit Farm;
6. Rod Antone, Maui Hotel & Lodging Association;
7. Fred Adolphsen;
8. Jeff Anderson;
9. Aaron-Michael Arcangel;
10. Kyle Caires, Maui County Farm Bureau;
11. Koy Collier, Kā'anapali Beach Hotel;
12. Roy Daniel;
13. Denis Ebrill, Aqua Aston Hospitality and Marriott Vacations Worldwide Corporation;
14. Rusty Fujihara;
15. Scott J. Glenn, Hawaii State Energy Office, State of Hawaii;
16. Yolanda Hadley;
17. Jum Hinds;
18. Nancy Huang;
19. Mitchell A. Imanaka, ARDA Hawaii;
20. Susan Marshall;
21. Robert Mitnick, Hawaii Taro Company, LLC;
22. Christopher Mrahunec;
23. Scott T. Nago, State of Hawaii Office of Elections;
24. Kekai Paleka-Wright;
25. Laurie Robello;
26. Carisa Sand;
27. Phyllis Shimabukuro-Geiser, Board of Agriculture, State of Hawaii;
28. Margot Thom & Laurent Joly;
29. Beth and Kurt Thompson;
30. Elileen Welter; and
31. Suinan Zhong.

CHAIR LEE: So, ordered. So, ordered.

Members, so this will be a good time to take a lunch break. It's almost 12. Do you want to come back at 1 or 1:30? 1?

COUNCILMEMBER KING: I'm good with 1:30.

CHAIR LEE: We have some 1's, and we have one 1:30. I see one, two, three, four, five, six 1's, seven 1's and one 1:30. Ms. King, could you come back at 1?

COUNCILMEMBER KING: Sure.

CHAIR LEE: Very good. You're a good team player. Alright, Members, time for a lunch break. Meeting will resume at 1:00. So, this meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:46 A.M., AND WAS RECONVENED AT 1:00 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR LEE: Will the September 17 Council meeting please reconvene.

Hello, hope everybody had a very filling lunch. Now, let's breeze through the rest of the meeting.

Mr. Clerk, shall we go to minutes?

DEPUTY COUNTY CLERK: Yes, Chair. Proceeding with the minutes.

MINUTES

The minutes of the Council of the County of Maui's regular meeting of June 18, 2021 was presented at this time.

CHAIR LEE: Council Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ:

CHAIR, I MOVE TO APPROVE THE MINUTES AS READ BY THE CLERK.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to approve the minutes.

Any discussion? No discussion? All those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: One, two, three, four, five, six, seven, eight, nine. Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with the Consent Calendar.

ACTION ON THE CONSENT CALENDAR

COUNTY COMMUNICATIONS

NO. 21-439 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated September 8, 2021)

Transmitting a copy of the notice of grant award from the State of Hawaii, Executive Office on Aging for the Nutrition Services Incentive Program in the amount of \$487.

NO. 21-441 - MICHAEL P. VICTORINO, MAYOR,
(dated August 30, 2021)

Informing of a vacancy on the Commission on Children and Youth due to the resignation of Elizabeth Fujii, effective August 27, 2021.

NO. 21-442 - MICHAEL P. VICTORINO, MAYOR,
(dated September 3, 2021)

Informing of the appointment of Cody Clark to the Maui County Arborist Committee.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE ALL ITEMS ON THE CONSENT CALENDAR.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER MOLINA: Second.

CHAIR LEE: Moved by Vice-Chair, seconded by Member Sugimura, to file all the items on the Consent Calendar.

Discussion, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: No discussion for Consent Calendar.

CHAIR LEE: Okay, no discussion. Alright. So, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 21-437 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated September 3, 2021)

Transmitting the Department of Water Supply's Monthly Source and Groundwater Use Reports for the month ending August 2021.

CHAIR LEE: Okay, so, let's see. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Could I also ask the Clerk to bring up CC 21-438, and for both to be referred to my Committee, with your indulgence?

CHAIR LEE: 437 and 438 did you say?

COUNCILMEMBER SUGIMURA: Yes. Yes. Yes.

CHAIR LEE: Members, any objections?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay. So, ordered. Refer these two items to your IT Committee.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, shall I just call--

CHAIR LEE: I guess you didn't, you didn't read the 21-438.

DEPUTY COUNTY CLERK: Do you want me to call it now just for the record?

CHAIR LEE: Yes.

DEPUTY COUNTY CLERK: Okay.

NO. 21-438 - ROWENA M. DAGDAG-ANDAYA, DIRECTOR OF PUBLIC WORKS,
(dated August 31, 2021)

Transmitting a copy of the notice of grant and agreement award from the USDA Natural Resources Conservation Service for the Lahaina Watershed Flood Protection Project, in the amount of \$1,229,230.

DEPUTY COUNTY CLERK: And so, that along with CC 21-437 is to the IT Committee.

CHAIR LEE: Yes. Next.

NO. 21-440 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated August 31, 2021)

Transmitting 121 contracts/grants for the month of July 2021.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR LEE: Did, did you miss 439?

DEPUTY COUNTY CLERK: Chair, that item was filed with the Consent Calendar.

CHAIR LEE: Okay. I'm sorry.

Okay. Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 21-440,
EXCEPT FOR THOSE CONTRACTS AND GRANTS THAT
COUNCILMEMBERS REQUEST FOR COMMITTEE
REFERRAL.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to file all the items except those items that will be by the Members.

Okay, Members. Member King.

COUNCILMEMBER KING: Thank you, Chair. So, I, I have four contracts I would like referred to the CARE Committee. And they all have to do with recycling and even ones that a lot of people in the community are following.

IS C6049-5 ON COUNTY FACILITIES PAPER RECYCLABLES COLLECTION HAULING; C6118-7 THE USED MOTOR OIL PROGRAM; C6268-7 SERVICES TO RECEIVE, PROCESS, AND RECYCLE WHITE GOODS AND VEHICLES; AND C6539-6 ELECTRONICS RECYCLING PROGRAM.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so ordered. Those four contracts will be referred to the CARE Committee.

COUNCILMEMBER KING: Thank you, Members.

CHAIR LEE: Any, any others, Members?

Member Sugimura.

COUNCILMEMBER SUGIMURA: I just have one.

SO, IT'S C6254-4, PROFESSIONAL SERVICES, REPRESENTATION SERVICES ON WASHINGTON, IN WASHINGTON D.C., DEPARTMENT OF TRANSPORTATION, RFP NO. 18-17 [S/C], GO TO MY IT COMMITTEE.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: To refer to--

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay. Okay. So, ordered. No objections.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I WAS WONDERING IF WE CAN PULL C6254-4 FOR IT?

CHAIR LEE: What was that? I mean, didn't she just ask, request that?

COUNCILMEMBER PALTIN: Oh, sorry. My bad. I wasn't paying attention.

CHAIR LEE: Oh, okay. Alright.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Tamara.

CHAIR LEE: Any, any more contracts? Any more contracts? If not, gonna move on. The rest, the rest will be filed.

Okay. Mr. Clerk.

VICE-CHAIR RAWLINS-FERNANDEZ: Call for the question?

CHAIR LEE: Oh, I'm sorry. We didn't vote on it. Okay, all those in favor of the motion, please say "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

NO. 21-443 - MICHAEL J. MOLINA, CHAIR, GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE
(dated September 9, 2021)

Transmitting the following proposed resolutions entitled:

1. "APPROVING FOR INCLUSION IN THE 2022 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF UNLAWFUL CHOP SHOP ACTIVITY"; and
2. "APPROVING FOR INCLUSION IN THE 2022 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF HEALTH RULES".

CHAIR LEE: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

I MOVE TO DISCHARGE THE GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE FROM
FURTHER CONSIDERATION OF THE PROPOSED
RESOLUTIONS ATTACHED TO COUNTY COMMUNICATION
NO. 21-443.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR LEE: Second? Moved by Member Molina, seconded by Member King, requesting discharge.

Any discussion? Mr. Molina.

COUNCILMEMBER MOLINA: Yes. Thank you very much, Madam Chair. The Council must submit its legislative proposals to the HSAC Executive Committee to be included for discussion at its upcoming meeting of September 2021. So, in light of that deadline, a discharge is needed to enable the Council to consider action today on the proposed resolutions. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor, say "aye", of the motion.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to waive the Rules of the Council.

And discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Approval of this motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolutions today. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE PROPOSED RESOLUTION ENTITLED
"APPROVING FOR INCLUSION IN THE 2022 HAWAII STATE
ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A
STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF
UNLAWFUL CHOP SHOP ACTIVITY"; AND TO FILE COUNTY
COMMUNICATION NO. 21-443.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to adopt the resolution in 21-443, and to file the communication.

Any discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Yes. Thank you very much, Madam Chair. The legislative proposal submitted by Member Paltin relates to establishing criminal offenses of unlawful chop shop activity. The bill would amend Chapter 708 of HRS to establish criminal offenses of unlawful chop shop activity in the first and second degrees and provide for the forfeiture of property connected with chop shop activity.

The legislative proposal submitted by Councilmember Sinenci, related to noise, will be filed with the County Communication. Member Sinenci will be looking to include this proposal in the Maui County Legislative Package only.

And as further information for the Members consideration, a memo to Members of the GREAT Committee was distributed yesterday under my signature noting a deadline of Monday, September 20 at 4 p.m. to receive any additional legislative proposals for the HSAC or Maui County Council Legislative packages. And as the Committee Chair, I intend to post any new HSAC Legislative proposals received by that deadline and

discuss them at my September 28 GREAT meeting for possible action at the October 1 Council meeting in order to meet the posting deadline for the next HSAC meeting in mid-October. And I will be very amenable to scheduling any future meetings to further discuss the existing proposals and any new proposals under the Maui County Council Legislative package. Thank you.

CHAIR LEE: Thank you.

Member King.

COUNCILMEMBER KING: Thank you, Chair. I support the proposal, the motion on the floor. And I just wanted to thank Member Molina. We're sort of in transit in trying to change the HSAC deadline. So, thank you for your flexibility, Councilmember Molina. And it looks like we may be asking for a deadline of October 22 for it to reach the HSAC Executive Board. So, I appreciate Member Molina offering to schedule new bills as soon as possible. We also will be asking to have a separate list of bills that we want to bring back from previous times. And hopefully that won't engender a whole lot of discussion. So, that, I think that will be easier. Thank you.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to mention that I did run the bill past our Prosecuting Attorney Andrew Martin, and if he had any amendment, or addition, or objection, for him to come testify today. So, I'm assuming that since he didn't testify, it's all good. He said he was also working on the thefts involving catalytic convertors and, and this may be a assistance to him.

And this was a bill that was originally introduced in 2013. It got past the readings and then it was rolled over to the 2014 Session, in which it died. And I also checked in with Rep. Amy Perruso who has Whitmore Village where that chop shop with the murder in her district occurred. And she's very supportive and can't wait to support this bill from us as well.

CHAIR LEE: Very good. Any further discussion? If not, all those in favor of the motion, please raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Okay. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair. Chair, for the record, that is RESOLUTION 21-145.

NO. 21-444 - MICHAEL J. MOLINA, CHAIR, GOVERNMENT RELATIONS,
ETHICS, AND TRANSPARENCY COMMITTEE,
(dated September 9, 2021)

Transmitting the following proposed resolutions entitled:

1. "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF UNLAWFUL CHOP SHOP ACTIVITY";
2. "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF HEALTH RULES";
3. "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO HIGHWAY IMPROVEMENTS IN THE COUNTY OF MAUI"; and
4. "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO INCORPORATE KALAUPAPA SETTLEMENT INTO MAUI COUNTY".

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO FILE COUNTY COMMUNICATION NO. 21-444.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to file County Communication 21-444.

Discussion, Member Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Due to the flexibility the Council has in transmitting legislative proposals included in the 2022 Maui County Council Legislative Package to the State Legislature by early to mid-December, filing this County Communication will allow the four proposals to remain in the GREAT Committee for further discussion, and also allow for the receipt of additional proposals as I previously mentioned. And I want to ask for the Members full support. And I also want to thank our legislative staff who's been of great assistance; Ms. Espeleta, Ms. Apo-Takayama, and Mr. Forrest as well. So, anyway, I'd like to ask again for the Members full support on this matter. Thank you.

CHAIR LEE: Any more discussion?

Member King, then Member Sinenci.

COUNCILMEMBER KING: Thank you, Chair. So, I, I think the, part of the other thing that I wanted to clarify is this, this will also allow some of the bills to be further worked on if there, if there are changes or additions? Okay. Great. Thank you.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Yea, mahalo, Member Molina. Right. After hearing back from members of our community, like Member King will focus on working with the necessary parties for our legislative proposals to the Maui County Legislative Package. So, mahalo.

CHAIR LEE: Thank you. Alright. Any more discussion? If not, all those in favor of the motion, please raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries. Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with county communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 21-445 - SHANE M. SINENCI, COUNCILMEMBER,
(dated September 8, 2021)

Relating to A&B's proposed water lease for the Nāhiku, Ke'anae, Honomanō, and Huelo License Areas.

The recommended action is that County Communication No. 21-445 be referred to the Agriculture and Public Trust Committee.

NO. 21-446 - SHANE M. SINENCI, COUNCILMEMBER,
(dated September 9, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 20.09, MAUI COUNTY CODE, RELATING TO BLASTING PERMITS".

The recommended action is that County Communication No. 21-446 be referred to the Agriculture and Public Trust Committee.

NO. 21-447 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated August 26, 2021)

Reporting on temporary transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the Proposed General Obligation Bonds Series Fund as of July 31, 2021.

The recommended action is that County Communication No. 21-447 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-448 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated September 10, 2021)

Transmitting the following proposed bills entitled:

1. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF FINANCE, (AMERICAN RESCUE PLAN ACT OF 2021, NON-ENTITLEMENT UNITS OF LOCAL GOVERNMENT (NEUS))"; and
2. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX D – CONDITIONAL LANGUAGE, DEPARTMENT OF FINANCE, (AMERICAN RESCUE PLAN ACT OF 2021, NON-ENTITLEMENT UNITS OF LOCAL GOVERNMENT (NEUS))".

The recommended action is that County Communication No. 21-448 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILLS ATTACHED TO COUNTY COMMUNICATION NO. 21-448 WERE PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NOS. 96 (2021) AND 97 (2021). COUNTY COMMUNICATION NO. 21-448 WAS THEN FILED. See pages 82 through 84 for discussion and action.)

NO. 21-449 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated September 10, 2021)

Transmitting the following proposed bills entitled:

1. "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2022, ANIMAL MANAGEMENT REVOLVING FUND"; and

2. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX D – CONDITIONAL LANGUAGE, ANIMAL MANAGEMENT REVOLVING FUND".

The recommended action is that County Communication No. 21-449 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILLS ATTACHED TO COUNTY COMMUNICATION NO. 21-449 WERE PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NOS. 98 (2021) AND 99 (2021). COUNTY COMMUNICATION NO. 21-449 WAS THEN FILED. See pages 85 and 86 for discussion and action.)

NO. 21-450 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated September 9, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII RELATING TO THE ACQUISITION OF A GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NO. 68 REPORT".

The recommended action is that County Communication No. 21-450 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILL ATTACHED TO COUNTY COMMUNICATION NO. 21-450 WAS PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NO. 100 (2021). COUNTY COMMUNICATION NO. 21-450 WAS THEN FILED. See pages 87 through 89 for discussion and action.)

DEPUTY COUNTY CLERK: To your Climate Action, Resilience--

CHAIR LEE: Vice-Chair. Vice-Chair.

DEPUTY COUNTY CLERK: Apologies.

CHAIR LEE: Are you going to take action on these now or later?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, mahalo, Chair. I was going to let the Clerk read all the referrals and then--

CHAIR LEE: Okay. Alright.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR LEE: Please proceed, Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair.

NO. 21-451 - KELLY TAKAYA KING, COUNCILMEMBER,
(dated September 8, 2021)

Relating to the Hawai'i State Energy Conservation Code.

The recommended action is that County Communication No. 21-451 be referred to the Climate Action, Resilience, and Environment Committee.

NO. 21-452 - KELLY TAKAYA KING, CHAIR, CLIMATE ACTION, RESILIENCE,
AND ENVIRONMENT COMMITTEE, (dated September 9, 2021)

Transmitting County Communication No. 18-128, from Councilmember Elle K. Cochran, relating to an Anaergia Project status update.

The recommended action is that County Communication No. 21-452 be referred to the Climate Action, Resilience, and Environment Committee.

(COUNTY COMMUNICATION NOS. 21-452 AND 18-128 WERE
FILED LATER IN THE MEETING. See pages 90 through 92 for
discussion and action.)

NO. 21-453 - MICHAEL J. MOLINA, COUNCILMEMBER,
(dated September 9, 2021)

Transmitting a proposed resolution entitled "URGING THE MAYOR TO ADDRESS BICYCLE TOUR PUBLIC SAFETY AND RELATED LITIGATION CONCERNS".

The recommended action is that County Communication No. 21-453 be referred to the Government Relations, Ethics, and Transparency Committee.

(See pages 102 and 103 for discussion.)

NO. 21-454 - LORI TSUHAKE, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated September 1, 2021)

Transmitting a letter from the Commission on Persons with Disabilities, requesting the Council's support of the Counseling Compact.

The recommended action is that County Communication No. 21-454 be referred to the Human Concerns and Parks Committee.

NO. 21-455 - TAMARA PALTIN, COUNCILMEMBER,
(dated September 9, 2021)

Transmitting a proposed resolution entitled "URGING THE MAYOR TO IMPLEMENT EXPANDED, FREE, ACCESSIBLE, RAPID COVID-19 TESTING FOR ALL MAUI COUNTY RESIDENTS".

The recommended action is that County Communication No. 21-455 be referred to the Human Concerns and Parks Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 21-455 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 21-146. COUNTY COMMUNICATION NO. 21-455 WAS THEN FILED. See pages 92 through 101 for discussion and action.)

NO. 21-456 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,
(dated September 9, 2021)

Relating to Public Works Commission Naming and Renaming.

The recommended action is that County Communication No. 21-456 be referred to the Infrastructure and Transportation Committee.

NO. 21-457 - MICHELE CHOUTEAU MCLEAN, PLANNING DIRECTOR,
(dated September 9, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.06.020, MAUI COUNTY CODE, ADOPTING DIGITAL ZONING MAP (3) AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI"; and related documents.

The recommended action is that County Communication No. 21-457 be referred to the Planning and Sustainable Land Use Committee.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-448

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Consideration on CC 21-448. And that is a bill for an ordinance accepting the ARPA funds.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second? Moved by Mem, Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to waive Rule 7.G.

Discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And the time sensitivity regarding this is receiving the funding and starting the program under ARPA.

CHAIR LEE: Any more discussion? If not, all those in favor--

COUNCILMEMBER KING: Question, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yea, so just to clarify for the public. This is just receiving the funds. It's not saying how they're going to dispense.

CHAIR LEE: Right. And this, this--

VICE-CHAIR RAWLINS-FERNANDEZ: . . . the waiver. And I'll explain more when we, when we're on the main motion.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR LEE: Yea, on the waiver. All those in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE PROPOSED BILLS ON FIRST READING
AND TO FILE COUNTY COMMUNICATION 21-448.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to pass the bills in the, in County Communication, is it--

VICE-CHAIR RAWLINS-FERNANDEZ: 448.

CHAIR LEE: 21-448 on first reading and filing of the communication.

Discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the proposed bills would amend the Fiscal Year 2022 Budget, Department of Finance, Appendix A, Part I, and Appendix D, to add a new grant entitled "American Rescue Plan Act of 2021, Non-Entitlement Units of Local Government (NEUS)", in the amount of \$17,523,295. As discussed in your Budget, Finance, and Economic Development Committee meeting, on September 15, 2021, this grant would also add funding for a one limited term appointment equivalent personnel in the Department of Finance.

Representatives from the Administration are available to answer any questions the Members may have. And as Member King pointed out, this is, this budget amendment is to receive the funding. And we look forward to working with the Administration on the plan for the use of the funds. Mahalo, Chair.

CHAIR LEE: Any more discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Vice-Chair Rawlins-Fernandez.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-449

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Consideration on CC 21-449. This is regarding the Animal Management Revolving Fund.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

COUNCILMEMBER JOHNSON:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Johnson, to waive 7.G., Rule of the Council.

Discussion, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And I'll get into more detail on the main motion. But the time sensitivity relating to this item is to expedite the management of the animal control vehicle, to get that going. Mahalo, Chair.

CHAIR LEE: Any more discussion? All those in favor of the waiver, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE PROPOSED BILLS ON FIRST READING
AND TO FILE COUNTY COMMUNICATION 21-449.

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Johnson, to pass the bills in County Communication 21-449, and file the communication.

Discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the proposed bill would amend Fiscal Year 2022 Budget, Appendix A, Part II, Animal Management Revolving Fund, and Appendix D, to change the conditional language to grant the fund to the Maui Humane Society for the purchase of the vehicles, rather than have the County purchase the vehicles. The Maui Humane Society is in the process of converting their vehicles from County ownership. And the County would no longer be responsible for the vehicle cost, such as maintenance and gas.

Representatives from the Administration are available to answer any questions the Members may have. Mahalo, Chair.

CHAIR LEE: Questions, Members, or more further discussion? All those in favor of the motion, please raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Alright. Next. Vice-Chair Rawlins-Fernandez.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-450 AND BILL NO. 90 (2021)

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And this will be, I believe the last one here. This is consideration on 21-450. This is the IGA for the Accounting Standards Board Statement Report. And I would like to request, if there are no objections, to also call up Bill 90, which is relating to the same thing.

CHAIR LEE: Any objections, Members?

Okay. Mr. Clerk, Bill 90.

DEPUTY COUNTY CLERK: Yes, Chair.

ORDINANCE NO. _____
BILL NO. ____ 90 ____ (2021)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY
OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE OFFICE OF THE AUDITOR, STATE OF HAWAII, TO AUDIT THE
SCHEDULE OF ALLOCATIONS OF THE EMPLOYEES' RETIREMENT SYSTEM
OF THE STATE OF HAWAII

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE THE, I MOVE TO WAIVE THE REQUIREMENT OF
COMMITTEE REFERRAL AND REPORT FOR THE COUNTY
COMMUNICATION 21-450, IN ACCORDANCE WITH RULE
7.G. OF THE RULES OF THE COUNCIL.

CHAIR LEE: Any second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second by Vice, moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to waive the Rules of the Council.

Any discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And again, I'll go into more detail in the main motion. But the time sensitivity relating to this County Communication is that the contract needs to be made quickly. And we have representatives from the Administration who can answer questions on that.

This bill takes the place of Bill 90 and is time sensitive as the Department of Finance needs this information as soon as possible to prepare for the Fiscal Year 2023 Budget.

CHAIR LEE: Any more discussion? All those in favor, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE PROPOSED BILL ON FIRST READING
AND TO FILE COUNTY COMMUNICATION 21-450 AND
BILL 90 (2021).

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to pass the bill in, the bill in CC 21-450 and to file the communications and Bill 90. Alright.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: Discussion?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the following, following our meeting of September 3, 2021, the Department of Finance and the Department of Corporation Counsel shared that an incorrect template was used for the bill posted today as Bill 90 (2021).

The County of Maui executes two similar agreements periodically. And the template for the other agreement was inadvertently used when drafting the bill. This corrected bill authorizes an intergovernmental agreement with the Employees' Retirement System to acquire the Governmental Accounting Standards Board Statement No. 68 Report for Fiscal Years 2021 through 2026. The total cost will be divided equally between the 10 requesting employers, with the cost to Maui County as follows: FY21, \$1,700; FY22, \$2,500; FY23, \$2,550; FY24, \$2,600; FY25, \$2,650; and FY26, \$2,700.

Again, as I mentioned, representatives from the Administration and Corporation Counsel are available to answer any questions the Members may have. Mahalo, Chair.

CHAIR LEE: Any questions, Members? Hard to, it's hard to ask a question on those kinds of, the type of information, the technical information that you just gave us. Okay. Any more discussion, Vice-Chair Rawlins-Fernandez? Anything else?

VICE-CHAIR RAWLINS-FERNANDEZ: No further discussion, Chair. Mahalo.

CHAIR LEE: Okay. All those in favor of passing the bill on first reading and filing of the rest, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Okay. Then, please continue.

Oh, Member King.

COUNCILMEMBER KING: Thank you, Chair.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-452

COUNCILMEMBER KING: I ask for consideration of County Communication 21-452.

CHAIR LEE: 452. Okay.

COUNCILMEMBER KING: And I'm going to move to discharge the action, but just to let everyone know, this is just to file it, so it gets off the master agenda.

SO, I MOVE TO DISCHARGE THE CLIMATE ACTION,
RESILIENCE, AND ENVIRONMENT COMMITTEE FROM
COUNTY COMMUNICATION 18-128 ATTACHED TO COUNTY
COMMUNICATION 21-45, OR 452.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member King, seconded by Member Sugimura, to discharge this item.

Discussion, Member King.

COUNCILMEMBER KING: Thank you, Chair. Your CARE Committee plans to focus on matters relating to sea level rise, shoreline erosion, managed retreat, recycling, and pollution, among other things.

At the August 30, 2021 Infrastructure and Transportation Committee meeting, we learned from the Director of the Environmental Management Department, the Anaergia Project is done and over, so there's no longer a need for status update in the Climate Action, Resilience, and Environment Committee. Discharge is needed to enable the Council to consider the filing of the County Communication as mentioned.

CHAIR LEE: Okay. We're going to discharge this first, right?

COUNCILMEMBER KING: Right.

CHAIR LEE: Okay. So, any more discussion on this item? All those in favor, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Okay. This is for the discharge. All "aye", all, nine "ayes", zero "noes"; motion carries.

Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 18-128, AND TO
FILE COUNTY COMMUNICATION 21-452.

No further discussion.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member King, seconded by Member Sinenci, to file this item.

Discussion? Member King.

COUNCILMEMBER KING: No, basically, it's just the, the, you know, the Anaergia Project was given chance after chance and just didn't happen. And so, it was confirmed that it is pretty much dead in the water and we just want to remove it from the, the master agenda.

CHAIR LEE: Okay. Any more discussion? If not, all those in favor of the motion, please say "aye", and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Anybody else, take action on any item? Okay. Member, we're going in order, yea.
So, let's see, I see Member Paltin first. 455. Member Paltin.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 21-455

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 21-455,
INCORPORATING ANY NON-SUBSTANTIVE REVISIONS,
AND FILING OF THE COMMUNICATION.

COUNCILMEMBER KING.

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to adopt the resolution in
County Communication 21-455.

Discussion? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. May I please request the Clerk read the
resolution in its entirety?

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair. I just gotta pull it up real quick. Apologies.

COUNCILMEMBER PALTIN: Oh, I just was wondering too if Mr. Nishita was on. We requested him for this.

CHAIR LEE: Yea. Mr. Nishita, are you still there?

COUNCILMEMBER PALTIN: Oh, maybe he's not answering his phone. We'll, we'll try call again.

DEPUTY COUNTY CLERK: Apologies . . . , Chair.

CHAIR LEE: Wait, wait, wait. Hold on one second. You want to have a discussion with him to make a change on this reso? Oh, okay.

COUNCILMEMBER PALTIN: No. I think Members might have had questions or something like that.

CHAIR LEE: But in relation to this item, yea?

COUNCILMEMBER PALTIN: Yea.

CHAIR LEE: Yea, so. I'm afraid he would miss the boat on this.

BUDGET DIRECTOR MICHELE YOSHIMURA: Chair?

CHAIR LEE: Yes?

BUDGET DIRECTOR: I'll try to get in touch with him.

CHAIR LEE: Alright. In the meantime, Mr. Krueger, can you read the reso in its entirety?

DEPUTY COUNTY CLERK: Yes, Chair.

CHAIR LEE: Thank you, Michele.

(The resolution as read in its entirety.)

CHAIR LEE: Okay. Clerk's staff, do we need to let Josiah in? I believe he's trying.

DEPUTY COUNTY CLERK: Chair, we, we heard from Mr. Nishita and he'll be on in a few minutes.

CHAIR LEE: Okay. So, why don't we go to the next one.

COUNCILMEMBER PALTIN: Oh, I did have discussion.

CHAIR LEE: Oh, you have, okay. Without him?

COUNCILMEMBER PALTIN: Sure.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: And I just wanted to clarify that, you know, because we have to put things a week in advance that information for the resolution was current at that time. I'm not sure as of today, cause, you know, Mr. Nishita gave new information today.

But you know, in Lahaina, we've had members of our community, people that everybody know passed way. And many of my constituents have shared concerns about the accessibility of free, rapid COVID-19 testing. The County's Maui Nui Strong website references five locations for testing, including Clinical Labs of Hawaii, CVS Pharmacy, Malama I Ke Ola Health Center, Maui Medical Group, and Minit Medical. All locations require appointments. Some require fees of up to 165 per test. Available appointments are scarce, and scheduling can be difficult to navigate or only open to established patients, folks with internet access.

Many residents have been using free drive-thru testing at Minit Medical in Kahului, Lahaina, and Kihei. How, however, as of yesterday evening, only the Kahului location was showing availability for appointments for next Saturday, which was already over 50 percent booked. None of their locations show any other availability for the remainder of the month. And while residents can contact their primary care physician for a test, that requires health insurance.

Getting tested for COVID-19 is not an easy task right now and it should be. Free, accessible, rapid testing is essential to helping manage and prevent COVID-19 transmission. Residents need to be able to get tested as soon as symptoms arise. If testing is not accessible and free, less people will get tested, which means less people will be aware of the need to take the precaution to minimize the spread, which leads to more cases of COVID-19. We must do better to provide a safer environment for our loved ones and our community, and so I urge the Mayor to increase access to free, rapid COVID-19 testing for all residents of Maui County, and respectfully ask for the Members support.

And on a side note, I think many of you know that I recently went to France. And over there, like, almost every corner they have pharmacies where you can just walk up and

get a test. No appointment necessary for the French citizens. They said it was free until later on this year, or I think maybe April of next year. I'm not sure. But for, like, folks like myself, it was 39, or 29 euros, about 35 bucks.

And you know, I think that it's great that we have high standards within the State, but Maui is also a leader globally. And so, you know, I think we need to think of our school kids who can't get vaccinated, and also, their parents. Like if they've been exposed, even if you wait three or four days, with testing only once a week in Lahaina, you need to go Central. And then, are you spreading the virus Central if you go and do some shopping while you're there, you know?

So, I mean, it's just a little bit of a disconnect at how much testing there were, there was when our numbers were low and how little and how hard it is to get testing now when people are actually dying? And, you know, I got tested myself before I left. It wasn't the PCR test, cause that wasn't required. But I paid \$150 at Doctors On Call. And it's like, you know, it's kind of people talk about the, the discrimination about vaccinated and unvaccinated. What we're having is kind of like a discrimination between people who can afford to go to the doctor and pay for the test, and people that have to wait, or try and find a location not in their own district. So, it's, it's a really serious concern.

And I, I realize the things that Mr. Baz had said at the BFED Committee, but that's not being shared with the community, you know, until, until this types of things come up. And that leads to some of the frustration. So, that's, that's all I have to say, and the reason why I made this resolution. Thank you.

CHAIR LEE: Thank you, Member Paltin. I think we're all glad that you did, you know, propose the resolution.

I believe Mr. Nishita has joined us. Josiah, are you on the call?

DEPUTY MANAGING DIRECTOR: Yea. Are you able to hear me?

CHAIR LEE: Yes.

DEPUTY MANAGING DIRECTOR: I apologize. I wasn't able to hear all of Councilmember Paltin's speech to the rest of the Councilmembers. But I did kind of hear the ending of it.

CHAIR LEE: So, do you have any plans now to provide more testing and free testing, Josiah?

DEPUTY MANAGING DIRECTOR: Yea, definitely. In terms of the, just to kind of give, and, and I would echo what Councilmember Paltin said about, you know, providing more information to the public to help the public better understand kinds of the situation and what not. You know, as Mr. Baz had kind of outlined, procurement is a major issue.

Some of the other things that come at play, and I'll give you one example, is you know, to kind of do like an out of the box solution. Because, you know, I talked about our labor shortages of doctors and nurses and other healthcare professionals that are being pulled. You know, the same people doing testing are also the same people doing monoclonal anti-body therapy, and vaccinations, and things like that. So, we do have a finite number of resources here to do testing. But we were working with the Maui District Health Office on, and we ran a procurement for tens of thousands of over-the-counter tests that we could provide information to people on how to use them. And, you know, wouldn't take a doctor or healthcare professional to order it or administer it. And so, we thought okay, that would be a good out of the box solution.

And our first order was supposed to arrive, I think it was maybe a couple of weeks ago. It was about 13,000 tests and the Federal government commandeered that for their own purposes. So, you know, that's just one example of, you know, kind of the pressures that we're under. Because this isn't just an island specific issue, you know? The entire nation is trying to get access to more testing and other resources. And, you know, if you look at it from an economic perspective, you know, Councilmember Paltin outlined how much it cost for her to get tested. And, you know, relatively, we live in a capitalistic society, and businesses are in the business to make a profit.

And so, you know, the closest thing I can kind of relate it to is like, you know, if you driven around in past few months you probably see a lot of car dealerships completely empty. There's no vehicles on the lot, you know, nobody can get one for a really long time. It's not that they don't want to sell them. It's not that there's not demand for them. But there's market forces at play, you know, the microchips for vehicles, production stalls, demand everywhere from, you know, rent-a-car facilities and things like that that play into, you know, these outside market forces that impact kind of the local response at the area.

So, I don't want to have anything sound like an excuse, because I completely acknowledge that the County, you know, needs to do better, the State needs to do better, you know, we need to involve our citizens more. I completely agree with that. And but we are taking many efforts on multiple fronts to try to find creative, out of the box solutions to, you know, kind of the, some of the more global economic forces at play here when we try to provide, you know, widespread testing to our residents.

In our procurement that's going to, you know, select a vendor to continue our community testing programs starting October 1, we're including provisions such as helping Maui Assistance Dogs of Hawaii to get their COVID sniffing dog program, you know, up off the ground. We have HNu Photonics that has, you know, they're trying to go through the FDA/EUA process to do a COVID detecting light sensor technology. So, we're trying to help out in other areas as well, not just looking at the standard, you know, test that is available that may be subject to reagent shortages, or, you know, Federal allocation issues, yea. So, just to give you a sense, the testing that we're doing across the County is at, you know, in, in some areas it's the same as previously. And then other areas, it's more than it was previously. It's just that the demand has far exceeded previous demand for testing.

And we do, do, for the County's program anyway, we do six days a week throughout the entire County. The standing clinics is Mondays in Lahaina; Tuesdays, Saturdays in Kahului; Thursdays in Kihei; and then we use two additional clinics on a rotating basis. But generally, we go to Kihei and Lahaina again because the demand is high. We are working with the National Guard, and pending State approval, we're going to be able to, you know, get additional resources, manpower from them. And we're going to have to conduct training and whatnot to get them up off the ground. But we're hoping to, for every Friday and Saturday throughout the month of October, to stand up three additional testing sites throughout the County to run, you know, thousands of tests during that time.

So, you know, we have a lot of different things that is being worked on by us and State partners and whatnot. But yea, we agree, you know, any solutions, any options need to be brought to the table and considered for our community.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for that long explanation, Josiah. I, I don't, I still don't know if you support the resolution or not. But it was a lot of interesting information. I'm glad you're working with the dog-sniffing folks, because I have done some research into that. Looks like, they're saying it's 100 percent accurate with those dogs.

So, but my question to you is, you know, I haven't seen any, I haven't seen the level of testing in South Maui that you say is being offer. They only testing, I've seen recently that was offered was organized by our State House Representative Wildberger. So, how, what, how are you getting the word out about this free testing, if you are doing

...

DEPUTY MANAGING DIRECTOR: Yea, I guess the difference between now and previously is that no marketing has to be done right now. Because our testing sites, once launched, you know, we went through a period of time where it would fill up in minutes without any announcement. There was a, you know, now it's a little better, but the demand is still incredibly high. So, you know, if a testing site fills up, we're not going to advertise that it's available when all slots have been taken. So, that's--

COUNCILMEMBER KING: But then, but then . . . finding out. You know that I think that's the part that's not right is that there are a lot of people that don't know about it, so maybe just a few people that know about it that keep filling it up. So, marketing I think is just as important all the time just to get the word out.

DEPUTY MANAGING DIRECTOR: Yea, you know, we do, you know, our vendor is able to identify repeat visitors and whatnot. And we have a lot of first timers coming through all the clinics. So, it isn't quite, you know, from what the data shows, it's not quite the same people coming again and again. But I do understand the concern, you know? And as I stated earlier, I think, yes, we absolutely need to do a better job of, you know, getting the information out.

And with respect to Representative Wildberger, I have been in communications with her. You know, she had some upcoming clinics that they needed some assistance on and we're trying to help them out in certain areas. But I think she's, had to end up canceling her future ones. But we did add another Kihei date to try to assist with her request. So, yea, we are working with various entities and individuals on that.

COUNCILMEMBER KING: Okay. Just, just please let us know. Because for those of us who are getting contacted by our constituents and we don't know what you're doing. You know, all we can say is we haven't heard of anything, any testing going on. So, I think you need to be, you need to double-down on the marketing.

CHAIR LEE: Okay. I think Member Kama has a question. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you. Thank you for being here, Josiah. You know, I was listening to the opening remarks by, by Member Paltin and she mentioned something that I remembered also. That you know, that when she was in France and it seemed like they had a lot of the pharmacies were participants in the COVID testing for their people.

So, and to me, it seems like you know, I'm always hearing about somebody was being exposed and they had to go get tested. A lot of my kids and a lot of my grandkids have been exposed, they've had to get tested. And, but wouldn't it, to me it would make sense to have all our pharmacies participating so that you would know that, you know,

if you needed to go tested, you could go to Walgreens Pharmacy, you could go to Safeway Pharmacy, or you go to the, your nearest Long's Drugs or whatever, so that you wouldn't have to. I mean, the past two months, I've been tested 10 times only because of the exposures.

And I know what it's going to cost people if they have to pay for it all the time. And if they can't find something that they don't have to pay, they don't know where to go. And you know, it's a huge expense, just from my own family alone because they all work in the industry. They get exposed all the time and it's like, it's worrisome. But I think if we could just urge for more participation with our pharmacies that are out there, that probably can help at a moment's notice and not have to put our families through undue stress. Thank you, Chair.

DEPUTY MANAGING DIRECTOR: Thank you. Yea, just, Chair, if I may respond?

CHAIR LEE: Go ahead, Josiah.

DEPUTY MANAGING DIRECTOR: Thank you. Yes. Essentially all of the pharmacies, I mean, there are some that don't do testing, but essentially all of them participate in some way, either through reservation basis or through drive-thru testing with no appointment necessary. It's also something important to get out and we try through multiple means, but of course, you know, as I said earlier, we can always do a better job. But it's not a requirement to have insurance to get tested if you are covered under one of those eligibility criteria. So, the Federal government already allocates resources to pay for the testing for uninsured individuals who meet the criteria such as being symptomatic or having a direct exposure to someone with COVID-19.

CHAIR LEE: Any other questions or comments?

Member Johnson.

COUNCILMEMBER JOHNSON: Just a real quick question, Chair. Good afternoon, Josiah. Have you met, or is FEMA been involved in this? I know you, what you mention Federal, but are you speaking specifically in regards to FEMA?

DEPUTY MANAGING DIRECTOR: Yea. So, FEMA's primary focus in Hawaii right now has been on vaccinations and on the monoclonal antibody therapy, so that can alleviate pressure on the hospital. We do have, you know, as I said, we're awaiting approval from the State for additional National Guard personnel, which is generally the process we would go through before trying to get, you know, some type of large mainland Federal assistance.

The State of Hawaii has requested additional teams and whatnot, but as I said earlier, this is a global issue and, you know, especially in the United States. You know, there's testing shortages and needs across the entire country. So, if you look at, you know, the heat maps, a lot of the concentration of cases have been, you know, in the southern states, and some of those other, like, areas with lower vaccination rates. And you know, obviously, Federal resources have to be allocated appropriately as well to areas where the need is the most.

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

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Madam Chair, this has been a very, very interesting discussion and can go all kinds of ways. But I know, I want to respect the fact that I know you don't like, you know, discussions dragging out into where it's going to be like a Committee-like setting here at Council. If there's any way this topic could be continued in the appropriate Committee, we can have a full-blown presentation with not only Mr. Nishita, but folks from the Department of Health, Maui Memorial Hospital, as to how they are trying to meet this need, a very good resolution from Member Paltin, to see how the County or the Mayor can expand doing free COVID testing.

Because I'd like to hear more on a larger scale, but obviously, we can't do it today. So, if there's, I don't know whatever the appropriate Committee we can continue this particular discussion as it relates to Member Paltin's resolution, would be not only beneficial to us, but for the whole general public viewing in. And that way we can get a good take as to where we can get these funds. And, you know, the other day in Member Rawlins-Fernandez budget meeting we saw a real inequity with the spending of monies for public safety versus the emphasis on more money on the economics. So, I would like to see this discussion continued with a full-blown presentation from not only from the Mayor's Office, but the hospital and, and whoever else, to how we can serve our citizens better by providing more opportunities for free COVID testing. So, anyway, those are my comments, Madam Chair. Thank you.

CHAIR LEE: I think that's a great suggestion. And what we could do is pass this resolution, and then send the subject-matter communication to HCP, Human Concerns and Parks.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. All the Committees, you already sent us the COVID-related item, which is a very broad item. And so, all of our Committees already have an item that this could be taken up under. So, we wouldn't need another item, because you already had that foresight to put it in our Committees. So, at any time, like I mentioned for the Budget Committee, and I said that we could take it up, you know, once a month in my Committee. It does take up time and it does, you know, take up space that other legislation could be taken up. But we all see how important it is. So, if everyone could work together in, you know, putting this in their Committee at some point in time, so that not just one Committee would have to take up the larger bulk of the discussion, such as Budget. That, I think that would be really working together to address this. Mahalo, Chair.

CHAIR LEE: Yea. And so, I would recommend referring this to the Housing, Human Concerns and Parks. And specifically expanding free accessible testing. I mean, you know, COVID covers a whole range of items, but here we're talking about testing in particular. So, would you be interested in taking that, Chair Kama?

COUNCILMEMBER KAMA: Yes. Thank you, Chair.

CHAIR LEE: Okay. Good. Great. Okay. Any more comments or questions before we take a vote on this resolution?

COUNCILMEMBER PALTIN: Oh, I just wanted to thank you guys for your support of this resolution.

CHAIR LEE: Of course, of course. We're all very concerned about this. And so everybody, all those in favor of the motion to adopt the resolution, please raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Okay. Nine "ayes", zero "noes"; motion carries. Very good.

And then, a part of that motion was to refer this to HCP, right?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR LEE: Okay. Very good. So, Mr. Clerk, you got all of that? Did you get all of that?

DEPUTY COUNTY CLERK: Yes, Chair. I think Councilmember Sugimura has her hand up.

CHAIR LEE: Oh, I'm sorry. Member Sugimura.

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 21-453

COUNCILMEMBER SUGIMURA: Yea, thank you. So, I appreciate Member Molina bringing up the bicycle tour public safety and related litigation concerns item, that resolution. And as you can see it's, has great support. It has great support from my community, as my office has been receiving also the concern. And I actually have legislation that I got from the Kula Community Association that I would like to ask if this item can also be, I guess, subject matter or whatever, I think Mr. Molina, looks like he wants to take up litigation, which is part of GREAT and not part of IT. Because of my roads and, and that part of multimodal transportation as well as the public, Department of Public Works, I have roads in it. I wonder if I could do that?

CHAIR LEE: Mr. Molina, it looks like it was going to Human Concerns and Parks. But Mr. Molina, did you want this in your Committee?

COUNCILMEMBER MOLINA: Yea, as a matter a fact. And it's nice that Member Sugimura mentioned she has legislation. I have some legislation to consider as well. I, I looked at GREAT because, again, a lot of the concerns that were, were related to litigation, and by continuing to allow these bike tours on our County roads. So, that's some of the concerns that was highlighted by Members of the community. So, along with this resolution, my preference was to, you know, take it to a nine-Member Committee and then consider legislation as to what we can do on our end to curb this concern that's growing in the community. But it's nice to hear Member Sugimura has legislation as well. And maybe we can work on something, and work together as they say, to address it. But yea, I, I mean, if there's other areas of the subject matter that Member Sugimura wants, that's fine. But I definitely want this as part of a nine-Member Committee. So, that's my, my thoughts on this, Madam Chair. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Point of information.

CHAIR LEE: Member Su--

Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: And I think that's why our Deputy Clerk turned on his video. It's set to be referred to GREAT.

CHAIR LEE: I was just going to say that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER SUGIMURA: So, yea. So, that's what I was asking.

CHAIR LEE: I was just going to go over; I was just going to go over that. So, Ms. Sugimura, would you, would you mind if we could, you know, send it to the GREAT Committee? We realize that both of you share in the geographic impacts. They start at Haleakala, Upcountry, and they go down to Haiku and Makawao. So, it might be better in the GREAT Committee because it is a nine-Member Committee.

COUNCILMEMBER SUGIMURA: Okay. I mean, if that's what the Committee wants. And then, my legislation then, I'll send it over to Mr. Molina. And thank you, Mr. Molina, cause I didn't realize that there was litigations tied to this. So, thank you.

CHAIR LEE: Okay. Yea, I misspoke when I said Human Concerns. But I meant GREAT. Okay? So, that will be referred to that Committee.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, the bills that were attached to County Communication 21-448, those are BILLS 96 and 97 (2021).

The bills that were attached to County Communication 21-449, those are BILLS 98 and 99 (2021).

And the bill that was attached to County Communication 21-450, that is BILL 100 (2021).

And then the resolution that was attached to County Communication 21-455, that is RESOLUTION 21-146.

Chair, we'd just like to confirm that there are no other objections to the referrals as read by the Clerk.

CHAIR LEE: Just want to confirm, Members, there's no other objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered.

DEPUTY COUNTY CLERK: Then, Chair--

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: --proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 21-79 - BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT
COMMITTEE:

Recommending the following:

1. That Bill 101 (2021), entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.47, MAUI COUNTY CODE, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-354, from Council Vice-Chair Keani N.W. Rawlins-Fernandez, be FILED.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-79.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to approve the recommendations in Committee Report 21-79.

Discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. To adopt the recommendations. Your Budget, Finance, and Economic Development Committee met on September 1, 2021 to discuss a proposed bill to establish a three percent County transient accommodation tax on all gross rental, gross rental proceeds, and fair market value considered taxable under the definitions of Section 237D-1 Hawaii Revised Statutes.

Your Committee noted the State would provide the County with monthly TAT data, but the County would need to establish its own tax office to receive this information. Your Committee clarified that vacant positions in the Department of Finance may be used to temporarily assist with the implementation of the County TAT, but that the Fiscal Year 2022 Budget will need to be amended to create the new tax office and to account for the additional revenue that will be generated by the new tax. Your Committee voted 6-0 to recommend adoption of the revised proposed bill and filing of, of the communications.

I also, we also discussed taking up amendments after hearing back from the State Department of Taxation, which I have before you now. And you should have received it in, via email. I don't see it in my, oh, there it is. Okay, at 2:09. So, it just arrived in my inbox. So, you should, if you refresh, see it in your inbox, my Amendment Summary Form. Okay. Okay, I move to amend. Chair, would you like me to share screen? Would that be easier for everyone to follow along? Any--

CHAIR LEE: I notice, I noticed that this is including the signature page. It's eleven pages. But some of it would be like housekeeping, and some of them substantive. Is that the reason for a lengthy ASF?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. So, remember in Committee, we asked the Finance Department to work with the State Department of Taxation to get their feedback so that we could incorporate any of their recommended changes. And so, the Department of Finance submitted their memo on September 9 to the BFED Committee with all of the recommendations and our OCS staff Ms. Milner incorporated those amendments into the bill. The Amendment Summary Form goes over all the amendments. They're not very substantive, but it is, it is a longer bill. So, if you would like to see it on the screen, I can show it. If not, I don't need to.

CHAIR LEE: No. I think maybe everybody would like to see it on the screen. I have one more question before we start doing that. Is, can you go over, remind us about the timeline, and why we, we need to make this effective October 1?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, mahalo, Chair. So, the timeline to enact it starting October 1 is, as we learned, each month, we could generate between \$4-7 million. And so, that's a lot of money that we could help mitigate the impacts that the tourism industry, the impacts to our County and to our residents' quality of life, to our culture, to the environment, and make it a better place to visit as well.

CHAIR LEE: And we're also taking into consideration that this would affect reservations going forward, and not past reservations.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. Okay. And so, I, I actually misspoke earlier. That the amendments actually aren't necessary. That the State statute, so Bill HB, House Bill 862 already put that into State statute. And so, that's already there, that clause that addresses contracts, or reservations/bookings, is already enshrined in State statute. But for further clarification, and ease of, and for consistency, we, my proposal is to add that language straight from HB 862 into our bill. And so, that would be one of the amendments that I would share.

CHAIR LEE: Okay. Okay. Let's, let's get going then. We have a lot to do.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, Mr. Clerk. Mr. Deputy Clerk, can, will you enable my sharing, my screen share function, please? Okay. And while we're waiting for that to happen, I'll go over the motion. Okay, there we go. Oh, okay. Sorry, it's in the middle. Okay. Okay.

I MOVE TO AMEND VARIOUS PROPOSED MAUI COUNTY,
MAUI COUNTY CODE SECTIONS AS FOLLOWS:

1. IN SECTION 3.47.010, ADD A THIRD SENTENCE TO EXEMPT THE, FROM THE COUNTY TAT CERTAIN INCOME WHEN THERE ARE SALES CONTRACTS EXECUTED BEFORE THE NEW CHAPTER IS ESTABLISHED, TO READ AS FOLLOWS:

"IF THE GROSS RENTAL, GROSS RENTAL PROCEEDS, AND FAIR MARKET RENTAL VALUE ARE RECEIVED AS PAYMENTS BEGINNING IN THE TAXABLE YEAR IN WHICH THE TAXES BECOME EFFECTIVE, ON CONTRACTS ENTERED INTO PRIOR

TO THE ESTABLISHMENT OF THIS CHAPTER, SO OCTOBER 1, AND THE WRITTEN CONTRACTS DO NOT PROVIDE FOR THE PASSING ON OF INCREASED RATES OF TAXES, THE COUNTY TRANSIENT ACCOMMODATION TAX WILL NOT BE IMPOSED ON THE GROSS RENTAL, GROSS RENTAL PROCEEDS, AND FAIR MARKET RENTAL VALUE COVERED UNDER THIS, UNDER THE WRITTEN CONTRACTS." AND, SO, THE WRITTEN CONTRACTS AS IN RESERVATIONS OR BOOKINGS.

OKAY, AND THEN THE NEXT IS

2. IN SECTION 3.47.030(B), TO REPLACE AND OCCUPANT, "AND OCCUPANT OF A RESORT TIME SHARE VACATION UNIT" WITH "OR OTHER TAXPAYERS WHO RECEIVED GROSS RENTAL PROCEEDS."
3. TO ADD AN OKINA IN "HAWAI'I".
4. IN SECTION 3.47.060, REPLACE OPERATOR, "OPERATOR TAXABLE OR PLAN MANAGER" WITH "PERSON," AND IN SECTION 3.47.110(A), REPLACE THE MULTIPLE INSTANCES OF "OPERATOR OR PLAN MANAGER" WITH "PERSON."
5. IN SECTION 3.47.120, TO ADD AN OKINA IN "HAWAI'I" AND REMOVE THE FOLLOWING: "ALL TAXES MUST BE PAID PENDING APPEAL."; AND
6. IN SECTION 3.47.150, ADD THE FOLLOWING AS A SUBSECTION (A)(1), TO INCLUDE A PENALTY FOR FAILURE TO FILE A TAX RETURN, AND RENUMBERING EXISTING SUBSECTIONS (A)(1) AS (A)(2), AND SUBSECTION (A)(2) AS (A)(3).

"FAILURE TO FILE TAX RETURN. IN CASE OF FAILURE TO FILE ANY TAX RETURN REQUIRED TO BE FILED ON THE DATE REQUIRED (DETERMINED WITH REGARD TO ANY EXTENSION OF TIME FOR FILING), UNLESS IT IS SHOWN THAT THE FAILURE IS

DUE TO REASONABLE CAUSE AND NOT DUE TO NEGLECT, THERE WILL BE ADDED TO THE AMOUNT REQUIRED TO BE SHOWN AS TAX ON THE RETURN 5 PERCENT OF THE AMOUNT OF TAX IF THE FAILURE IS NOT MORE THAN ONE MONTH, WITH AN ADDITIONAL 5 PERCENT FOR EACH ADDITIONAL MONTH OR FRACTION THEREOF DURING WHICH THE FAILURE CONTINUES, NOT EXCEEDING 25 PERCENT IN THE AGGREGATE. FOR PURPOSES OF THIS PARAGRAPH, THE AMOUNT OF TAX REQUIRED TO BE SHOWN ON THE RETURN WILL BE REDUCED BY THE AMOUNT OF ANY PART OF THE TAX PAID ON OR BEFORE THE DATE PRESCRIBED FOR PAYMENT OF THE TAX AND BY THE AMOUNT OF ANY CREDIT AGAINST THE TAX WHICH MAY BE CLAIMED UPON RETURN."

AND LASTLY,

7. IN SECTION 3.47.170, DELETE THE WORD "COUNTY."
AND THAT'S MY MOTION.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay, it's been moved and seconded to amend, amend the motion with this Amendment Summary Form as read.

Now, discussion. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Again, these are the amendments that we received from the State Department of Taxation. And if you look at the memo that we received, it just recommended a deletion of a portion, making consistent with State Statute 3, HRS 237D, and then each of the sections for consistency and So, we're just following the recommendations of the State Department of Taxation. And so, this will additionally clarify what's already in State statute, and it's just a redundancy, to make clear what we were clarifying for testifiers earlier, which is that the three percent tax won't start until the bill is enacted on October 1. So, any of the bookings that were made prior to October 1 would not have the three percent tax.

Furthermore, we, I heard the concern from some of the testifiers, and understand the concern about adding on the tax to new guests making reservations. And during the lunch break, went onto the website, so Kā'anapali Beach Hotel's website, and found that on their website it says, "This site may contain typographical mistakes, inaccuracies or omissions, some of which may relate to pricing and availability, and some information may not be complete or current. Kā'anapali Beach Hotel reserves the right to correct any errors, inaccuracies or omissions, including after or *[sic]* order has been submitted, and to change or update information at any time without prior notice". And so, that disclaimer is already on the website, as well as I'm sure it's on other hotel websites and other tourist accommodation websites, to protect themselves. And so, that disclaimer already exists.

And I will yield the floor at this time and open to questions. And I believe the Department of Finance Director Scott Teruya is on, as well as Budget Director Michele Yoshimura, if Members have--

CHAIR LEE: Member King.

VICE-CHAIR RAWLINS-FERNANDEZ: --questions regarding the amendments. And then, we'll go to the main motion.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. So, Member Rawlins-Fernandez, I was following you really closely when you were going through the ASF. But the last one you went through so quick, I, I didn't catch the purpose of deleting the word "County" or what the effect of that was. Could you just reiterate that? I think you just said deleting the word "County", but I didn't, then you, then you went through that kind of fast. That was on number 7.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Member King. Okay, so, that is 3.47.170, and that's under the provision Director of Finance. And so, removing the word "County" is super non-substantive. And I'll read the sentence in its entirety, so you understand. "The Director is authorized to enter into an agreement with the Director of Taxation, other State agency, or other entity approved or designated by the Council for collection of taxes authorized by this Chapter". So, instead of just saying, instead of saying "County Council," we just removed the word "County" and so it just--

COUNCILMEMBER KING: Oh. Oh, okay. Thank you for that. I just, I didn't catch that cause you went through that so fast.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry.

COUNCILMEMBER KING: But I, I, I just wanted to say that I support this. And then, while we were taking our break too, I just reached out to our counterpart on Kauai, who, who passed the same, the same tax surcharge, as you may have heard. And I asked if there was a motion to try to push it out. And, and I was told, yes there was, but it failed. So, you know, they went with October 1, as well. So, I, I just wanted to share that with everybody. Thank you.

CHAIR LEE: I see your hand, Scott. But let me ask any Members, do you have any burning questions right now? No?

Okay, Mr. Teruya.

DIRECTOR OF FINANCE SCOTT TERUYA: Thank you, Chair. And good afternoon, Members. Member Rawlins-Fernandez just a quick, I'm not sure if you hit it or not. I think I didn't hear; I think number 2 on our submission regarding the authority to deem periodic/annual returns filed with the County of Maui when filed with the State of Hawaii. I wasn't sure if you already had mentioned that amendment. Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez. Which item is that?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR LEE: What number is that?

DIRECTOR OF FINANCE: On number 2.

CHAIR LEE: There's lots of number 2's, Mr. Teruya.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, that's number 2. It's the number 2 point on the memo that we received from the Department of Finance, from the, the recommendations from the State Department of Taxation. It's posted on BFED-52 on Granicus. And that memo goes over nine points, recommended amendments to our bill number 2 that Director Teruya is asking about. We kind of discussed yesterday on how to amend in accordance with the recommendation from the State Department of Taxation. And my Budget Analyst and I discussed a proposal for the Council to consider. And it's regarding the authority. And Director and I talked about the authority being Director of Finance. But for wordsmithing that amendment at this time, we just needed a little more time. But if the Director has language to propose, I'm happy to entertain that in the next motion.

CHAIR LEE: So, are you going to provide that language, Mr. Teruya, for the next motion?

DIRECTOR OF FINANCE: Is Deputy on? If not, I can start with it. I was just wondering if this would be the right place or not, Vice-Chair.

CHAIR LEE: Well, we're still in the middle of the motion. So, let us dispose of that first. Any, anything, any more questions or comments about the amendment, and then the main motion? Well, just the amendment for now. Okay. All those in favor of the Amendment Summary Form, which includes the various amendments, just read by Vice-Chair Rawlins-Fernandez, raise your hand and say "aye", if you are in favor.

DEPUTY CORPORATION COUNSEL KRISTINA TOSHIKIYO: I'm sorry, Chair Lee. This is Deputy Toshikiyo.

CHAIR LEE: Yes?

DEPUTY CORPORATION COUNSEL TOSHIKIYO: I'm on the call right now. I'm sorry, before you take the vote, I'm looking through the language and I just had a question, if I may, to Chair Rawlins-Fernandez, regarding the tax established and the effective date for the bookings? I thought that she, it had been discussed that it would only be applied to bookings after October 1. So, I did have a question, because there is a provision that also would, I guess, maybe apply--

CHAIR LEE: What page, what page are you on?

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Oh, I'm sorry. I'm sorry. This is Section 3.47.010, regarding the tax established. And when I'm reading it, it has a provision right there in the middle stating, "and the written contracts do not provide for the passing on of increased rates of taxes". So, just from reading this, it means potentially that bookings prior to October 1, but has a provision that allows for the increase of taxes of rates could potentially be taxed. So, I just wanted to confirm that that's what was intended in this amendment. Because this does track the language within the HRS of, Chair Rawlins-Fernandez is correct about that.

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, as Ms. Toshikiyo stated, this language was taken straight from the Statute 81, Act 1, HB862. So I, I'm not sure what Deputy Corporation Counsel's concern is regarding that language.

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Whether it would apply to bookings made prior to October 1, or whenever your effective date is? But it does, if the bookings have a provision that provide for passing on the increase of rates of taxes.

VICE-CHAIR RAWLINS-FERNANDEZ: And what section makes it so that, oh, I, okay, I'll just share my screen again. So--

CHAIR LEE: For Ms. Toshikiyo, why don't you just make a suggestion on what you feel the clarification should be?

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Just to make it very clear that all bookings, cause I believe that's the intent of the Council, regardless of whether or not there's a provision. Or the pass--

VICE-CHAIR RAWLINS-FERNANDEZ: Bookings is not--

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Okay. Bookings or, sorry. I'm sorry, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: It's a, it's, it's written contracts.

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, you're saying, okay, "received as payments beginning in the taxable year in which the taxes become effective, on contracts entered into prior to the establishment of this chapter, and the written contracts do not provide for the passing on of increased rates of taxes". So, you, you want to delete the section?

DEPUTY CORPORATION COUNSEL TOSHIKIYO: If it would be the section following the comma, "and the written contracts do not provide for the passing on of increased rates of taxes". And then it would be all written contracts prior to October 1 would not apply and anything after would.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So--

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Yea, I believe just from listening to your conversations that that was this Council's intent.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, that section would allow for any contracts that do not provide for the passing on of increased rates and taxes. It would just be a harder line you're saying, instead of that flexibility.

DEPUTY CORPORATION COUNSEL TOSHIKIYO: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Yup, I'm fine with that.

CHAIR LEE: Member King?

COUNCILMEMBER KING: I just wanted to say if that's a friendly amendment, I would accept that too as the seconder.

CHAIR LEE: Okay.

COUNCILMEMBER KING: That's what we've been telling all--

CHAIR LEE: Friendly amendment.

COUNCILMEMBER KING: --of the testifiers.

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Chair, I just had a question. So, pardon me Members with what I'm going to ask. Why are we holding fast to the October 1 date? And why can't we wait a month, 30 days?

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I know you, mahalo for the question, Pro Temp Kama. I know you weren't in the Committee when we took this up twice, and learned from the Department of Finance that, you know, the potential of revenue. I think we owe it to our residents, and to our environment, and natural resources to mitigate the harm that the tourism industry has inflicted upon everyone. And by mitigating harm, we, we need money. And every month that goes by is between 4 and \$7 million. And so, I, I would not like to, I mean, I don't want to explain to our constituents why we forwent, foregone, let \$4-7 million go, times each month that we let it go.

When, you know, during this pandemic, we have asked them to make such sacrifices as not going to funerals and providing comfort to the families who lost loved ones while watching the hypocrisy of the tourism industry have luaus and celebrations and huge gatherings. And it's just been such an inequity. And that kind of inequity, injustice, and it, it really isn't fair to our residents. And while we can't make that completely fair, we can at least collect funds to make life a little better for our residents. And so, that's why I stand by the October 1 start date. Mahalo, Pro Temp Kama, for your question.

COUNCILMEMBER KAMA: Yes, it does. Thank you for that. I just have a different mindset about things like that. But thank you very much, Chair. Thank you, Chair.

CHAIR LEE: Okay. Member Sugimura, and then Member Paltin.

COUNCILMEMBER SUGIMURA: Sorry, Chair. So, actually I was, I was going to actually do an amendment once Keani Rawlins is done with hers. And it was going to be about the start date. And I have a, you know, a statement about that too. But I'll wait until Keani Rawlins is done with this. Thank you.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Oh, I'll wait until Member Sugimura pro, proposes her amendment.

CHAIR LEE: Okay. Anybody else? Any other comments, questions? Okay, now, we need to, we need to take a vote on the amendment, yea? So, you ready everybody? All those in favor of the amendment, as proposed by Vice-Chair Rawlins-Fernandez, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Looks like nine "ayes", zero "noes"; motion carries.

Now, other amendments?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Vice-Chair Rawlins-Fernandez, did you have another one?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I will work with the Department, the Finance Director, and my Budget Committee Analyst on that second amendment that Director referred to, mentioned earlier. And, and then, I'll yield the floor to Member Sugimura's motion at this time. Mahalo, Chair.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yea, thank you. Thanks, first of all, Keani, for putting that all together and for explaining, and all the research back and forth with the State Tax Office and the amendment. So, I wanted to thank you for that. I did hear Rod Antone with the Maui Hotel & Lodging Association asking about the start date, as well as the testifiers that came forward, you know, kind of on the, if you think about, they are running the administrative part about the visitors that come in, and having to communicate with them, and dealing with them from, I think positions of aloha. This, I think what was said. But I do know that the TAT tax, which, which Member White was adamant about--

CHAIR LEE: Member Sugimura? Member Su--

COUNCILMEMBER SUGIMURA: Yes? Oh, the amendment.

CHAIR LEE: What, let's make the amendment first.

COUNCILMEMBER SUGIMURA: Oh, okay sorry.

MY AMENDMENT IS NOT, MY AMENDMENT IS TO CHANGE, SORRY, I CAN TELL YOU WHERE IT IS IN THE VERY BEGINNING, SO IT, THE 3.47.010, TAX ESTABLISHED. AND THIS TAX IS CONSIDERED LEVIED ON, IT SAYS OCTOBER 1, 2021, AND JUST TO KIND OF MAYBE COMPROMISE. INSTEAD OF JANUARY 1, 2022, HOW ABOUT DECEMBER 1, 2021?

And I guess if OCS, or Ms. Tokio *[sic]* could help me with the very end, sorry, the last statement. This tax, or this will take effect, this ordinance will take effect upon approval. So, I don't know if that has to change because of the proposed amendment to start this instead of October 1, to December 1, 2021. Do you have the--

COUNCILMEMBER MOLINA:

SECOND, FOR DISCUSSION.

COUNCILMEMBER SUGIMURA: --more time. Yea, thank you, Mr. Molina. I started talking about why before. And I will say again that I did hear the, as Rod Antone speaks for

the industry, Mr. White, and I think his sales and marketing and his financial, chief financial officer did talk to us about the same concerns. And I will say that the TAT tax, as you know, when the Legislature went into the COVID pandemic, when it first started, right, we, we did not get 23. I think it was 5 million or \$7 million. And then later on, it did come to us. But the impact is huge.

I will say that this tax forward, it will give us a lot more than what the Legislature was giving us. I think that was always the cry before, like we gave more than we got. And I would like to give the industry some consideration for their need to communicate with the visitors that are coming as, for this additional tax. And I do believe that, in the long run, the concerns we have about being considerate, you know, building infrastructure, all of the things, I think we try to do that anyway. Even if we didn't have this tax, we would do that. But having this additional three, up to three percent with this TAT tax will help us in the long run. This is like a gift that we never had before; cause it's going to be much more. So, I think we can, I would like to just recommend that we start it December 1, 2021, instead of October 1. Thank you.

CHAIR LEE: Any more discussion?

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I appreciate your intent, Councilmember Sugimura, but I don't, I don't support the amendment. You know, we speak on the fears and the concerns of the industry, and I tell you, brothers and sisters, it's the fears and concerns of our people of the communities we need to be concerned with. So, that's where I, I think the sooner rather than later, because we can't ask these folks to wait out at Amala Place. We can't ask to wait for these folks that have, have been waiting for 30 years for infrastructure on Lānaʻi. We, I can go down the list. It's the concerns that we have to worry about, is our voters, our constituents, and our members of the community, not the industry. So, that's my two cents on it. Thank you, Chair.

CHAIR LEE: Further discussion?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Member Sugimura, for the proposal. My apologies that I couldn't stay awake for this Committee hearing on the other side of the globe. But the same point that Member Sugimura brought up was what I was going to bring up is that, you know, we have foregone the TAT that, all those months, and when Coronavirus started.

And we often hear of the industry trying to recoup their losses. Meanwhile, we're expending our taxpayer funds to do search and rescues, to, you know, so many things that maybe isn't quite as apparent in Upcountry as they are in West Maui. Living with the effects of tourism, and especially the type of tourism that's going on now, versus the pre-COVID tourism, versus the COVID shutdown, and seeing firsthand the impacts along the timeline that, from the time before I was in office till today. I think it's important that, you know, each person that has an effect on Hawaii begins to pull at least their own weight.

And there's many needs within our community right now. And so, it's not a time to forego it, because in the early discussions, we learned, or I learned, maybe you guys already knew, that the State can yank this at any time, you know? They can, it's, it's not definite. The original ask, even as Mr. White knows, the original intent of the TAT was for the counties and then we got a portion of it. So, the rules that we're playing by are not our own, and if that's the case and seeing how history went on this, we need to take advantage of every day that we can, because there's no guarantee that even after the next legislative session this will still be an option.

The other thing I would like to say is, you know, while we're talking about the impacts and recouping the losses, I recently spent the day at Kā'anapali Beach and I was kind of appalled to see a brand-new restaurant, like, inches away from the sand in front of Kā'anapali Beach when we know about climate change and when it's a hard time. And I, I just was blown away, like I'm all like, where, where did that thing come from, you know. And so, it's no shortage of funds if they're able to expand onto the sand that's disappearing. And to come and say, you know, we need to show aloha to the tourists. They, it's a two-way street; aloha aku, aloha mai. And so, I won't be supporting the amendment.

CHAIR LEE: Okay. Any further discussion? Oh. Okay, we, we heard from you, Vice-Chair, already. Other people? No?

Okay. Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. First, you know, I, I appreciate all of the comments made by my colleagues with regards to not giving the, the industry that opportunity to have a delayed implementation of this bill, which I fully support, and it's certainly time for it. But myself, I have support reducing funding for MVB, I've support the moratorium on this industry, I've supported increases their property tax rate. And, but, you know, there, there are times when maybe government needs to just step back a little bit and give a little bit of breathing room to the industry. So, I'm open to supporting the compromise made by Member Sugimura.

I know the industry reps that we heard from earlier had a preference for January. I'm okay with giving them an additional 60 days to try and implement this and then get the word out to all their prospective visitors. So, I just think, you know, and we're concerned about government being a little overbearing on other issues as well. I mean, you have this debate across the country, how much should government intervene and when should government step back as it relates to private sector? So, I'm willing to kind of bend a little bit and allow them that short opportunity to get things worked out with their visitors and give them the heads up that this tax is coming their way. You're going to have to pay a little bit more for a hotel room.

So, I guess I'm trying to understand their perspective, and their relations with their customers and, you know, trying to keep things going for them business wise. So, yea, I know we, we, whether we like the visitor industry or not, they're still a big part of our economy. And I'm hoping one day that we may not have to be as dependent on this industry, so we don't have to always, you know, say let's not kill the golden goose. Because I think we can do much more by diversifying our economy in other areas besides this. So, I will support Member Sugimura's proposal. Thank you, Madam Chair.

CHAIR LEE: Member King. Oh, before I call on you, did Member Sinenci raise his hand.

COUNCILMEMBER SINENCI: Mahalo.

CHAIR LEE: I saw a hand in that direction.

COUNCILMEMBER KING: Go ahead, Mr. Sinenci. I'll, I'll wait.

COUNCILMEMBER SINENCI: Thank you. Yea, I just wanted to add my comments too. And mahalo to my fellow Members for sharing. And mahalo to Mr. Antone and Mr. White for their testimony today. I understand from, from the industry, it seems like, like for me and for my community, we've been dealing with a lot of the issues, almost doing damage control, especially on our highway. And that's why we had, or I had presented our bill for HSAC or for, for the Maui Legislative Package to, to get more funding for the roads. Because for our small little town, even though that the industry has expanded, our infrastructure and rural town hasn't. And it's at that safety, we're at a crisis, when it comes to safety; if we don't have enough room for emergency vehicles, if people are walking in the middle of the road, we don't have cross, safe crosswalks and sidewalks. So, I'm looking, we're, we're at critical mass, being that a lot of our own people are moving out-of-state just because it's, we don't have any housing available for them. So, I think we all committed ourselves to creating more affordable housing for our people first. And I think this is the first step in doing it.

It's nothing against the industry. We want, we just want to be good hosts to our visitors. And we want to make sure that our residents are taken care of first. We've, we learned about the water restrictions Upcountry, but, you know, we've seen a lot of the industry with expansions for more infinity pools, or, or water parks. So, so those are some of the things that we still got to, got to work on as a community. And I'm sure we'll work with the industry. And I'm sure they can understand the position that we're in. Thank you, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. I want to, I, I don't support this amendment. I think we, we can easily start this on October 1. And I just wanted to share with the Council that we discussed this TAT surcharge and the implementation in the, on the HSAC Executive Board. Member Tommy Waters, who Chair's the City and County of Honolulu Council showed us a sample of a, an electronic page where you just click on here and that's how you pay your, your surcharge. You know, it was, it was so simple in his mind. It's not going to take additional, you know, six staff to do.

This is not a, this is not a, you know, I hope that we don't have hotels that are carrying two sets of books, because that doesn't sound right to me. But I don't see this as something that's egregious to implement. And I think because of the fact that, and we talked about it, I've talked about it, Vice-Chair Rawlins-Fernandez talked about it, that the, how, how, how volatile, and how changing the hotel rates are anyway on a daily basis. And they tacking on, they, they make provisions for additional taxes to come and go depending on what, what community they're in.

So, I, I really don't see this as an egregious move on our part to start it October 1. Because, especially since we've been talking about it and everybody knew since it passed the State Legislature that was coming.

The other thing I want to point out is that three months, we're talking about 4-7 million, we're talking about \$12-21 million that we'd be giving up if we start this at the end of December. And, and to me, we have a very ambitious affordable housing plan, and everybody keeps talking about where we're going to come up with that money. Well, we're going to start coming up with it hopefully October 1. But this is what, to me, this is like a priority, along with the infrastructure to get that affordable housing done, but this is what people are crying out for, this is the need, this is the, the cost of housing that the visitor industry has, has driven up. I think this is a very small payback for the visitor industry to give to our local residents, you know, for, for our affordable housing plan. So, I'm not going to support pushing the start date back. And I think there's other reasons that, that Kauai didn't support it either. So, thank you.

CHAIR LEE: Okay. So, for my turn, I don't support the amendment because first of all, I think we've been discussing this additional tax since January, February, and March. I remember submitting testimony on behalf of the Council in January, February, March, April, and so forth. So, this is not a surprise to the industry. If anybody needs to have time to gear up, it's the County to implement the collection of the, of the tax, because the hotels and the transient accommodations tax is already being paid. So, it's, it's an increase of three percent. So, it's not a shock to them on how to pay this tax, cause they're already paying a tax. So, it's three percent more, except this three percent goes to the County. And as everybody said, we all need the money.

So, but my, my main driver for me, the main driver for me is the fact that everybody was on notice months ago that, to me. Because I don't like blindsiding anybody either. But so, I think there was ample time to, to make adjustments. The people who really have to scramble would be the Finance Department. But other than that, you know, I, I think adding three percent onto what they already pay is not going to be much of an adjustment to them.

Okay. Everybody had a chance to talk. Vice-Chair, you wanted to speak one more time?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll wait for the main motion.

CHAIR LEE: You're going to say something that nobody else said, right?

VICE-CHAIR RAWLINS-FERNANDEZ: I, I was. But that's okay. I can, I can hold off.

CHAIR LEE: Hold off for? Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: The main motion.

CHAIR LEE: So, all in favor of the amendment to change the effective date, raise your hand and say "aye".

AYES: COUNCILMEMBERS KAMA, MOLINA, AND
SUGIMURA.

CHAIR LEE: Okay, I see, I'm not sure where Member Sugimura went.

COUNCILMEMBER KING: She's there.

CHAIR LEE: But I saw, pardon me?

COUNCILMEMBER KING: I can see her. She's voting "aye". She's got her hand up.

CHAIR LEE: Okay. You can see her? Okay, three "ayes".

Those against the motion, raise your hand and say "no".

NOES: COUNCILMEMBERS JOHNSON, KING, PALTIN,
SINENCI, VICE-CHAIR RAWLINS-FERNANDEZ,
AND CHAIR LEE.

CHAIR LEE: Okay. Six "noes", three "ayes"; motion fails.

Now, we're going back to the amendment, the long one that Vice-Chair did with her ASF. Okay. Including the friendly amendment. Any last words on that? If not, all those in favor of--

COUNCILMEMBER KING: Chair, wasn't there another--

CHAIR LEE: Yes.

COUNCILMEMBER KING: --amendment, wasn't there another amendment that we were waiting on the Finance Director too?

VICE-CHAIR RAWLINS-FERNANDEZ: I got it.

CHAIR LEE: Oh, yes, that's right, from the Finance Director.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And I saw--

CHAIR LEE: Did you get it?

VICE-CHAIR RAWLINS-FERNANDEZ: I did. Mahalo, Deputy Director Alibin. Okay. And I saw Mr. Deputy Clerk pop his video on and I'm sure that's to remind us that we already took a vote on my initial motion. And so, this is a new motion. And the motion is to amend, and I can, I can share screen. One moment.

CHAIR LEE: Scott, you look tired.

VICE-CHAIR RAWLINS-FERNANDEZ: He's working hard on this TAT bill. Okay. Can everyone see?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. It's 3.47, oh.

I MOVE TO AMEND 3.47.070, TO DELETE "A COPY OF THE" AND "FILED WITH THE STATE AS REQUIRED UNDER" AND TO ADD "AS SET FORTH UNDER" AND "AND A REMITTANCE COVERING THE RESIDUE OF THE TAX DUE, IF ANY, AS PRESCRIBED BY THE COUNTY FINANCE DIRECTOR".

SO, THAT IT WOULD READ IN ITS ENTIRETY, AS "3.47.070 ANNUAL RETURN. ON OR BEFORE THE TWENTIETH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR, EVERY PERSON WHO HAS BECOME LIABLE FOR THE PAYMENT OF TAXES UNDER THIS CHAPTER DURING THE PRECEDING TAX YEAR MUST FILE WITH THE STATE DIRECTOR OF TAXATION A RETURN AS SET FORTH UNDER SECTION 237D-7, HAWAI'I REVISED STATUTES, AND A REMITTANCE COVERING THE RESIDUE OF THE TAX DUE, IF ANY, AS PRESCRIBED BY THE COUNTY FINANCE DIRECTOR".

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

COUNCILMEMBER KING: Second.

CHAIR LEE: Do we have a second?

COUNCILMEMBER KING: Second.

CHAIR LEE: Okay, I saw the peace sign from Sinenci. Vice, moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci to amend the motion to add that language we just saw on the screen.

Discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure.

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Again, this is a recommendation that we received from the State Department of Taxation. So, just clarifying pursuant to that recommendation. Mahalo, Chair.

CHAIR LEE: Alright. Member, mal, mal, Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just had a question about this. Is it, are they going to compare like what they're collecting with what we're collecting, so that they align, and we don't have folks only paying the State tax and not the County tax, or only paying the County tax and not the State tax?

CHAIR LEE: Mr. Teruya, did you hear that question?

DIRECTOR OF FINANCE SCOTT TERUYA: Sorry, Chair, I didn't. Sorry. Can you repeat? My bad.

COUNCILMEMBER PALTIN: Oh, I just was wondering if the purpose of this was to see if, for the State to align the taxes and make sure that the State, some people aren't only paying the State tax or some people aren't only paying the County tax to ensure that people are paying both taxes. Is that the point of it?

DIRECTOR OF FINANCE: Chair.

CHAIR LEE: Yes.

DIRECTOR OF FINANCE: Thank you, Chair. Well, let me, let me put it this way. The reason why we needed the, this ordinance in here is so that the Director of Taxation is able to share with another tax office, Transient Accommodation Tax Office. So, we need to establish that so that there's a data sharing that is allowable. Now, the data sharing that is being given to the County identifies, after you make your payment to the State, that we can take that data and understand what is owing to the County based on the three percent. So, you're paying whatever you're going to self-report at 10.25 percent to the State. And you, just a simple calculation, instead of 10, multiplying it by 10.25, you're going to multiply it by three percent and remit that amount to the County. We're taking the data that they are giving us to validate whether the amount paid is correct. So, we're not sending bills to anybody. We're just validating that the amount that we are expecting based on what they filed with the State matches. That's all it is. I hope that answers your question.

COUNCILMEMBER PALTIN: Okay. Thank you. Yea, totally, thanks.

CHAIR LEE: Any more questions, Members?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Question for Director Teruya.

IN MY MOTION, SHOULD I HAVE ALSO INCLUDED AN AMENDMENT TO 3.47.060, RETURN PAYMENTS TO ADD CLARIFICATION OF THE STATE DIRECTOR OF TAXATION IN THE FORM OF THE COUNTY FINANCE DIRECTOR? WAS THAT THE RECOMMENDATION FROM DEPUTY DIRECTOR ALIBIN?

DIRECTOR OF FINANCE: Yes. And, director, Deputy Director is on the call. So, I will let her speak to that so that she's very clear. Because what was communicated on Kauai's level, we wanted to just make sure there's consistency. So, May-Anne, do you have any comments?

DEPUTY DIRECTOR OF FINANCE MAY-ANNE ALIBIN: Chair.

CHAIR LEE: May-Anne.

DEPUTY DIRECTOR OF FINANCE: Good afternoon, Members. Yes, that is correct. So, our, based on the recommendation from State . . . Tax, it's going to be to amend those two sections, 3.46.060 *[sic]* and 3.47.070, sorry, 3.46.070 *[sic]*. Because, and this is because there's periodic returns due and then also the annual returns. Thank you, Chair.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, if Member Sinenci, as the seconder, would be open to including that into the motion, the amendment to 060 and clarifying Director of Taxation and then our County Finance Director in 060.

CHAIR LEE: He said, he motioned yes. He motioned yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Sinenci. Mahalo, Chair. And mahalo, Deputy Director Alibin

CHAIR LEE: Okay. Is, is everybody, any more questions or comments, anyone? Okay. All those in favor of the amendment, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Okay. Okay, one, two, three, four, five, six, seven, eight "aye", nine "ayes". Any, I mean eight "ayes". Those opposed?

COUNCILMEMBER SUGIMURA: I'm not opposed, but I don't know what you're voting on cause I had to, I just connected right now. I lost connection, so sorry about that.

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Would you like me to show the amendment to Member Sugimura, so that she can decide whether she wants to vote on it or not?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, on 3.47.060, it's the State Director of Taxation in the form of the County Finance Director, here. Okay. And then in 070, annual return.

CHAIR LEE: Member Sugimura, these are, this came from the State Tax Department. They want us to include it in our ordinance.

COUNCILMEMBER SUGIMURA: I vote "yes". Thank you, Keani.

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

CHAIR LEE: Okay. The result of the vote is nine "ayes", zero "noes"; motion carries. Okay. So, the main motion as amended.

Vice-Chair Rawlins-Fernandez, you have anything else to say?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll yield to the other Members since I've been monopolizing the time. And when all Members have, you know, exhausted their, you know, comments, I'll, I'll make my final comments. Mahalo, Chair.

CHAIR LEE: Okay. Okay, everybody, please feel free to say anything that hasn't been said.

COUNCILMEMBER MOLINA: Call for the question.

CHAIR LEE: Member Sinenci. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And real quickly. I just wanted to say that my vote of support, of support comes with my commitment to the, to the industry, including participating in the Sustainable Tourist Summit next week, and also, as well as my involvement in the Council Tourism Temporary Investigative Group. Mahalo.

CHAIR LEE: Anyone else?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And I'll make this quick. I don't feel sorry for the hotels and resorts. I feel sorry for our residents. And I feel sorry for our aina. This is a pass-through tax. The hotels don't absorb any of it. It just goes straight to the people who are coming here. And we can let the hotels and resorts know that we're using this money for, for the good, for, to make our, to improve upon what's been damaged, to make life better in our County. And, and that will help the hotels and resorts with their public relations. So, I, I think it's beneficial to them, even though they're, you know, providing comments.

And, and I don't think that an additional \$15 per, per night or so would deter anyone from coming here. I think it's a pretty ridiculous argument when remembering how many people, how much people paid for rental cars this year; as high as \$700 a day. And, and people paid that. It wasn't a deterrence. They wanted to be here, and they made it work, so, in, in just thinking about that contrast. And if we're worried that people won't come here and they'll go to Mexico instead, I, I just don't believe that argument, not one bit.

And for notice, I think Chair Lee covered it beautifully. But I was just going to add a couple more dates that this was on the agenda on July 23, as County Communication 21-354. And at that time, we received no testimony from the industry. It was in the Committee as BFED-52 on August 4, and we received nothing from the industry. And again, it was scheduled on August 18 in Committee, and we received no comments from the industry. And so, here we are at first reading and they finally appeared with comments and, you know, claiming that they haven't had enough notice. And I just don't think that that's a legitimate argument. There's been a lot of time and a lot of notice.

Starting now, we'll be able to generate lots more money. And how much will we, how much affordable housing will we be able to build? How many residents will we be able to stop from leaving our County with this funds when we create more housing? And what kind of relief can we give to East Maui, West Maui, South Maui with, with, with this funding?

And so, I thank the Members for their support. I don't know what that means, Member Sinenci. But, yea, mahalo for the Members support and help in crafting this bill, as well as the Administration's help and support, and the State as well. And I look forward to working with the Administration on using these funds to improve the lives of our residents. Mahalo, Chair.

CHAIR LEE: Thank you. I'd like to say a few words that haven't been said earlier, or at all that I know of. I just want to remind all of you, all of us, including myself, that we are at a point in time that can really, our decisions can really change Maui County for the better.

And I, I applaud those who, our founding fathers and mothers who gave birth to the visitor industry. They had no idea what it was going to turn into. But we needed something at that time. Cause I remember when I was a child, my parents talked about moving to Oahu, because things were really bad economically. So, the policymakers at that time came up with the idea of the visitor industry, the State and the County policymakers. And they did a great job. But at that time, there was also agriculture. And there, there was more of a balance in our economy, which we don't have any more.

But it's up to us to figure that out. It's really up to us. How do we have a good, viable, strong visitor industry, but other economic drivers as well? And I think we're very capable of coming up with those answers and those solutions. And because I, you know, I always encourage you, and I know you all already know that our decisions are not for today and tomorrow, it's long into the future, because we have that kind of foresight. And we have that kind of courage to make the really hard decisions. And this is one of them today.

But on the, on the other hand, the visitor industry knows that we are trying, even with the TIG, as we talk about moratoriums, we talk about tax increases, we're also looking, we're also looking out for that industry as well, because we are responsible for helping the over 5,000 people who are employed by the visitor industry, which are our friends, and neighbors, and family. So, we have responsibilities throughout this whole process and it's very complicated and it's not simple. And I, I want to commend all of you for being willing to make the hard decisions.

And so now, moving forward, are we ready for the vote? Okay. All those in favor of the main motion as amended, please say "aye", and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR
LEE.

NOES: NONE.

CHAIR LEE: Very good. Thank you so much, everybody. Motion carries; nine "ayes". It's unanimous. It's unanimous. Thank you, everybody.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL NO. 101 (2021).

COMMITTEE REPORT
NO. 21-80 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That the Miscellaneous Communication referring Contract C7432, between the County of Maui and Map-Collective, Inc., for assessing and analyzing carbon emissions, and creation of data gathering, analysis, and visualization tools for the County of Maui Joint Climate Action and Resilience Plan, in the amount of \$186,000, be FILED;
2. That the Miscellaneous Communication referring Contract C7431, between the County of Maui and Geos Institute, for a Countywide Vulnerability Assessment, in the amount of \$77,956, be FILED; and
3. That the Miscellaneous Communication referring Contract C7436, between the County of Maui and Lotus Engineering and Sustainability, LLC, for the County of Maui Joint Climate Action and Resilience Plan, in the amount of \$249,977, be FILED.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-80.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member King, seconded by Member Sugimura, to approve the recommendations in Committee Report 21-80.

Discussion, Member King.

COUNCILMEMBER KING: Okay. Thank you, Chair. This one's going to be easy after the last one. Your CARE Committee met on September 1, 2021, and reviewed the following: Miscellaneous Communication dated July 26, 2021, from the County Clerk, transmitting Contract C732, 7432, between the County of Maui and Map-Collective, Inc., for assessing and analyzing carbon emissions, and creation of data gathering, analysis, and visualization tools for the County of Maui Joint Climate Action and Resilience Plan;

Miscellaneous Communication dated July 26, 2021, from the County Clerk, transmitting Contract C7431, between the County of Maui and Geos Institute, for a Countywide Vulnerability Assessment; and

Miscellaneous Communication dated July 26, 2021, from the County Clerk, transmitting Contract C7436, between the County of Maui and Lotus Engineering and Sustainability, LLC, for the County of Maui Joint Climate Action and Resilience Plan.

Representatives from the Mayor's Office of Climate Action, Sustainability, and Resilience provided status updates on the three contracts, as well as other . . . contracts.

The Energy Commissioner and Environmental Coordinator informed us the contracts related to the County's whole-systems solutions approach to climate change mitigation, including adaptation initiatives to promote resilience and reduce greenhouse gases.

The Environmental Coordinator reviewed that data-gathering processes, components, and structure of the County of Maui Joint Climate Action and Resilience Plan, noting

traditional ecological knowledge and investment in nature-based solutions can help to mitigate climate change. The Plan models Oahu's Resilience Strategy and is anticipated to roll out within the next six months.

The Energy Commissioner explained the connection between the different contracts and the County's plans for climate change mitigation and adaptation initiatives.

Your Committee appreciated the update greatly and expressed support for the County's efforts to mitigate climate change and promote resiliency. Your Committee recommended filing the three Miscellaneous Communications by a 5-0 vote. I ask for the Members support of your Committee's recommendations.

CHAIR LEE: Any more discussion? All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

COMMITTEE REPORT
NO. 21-81 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Resolution _____, entitled "RELATING TO THE APPOINTMENT OF SPENCER LAU TO THE COST OF GOVERNMENT COMMISSION FOR THE COUNTY OF MAUI," be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you very, Madam Chair. Ooh, sorry about that. It sounded bad.

MOVE TO PLACE COMMITTEE REPORT NO. 21-81 ON THE
CLERK'S DESK UNTIL THE OCTOBER 1, 2021 COUNCIL
MEETING.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to lay the item on the Clerk's desk until the next meeting.

Discussion, Mr. Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. My dog certainly has very impeccable timing and he loves to participate.

Anyway, your GREAT Committee met on August 31, 2021 to discuss a proposed resolution relating to the Mayor's nomination of Spencer Lau to the Cost of Government Commission for a term expiring on March 31, 2024, due to the resignation of Michelle Del Rosario and recommend his nomination be approved with a vote of 6-2.

Your Committee also requested Mr. Lau be present today to answer Members questions. Unfortunately, Mayor, Mayor's representative Mr. Mossman informed us that Mr. Lau is currently on the mainland and not able to participate today. The 60-day deadline to approve or disapprove Mr. Lau's nomination is October 10, 2021. So, therefore, tabling this matter until October 1, 2021, for the Council meeting, will still be within the 60-day deadline for the Council to take action. So, I ask for the Members full support to table this matter till October 1. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor of the motion, please say "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries. Thank you.

Mr. Clerk.

COMMITTEE REPORT

NO. 21-82 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 102 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR AND OTHER MINOR UPDATES FOR HISTORIC DISTRICTS NUMBERS ONE AND TWO (LAHAINA)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-192, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Here we go, gangy.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 21-82.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to, to approve the recommendations in Committee Report 21-82.

Member Paltin, discussion?

COUNCILMEMBER PALTIN: Thank you, Chair. The purpose of the proposed bill is to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department in Parks and Recreation in the Lahaina Historic District for safety reasons and respect for cultural and historic sites.

Your Committee noted a previous exclusion that related to softball teams is no longer necessary because those teams now use the Lahaina Rec. Center Park, which is outside of the Historic Districts.

The bill was reviewed by all the Planning Commissions, the Cultural Resources Commission, and the Parks Department.

Your Committee voted 8-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. I respectfully ask for the Members support of my motion. Thank you.

CHAIR LEE: Any further discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: I see nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 102 (2021).

COMMITTEE REPORT
NO. 21-83 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 103 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING THE CONDITIONAL PERMIT GRANTED BY ORDINANCE NO. 2101 (1992) AND AMENDED BY ORDINANCE NOS. 2360 (1994), 2800 (1999), AND 3201 (2004) TO ALEXANDER & BALDWIN SUGAR MUSEUM, TO ALLOW FOR AN EXPANSION OF THE MUSEUM USE AND FOR A TIME EXTENSION ON APPROXIMATELY 4.166 ACRES IN THE R-1 RESIDENTIAL DISTRICT AT 3957 HANSEN ROAD, TAX MAP KEY (2)-3-8-006:004 (POR.) PUUNENE, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-123, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-83.

CHAIR LEE: Second?

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER KING: Second.

CHAIR LEE: Moved by Member Paltin, seconded by Member Sugimura to approve the recommendations in Committee Report 21-83.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. The purpose of the proposed bill is to provide a time extension and to amend the Conditional Permit granted to Alexander and Baldwin Sugar Museum for the expanded museum use.

The Museum provides educational programs on the history of plantation life and the role of the sugar industry in Maui's development, including adverse impacts on natural resources.

The Museum's proposed expansion of approximately 2.4 acres includes the development of a multi-purpose building, outdoor display and garden areas, and use of a vacant portion of land for community events.

Your Committee agreed to allow the expansion with the condition set by the Maui Planning Commission and to extend the Conditional Permit until March 31, 2047, when the Museum's lease with Alexander and Baldwin expires. Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. I respectfully ask for the Members support of my motion. Thank you.

CHAIR LEE: Any further discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 103 (2021).

COMMITTEE REPORT

NO. 21-84 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 104 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE 3377, TO AMEND CONDITIONS, GRANT A TIME EXTENSION, AND TRANSFER A CONDITIONAL PERMIT TO HELAINA DIMARTINO FOR THE BANYAN TREE TRANSIENT VACATION RENTAL WITHIN THE RU-1 RURAL ZONING DISTRICT FOR PROPERTY SITUATED AT 3265 BALDWIN AVENUE, TAX MAP KEY (2) 2-4-002:002 HAMAKUAPOKO – MAKAWAO, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 20-274, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-84.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to approve the recommendations in Committee Report 21-84.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. The purpose of the revised proposed bill is to grant a Conditional Permit transfer and time extension to allow Helaina DiMartino to operate the Banyan Tree Bed & Breakfast, a transient vacation rental within the Rural Zoning District on historic property that includes structures dating back to the 1920's.

The applicant purchased the property from her father, the original permit holder, Marty Herling. She plans to continue operating the seven-bedroom B&B as permitted since 2006.

Your Committee added two conditions that the B&B not operate when the owners are away overnight, and the owners be County residents and reside full-time on the property. Since committee, the consultant, I believe his name was Brett Davis, did send his presentation. So, Members should have been able to see the pictures that we weren't able to see in Committee at their leisure. Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. I respectfully ask for the Members support of my motion. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor of the motion, please raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, that is BILL 104 (2021).

You have before you Committee Report 21-85, recommending the following--

COUNCILMEMBER PALTIN: Oh, Chair? Is it okay if we skip ahead to 21-86, just cause we're in a flow right now? Maybe we can move that--

CHAIR LEE: Oh, okay.

COUNCILMEMBER PALTIN: --21-85 to the end or something.

COUNCILMEMBER SINENCI: No objections.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay. Alright. 21-86, Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair.

COMMITTEE REPORT

NO. 21-86 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 105 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.28, MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE AIRPORT DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-124, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 21-86.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to approve the recommendations in Committee Report 21-86.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. The purpose of the proposed bill is as follows: 1) include as a permitted use in the Airport District buildings or premises used by the State or County governments for public purposes, except that facilities on Lānaʻi or/and Molokaʻi must first obtain approval from the Lānaʻi or Molokaʻi Planning Commission. Exclude transient accommodations as permitted use in the Airport District, sorry, that's number 2). And 3) update references to obsolete terms and agencies.

Your Committee noted the Airport District includes Kahului, Kapalua, and Lānaʻi Airports. But the Molokaʻi and Hana Airports are designated Interim Zoning and are not affected by the proposed bill. Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. I respectfully ask for the Members support of my motion. Thank you.

CHAIR LEE: Any more discussion?

Yes, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Yea, thank you. The Department did a good job updating, and we learned a lot about history. I just want to bring up, I think it came up during discussion, West Maui Taxpayers wanted to have a, looked at, at the Kapalua Airport regarding the lighting and because of emergency. And I think it was discussed that it would be brought to the community to look at. And that's Pulelehua, that airport right above Pulelehua. So, I think the concern was lighting, and the residents and West Maui Taxpayers, I sent the email that I got from Joe Pluta to Committee Chair, so that at your time you can bring it up in the, with the community. Thank you.

CHAIR LEE: Okay. Any more discussion?

Yes, Ms. Paltin.

COUNCILMEMBER PALTIN: Sorry. Thank you. Yea, we did receive that, and we did reach out to the community. We sent him some of the questions and concerns, but we are still waiting to hear back from Mr. Pluta. So, maybe we'll try and send it directly to West Maui Taxpayers Association.

COUNCILMEMBER SUGIMURA: Thank you, Tamara.

CHAIR LEE: Any more discussion? All those in favor of the motion, please raise your hand and say "aye"?

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Member Paltin, did you want 21-85 to be at the end of the calendar or now? Can't hear you.

COUNCILMEMBER PALTIN: She is on the phone now. It, okay, so we can.

CHAIR LEE: Up to you.

COUNCILMEMBER PALTIN: I mean, I think we can get through the second readings pretty quickly and then just, I mean not that I want to take a long time on 21-85, but.

CHAIR LEE: Okay. Let's do that then.

COUNCILMEMBER PALTIN: Okay. Alright.

CHAIR LEE: Okay. Second and final, Mr. Clerk.

DEPUTY COUNTY CLERK: Yes, Chair.

Oh, for record, that was BILL 105 (2021).

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 105 (2021).

Chair, proceeding with ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 86 (2021)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX A, PART I,
GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND
RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS,
DEPARTMENT OF FIRE AND PUBLIC SAFETY
(STATE OF HAWAII MAKENA LIFEGUARD SERVICES)

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. If there are no objections, may I request the Clerk also call up Bill 87 through Bill 89, Bill 91, and Bill 92?

CHAIR LEE: Mem, any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so ordered.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 87 (2021)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX D – CONDITIONAL LANGUAGE,
DEPARTMENT OF FIRE AND PUBLIC SAFETY
(STATE OF HAWAII MAKENA LIFEGUARD SERVICES)

ORDINANCE NO. _____
BILL NO. 88 (2021)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,
DEPARTMENT OF FIRE AND PUBLIC SAFETY, COUNTYWIDE,
COUNTYWIDE FIRE FACILITIES

ORDINANCE NO. _____
BILL NO. 89 (2021)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX D – CONDITIONAL LANGUAGE,
OFFICE OF THE MAYOR, ADMINISTRATION PROGRAM; AND
AFFORDABLE HOUSING FUND

ORDINANCE NO. _____
BILL NO. 91 (2021)

A BILL FOR AN ORDINANCE AMENDING APPENDIX A
OF THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES –
SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2022,
AFFORDABLE HOUSING FUND (LILOA HALE PROJECT)

ORDINANCE NO. _____
BILL NO. 92 (2021)

A BILL FOR AN ORDINANCE AMENDING APPENDIX A
OF THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES –
SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2022,
AFFORDABLE HOUSING FUND (HALE O PIIKEA II)

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS BILLS 86 THROUGH 89, BILL 91 AND
BILL 92 ON SECOND AND FINAL READING,
INCORPORATING ANY NONSUBSTANTIVE REVISIONS AND
REVISIONS TO INCORPORATE ANY PREVIOUSLY PASSED
BILLS.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to
pass Bills 86, 87, 88, 89, 90 *[sic]*, 91, and 92 on second and final reading.

Discussion?

COUNCILMEMBER PALTIN: Oh, point of information.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR LEE: Oh, did I miss one?

COUNCILMEMBER PALTIN: Not 90. Oh, you put one too many.

CHAIR LEE: One too many?

COUNCILMEMBER PALTIN: We're not, I thought we already, we already did 90.

CHAIR LEE: Exactly. We filed that. Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

CHAIR LEE: Not 90, but 91 and 92.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: On second and final reading. Discussion, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Mahalo Chair. And mahalo Member Paltin. And I'm sorry, this will be a little faster than you may have anticipated. Bill 86 and Bill 87 amend the Fiscal Year 2022 Budget Appendix A, Part I, Appendix D, by adding a new grant under the Department of Fire and Public Safety, entitled "State of Hawaii Makena Lifeguard Services" and conditional language limiting disbursement for salaries and premium pay to 10.5 LTA equivalent personnel.

Bill 88 amends the Fiscal Year 2022 Appendix C – Capital Improvement Project, Department of Fire and Public Safety, to change the wording to allow the Department of, Department to supplement existing capital improvement projects that exceed its current budget allocation due to material and shipping cost increases. The bill also adds the heading "5. Paia – Haiku Community Plan Area".

Bill 89 amends the Fiscal Year 2022 Budget Appendix D, to update or add the conditional language for Re-Tree Hawaii; the Liloa Hale Project; and the Hale Piikea *[sic]* Project. These changes have been made in the budget bill and only need to be added to Appendix D.

Bill 91 amends the Fiscal Year 2022 Budget Appendix A, Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds, by adding an appropriation under the Affordable Housing Fund for Liloa Hale Senior Rental Housing project in the amount of \$4.3 million.

Finally, Bill 92 amends the Fiscal Year 2022 Budget Appendix A, Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds, by amending the appropriation for Hale O Piikea II under the Affordable Housing Fund for the Hawaiian Community Development Board by: 1) allowing funds to be used for construction instead of a land acquisition; 2) revising the number of units from 96 to 97; 3) adjusting the unit count per category; and 4) adding one unit for an on-site property manager.

I ask for the Councilmembers continued support of these items. Mahalo, Chair.

CHAIR LEE: Vice, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yea, thank you. I like when you do many bills at once, so thank you very much. You know, I just have a question, clarification question for Bill 91 and 92. And because it says, Revolving Funds, "Revolving/Special Funds", it's a loan, correct? So, they're going to pay us back? Yea, okay. Very good.

CHAIR LEE: Any more questions? If not, all those in favor of the motion, please raise your hand and say "aye", for all those bills on second and final reading.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR
LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Clerk. We have a couple more.

ORDINANCE NO. _____
BILL NO. 93 (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.64,
MAUI COUNTY CODE, RELATING TO
BED AND BREAKFAST HOMES

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And you know, because Member Sugimura likes it, may I ask the Clerk to please call up Bill 94 as well?

CHAIR LEE: Mr. Clerk. Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objection.

VICE-CHAIR RAWLINS-FERNANDEZ: No objections.

CHAIR LEE: Two in a row.

ORDINANCE NO. _____
BILL NO. 94 (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.65, MAUI COUNTY
CODE, RELATING TO SHORT-TERM RENTAL HOMES

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO PASS BILL 93 AND 94 (2021) ON SECOND AND
FINAL READING.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Second? Moved by Member Paltin, seconded by Member King.

Discussion? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. The purpose of the proposed bills is to reduce the number of bed and breakfast homes and short-term rental homes allowed in the Lānaʻi Community Plan area by: 1) limiting permits of each type to 15; 2) prohibiting on-street parking by guests, operators, or service and delivery vehicles; 3) limiting density to no more than one type within a 300-foot radius and no more than one type per block; 4) increasing notification requirements; 5) requiring Lānaʻi Planning Commission to review permit renewal applications and allowing approval for up to five years. Current permits would remain valid until their expiration date and can be renewed if criteria are met.

I respectfully ask for the Members support of my motion. Thank you.

CHAIR LEE: More discussion? All those in favor of passing these bills on second and final reading, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA. KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries, on Bills 93 and 94.

Bill 95.

ORDINANCE NO. _____
BILL NO. 95 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY
CODE, TO ADD "MITIGATE CLIMATE CHANGE AND WORK TOWARD
RESILIENCE" AS A GOAL OF THE COUNTYWIDE POLICY PLAN

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO PASS BILL 95 (2021) ON SECOND AND FINAL
READING.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR LEE: Moved by Member King, seconded by Member Sugimura, to pass Bill 95 on
second and final reading.

CHAIR LEE: Member King, discussion?

COUNCILMEMBER KING: Thank you, Chair. This has been a long journey for this bill, this
. . . bill. The purpose of the proposed bill is to incorporate the amended Section IV,
attached as Exhibit "1", by adding "Mitigate Climate Change and Work Toward
Resilience" as a theme and goal of the Countywide Policy Plan.

At the June 18, 2021 Council meeting, we adopted the recommendations of Committee
Report 21-38 to hold public hearings on Lānaʻi, Maui, and Molokaʻi. After the public
hearing, schedule first reading of the proposed bill, and file the communication. The
public hearings were held on August 10, 2021, and no oral or written testimony was
received. The proposed bill passed first reading at the September 3, 2021 Council
meeting.

I'd like to remind Members the proposed bill was unanimously recommended for
approval by Lānaʻi, Maui, and Molokaʻi Planning Commissions. And the Planning
Department also supported emphasizing climate change in the Countywide Policy
Plan.

The United Nations Intergovernmental Panel on Climate Change reported just last month, "it is inequ, unequivocal, unequivocal that human influence has warmed the atmosphere, ocean and land". And the UN Secretary General Antonio Guterres described the report as, and that's, this is the reason for my lei, "code red for humanity". We need to focus on the causes and effects of climate change by grouping policies under this theme and goal. I respectfully ask for the Council's support of my motion. Thank you.

CHAIR LEE: Any more discussion? If not, all those in favor, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Oh, it's unanimous; nine "ayes", zero "noes".

COUNCILMEMBER KING: They're all climate champions.

CHAIR LEE: Yes. Hooray.

COUNCILMEMBER KING: And you can't see it, but I actually wore my Climate Reality t-shirt today under my jacket, so.

CHAIR LEE: Oh, very nice. Very good.

COUNCILMEMBER KING: It doesn't show up on the screen, but.

CHAIR LEE: Alright, Member Paltin, we do want to end on a good note. Committee Report 21-85.

COUNCILMEMBER PALTIN: I'll do my best, Chair.

DEPUTY COUNTY CLERK: Chair, shall I call up the item?

CHAIR LEE: Yes, please.

COMMITTEE REPORT

NO. 21-85 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill _____ (2021), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE 4295, GRANTING MAUI DRAGON FRUIT FARM LLC A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 833 PUNAKEA LOOP, LAHAINA, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-34, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 21-85.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Second? Moved by Member Paltin, seconded by Member Sinenci, to approve the recommendations in Committee Report 21-85.

Member Paltin, discussion?

COUNCILMEMBER PALTIN: The purpose of the proposed bill is to grant a Conditional Permit to Lawrence and Crystal Schmitt of Maui Dragon Fruit Farm LLC, to conduct agricultural activities, sell related products and items not grown on the property, and to conduct special events.

Maui Dragon Fruit Farm is a 27-acre USDA-certified organic farm established in 2009. The Farm's operation also includes farm tours, Aqua-Ball rides, and a 400-foot zipline.

Your Committee agreed to extend the Conditional Permit expiration date to March 4, 2025 when their Special Use Permit expires. The Committee noted the zipline activities will also require a Conditional Permit after August 13, 2022, under the recently enacted Ordinance 5238. Your Committee voted 7-0 to recommend passage of the revises proposed bill on first reading and filing of the communication.

And then we received a bunch of testimony today. I was wondering, as part of the discussion, if Ms. Lutey could let us know as to the legalities of RVs on the property? Or Ms. Thomson?

CHAIR LEE: Ms. Thomson?

FIRST DEPUTY CORPORATION COUNSEL RICHELLE THOMSON: Thank you, Chair. Thank you for that question. So, recreational vehicles being used for housing would not be an outright legal use. I understood from some of the testimony today though that the Planning Department is aware of that situation. And it is not currently a part of the Conditional Permit being considered by you folks today. That use potentially could be roped into the Conditional Permit, but it is not currently part of it.

So, my recommendation would be to probably allow, you know, the Planning Department to go ahead and interact with the landowner and, you know, bring it back to you. If, if you wanted to add the RV usage as some type of allowed, it's currently not allowed--

COUNCILMEMBER PALTIN: So, are you saying we have to recommit this?

FIRST DEPUTY CORPORATION COUNSEL: No, only, I mean, that's completely up to you. But you could take action on the Conditional Permit as it's drafted. It would not affect one way or another the use of those RVs. So, that's not addressed by this permit that's before you today.

COUNCILMEMBER PALTIN: Okay. Thank you. I'll yield to the other Members.

CHAIR LEE: Member Paltin?

COUNCILMEMBER PALTIN: Yes?

CHAIR LEE: I have a couple of comments.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Yes, it's, it was a little disturbing to hear that testimony today, but there's several options. One, we could pass it and, or just leave it on the Clerk's table. Or recommit, as you don't want to do. But those are the options. But no matter what option, I would suggest that perhaps you recommend to the Planning Director to, to try and mitigate some of these issues that came up. Well, to first of all, verify, verify these claims. And then if they are legitimate, then work with the owner on how to mitigate these issues.

COUNCILMEMBER PALTIN: Chair, may I respond?

CHAIR LEE: Sure.

COUNCILMEMBER PALTIN: You know, when we were in Committee, I mentioned that Lahaina is a fairly small town. And I am aware that there are parties that go on at the dragon fruit farm. And from my understanding of the people that attend, and whatnot, they're not weddings, you know? We, we saw who the workers are, and I know some of the kids that go there at night. And I think that the issues that are occurring and, and I'm not certain because I haven't been to the parties or anything, but I think it's more to do with not the Conditional Permit issues, personally, as it is to do with the farming operations and maybe the workers and whatnot.

Because, if we believe what Ms. Schmitt says, you know, in her testimony about weddings not going on. I think she mentioned to me in a separate conversation that when they did not get the TVR for the two-bedroom that they had built, they rented it out to three young, single guys.

And so, you know, I'm not sure that the partying noises and things that the neighbors are hearing are actually weddings, or just long-term renters who have made Maui their now home and are having good fun. And so, at this point, I kind of think, and I'm not sure this is my theory, that having the Conditional Permit would be a strict enforcement on other types of activities because violations could get it removed without having the Conditional Permit, the farm workers, and the other things. Because they say, you know, majority of the things that deal with this Conditional Permit are daytime hours. But that's just my thoughts and theories. I will leave it to the body to provide their feedback.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. My, my understanding is this is an extension of a Conditional Permit that they already have. And so, it doesn't seem like the Conditional Permit has, has resulted in those strict, you know, what you were talking about, that that would give them strict parameters. I was, I was really shocked to hear about the RVs on the property, and people living in them.

Member Sugimura and I had been attending some of these sessions at the Police Department about impaired driving. And we had a long conversation with the Brown Family who lost their daughter in a, in an accident, who were then trying to, you know, they, they moved to another property, were trying to live on an RV, and they were getting kicked out of their RV. And they were told they couldn't, they couldn't have an RV on the property to even live in, as the primary residence.

So, to hear that we're, that these luxury RVs are now being used as temporary housing for people who, from out-of-State. I don't even know if they're not even there for six months, then they wouldn't even, they wouldn't even be considered residents. They'd be considered short-term rentals.

But I think this needs to be looked at more closely by the Planning Department, and so, whether we recommit it to Committee or lay it on the Clerk's table until we get a full report from the Planning Department. But, you know, I, I agree that Conditional Permits are supposed to be, are supposed to allow for this kind of investigation. But it apparently hasn't, because they've had a Conditional Permit and yet we're just now finding out this information that didn't come up in Committee. So, that would be my preference, is either to recommit to Committee or lay it on the Clerk's table for however long it takes to get a full investigation and, and get the applicant into compliance with the law. Because I don't think it sets a good example when someone's breaking the law in one area to then turn around, give them a Conditional Permit for something else. That would be my preference. Thank you, Chair.

CHAIR LEE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Yea, I, I agree with Member King. You're not supposed to have, well, according to, you know, what I've been reading with HRS, I'm, I'm reading a communication between the Housing Committee with the State, and our Planning Department. And one of the things that's pretty clear is that RVs are not allowed on ag land. And even a discussion is going on, you know how I wanted to have in January, I thought it would, or January/February, I would have, I would have a tiny home ordinance. But it's pretty controversial and it's actually going back and forth. I don't know if it's only with State, but there's some dissecting going on. But we need clarity.

I think it's something really important, because it's happening all around us. It's happening in my community too, where I'm seeing these RVs pop-up, and tiny homes pop-up, and I'm not sure if they're connected to wastewater systems and water. And there's some safety things that I'm concerned, so I'm kind of anxious to get my, my ordinance through.

But going back to this, yea, I'm concerned like what Member King is talking about, so that we can have some consistency. And as you heard, the zipline ordinance, which was not on the agenda today, but certainly the neighbors sound like our other neighbors that we heard in other ag communities where you have ziplines right next to them and, and the disturbance to the neighborhood. So, but that's another discussion that we'll hear once that Conditional Permit comes before us. But for today, I don't think that we should take action, because of this, and let the Planning Department do their investigation. And, and then we should assess it in total is my, is my recommendation.

CHAIR LEE: Alright. Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. Yea, I echo the concerns expressed, or the preferences of Members King and Sugimura. It was an eye-opener this morning. And I believe the applicant did tell us that there was an inspector that looked at the RV. And, you know, I'd like to wait for that inspection report before considering any action at all, and when that RV was put on that property. Cause, apparently this was an extension of an existing permit. So, there's a lot of questions that kind of need to be answered, at least from my level of comfort to support an extension like this.

So, either, you know, lay it on Clerk's desk or send it back to Committee. I don't know if maybe might be, things might be more thorough if we send back to Committee, work out all these details, and then move it forward from there. But I think we got to get these questions answered, because if we were to act today and sort of like turn the other cheek, I mean, it could set precedent, you know. And we don't want that happening. And, you know, to have employees living in an RV, then that, you know, we, if we look the other way, it's opening up a potential Pandora's box. So, either recommit, or at the very least, table. Thank you, Madam Chair.

CHAIR LEE: Thank you, Mr. Molina. Anyone else?

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I just, you know, I was wondering Members' thoughts on filing? Because we're about three years past the 180-day Charter deadline. And oh, maybe we can check with Ms. Thompson about willful violation here?

CHAIR LEE: Ms. Thomson?

FIRST DEPUTY CORPORATION COUNSEL: Thanks for the question. I think that the RV usage, it's, you know, it's not addressed in this Conditional Permit. And there's no real

section in there that I could find regarding housing of staff, you know, that would be a type of enforceable condition. I think it's important, though. As you noted, this, this matter, the original permit, Conditional Permit was issued or approved in 2016. So, I know that it's just been lingering through the Committee and Council process for various reasons. But if you file it, that would mean though that the permit is terminated versus, I think right now it's just been operating a bit in limbo, pending your final decision.

COUNCILMEMBER PALTIN: I, I understand that. But I guess the question was, if we don't take action, are we willfully violating the Charter? I understand Members' reluctance to grant the Conditional Permit. It's been operating with an expired permit for the last three years. And if we don't take action, because I have other things, other deadlines, are we willfully violating the Charter's 180-day deadline? I mean, we're already three years beyond. Would that?

FIRST DEPUTY CORPORATION COUNSEL: So, the, you know, although the Charter has that 180-day deadline, there's no penalty. So, it doesn't mean automatic approval, or automatic extension. I think that's one of the things the Charter Commission can clean up is, you know, either extending that deadline or giving it, you know, a meaning what happens when that deadline is exceeded? But there is, there is no real penalty.

COUNCILMEMBER PALTIN: Okay, that's great. So, no \$1,000 fine for me, you're saying. Okay. Main thing. Thanks. I'll, we can leave it on the table till the investigation concludes.

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, after hearing what Chair Paltin just spoke, then we leave the, the company in limbo until, and we leave it on, we leave the issue on the Clerk's desk until the Planning Department is able to come up with some kind of resolution that we can address? Is that where we're at right now?

COUNCILMEMBER PALTIN: I think if they're in violation, then we wouldn't be extending the permit. Is that, I mean, that was my interpretation. Was that you guys' interpretation?

CHAIR LEE: Wait. Member Kama, did you understand that answer?

COUNCILMEMBER KAMA: I understood what Member Paltin just said. But that's not what I understood where that conversation went. And so, I think I probably understood something else. But if everybody else understood that they are in violation, therefore, you know, we couldn't do the Conditional Permit today. Then I guess that's where we're at.

CHAIR LEE: Well, we don't know for sure that they're in violation. But that's the reason why we would ask the Director of Planning--

COUNCILMEMBER KAMA: Right.

CHAIR LEE: --to do an investigation.

COUNCILMEMBER KAMA: Right. Yes.

CHAIR LEE: Okay. I saw Member Johnson, then I saw Member Rawlins-Fernandez.

COUNCILMEMBER JOHNSON: Thank you, Chair. As a former dragon fruit farmer, I'm going to try not to be biased because I love dragon fruit. That being said, man, that's, that's a hard one. Like, that's, that's really disappointing that we're at this stage. I, I understand keeping it on the Clerk's desk, but I'm kind of curious, what would happen if we voted it down? Can they reapply for everything and, correctly and include everything that they're actually doing? Is that a path we could go for?

CHAIR LEE: Well, in, in my opinion, they're deserving of an answer after three years of being in limbo, you know, one way or the other.

Well, what about you, Member Paltin? You're the Chair of the Committee.

COUNCILMEMBER PALTIN: Well, you know, I don't know what weddings they have booked or what tours they have booked. I guess if we file it today, then all the ones moving forward are canceled. So, leaving it on the Clerk's desk until we get the results of the investigation will give them, I guess however long it takes for the investigation to go through, to stop taking more bookings and maybe start letting folks know that, you know, there's a possibility that we don't get our permit and we can't continue these tours.

They can reapply for all the things, but it, it's going have to go through the Planning Commission again and they're going to have to do things the right way, and they won't be able to operate after we take the action of filing them, or filing it, the permit--

CHAIR LEE: Okay. Mr. Sinenci, then Member King.

COUNCILMEMBER SINENCI: Chair, just a response to Member Johnson. It looks like her Conditional Permit is just for weddings, selling value added products at her shop, and the Aqua-Ball. So, I, I believe she could still do her dragon fruit farm. I mean, I believe

the, why the, why the permit was in limbo was because they were also requesting TVRs to the permit. Thank you, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER PALTIN: Oh, sorry. Point of information.

COUNCILMEMBER KING: I was going to, I was going to make the point that, you know, they, there's certain things that are allowable under ag zoning. So, they can continue to grow, to grow fruit, they can continue to sell fruit. What's not allowed is to sell non-agricultural related items, you know. So, they're bringing in other items to sell at their store, I guess, and, and then some of these extra, like the weddings. You're allowed to do farm tours on ag-zoned land without a special permit. So, they could still do farm tours with their farming operations.

But the other thing I wanted to say was, you know, after, pending the investigation, there's probably going to be a need for a deep discussion about this issue. So, maybe recommitting it to Committee is the way to go. Because otherwise, we're going to be doing Committee work on the Council floor if we, if we wait till that investigation is done. Then we have to, we have to have this discussion again. And we might want to look at, relook at the conditions, as well. So, just wanted to kind of throw that out there that if we do, if we do just table it, we're going to be back to this discussion and doing Committee work in the Council, I believe.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Yea, and I just wanted to add that the reason it took so long, when we came into office in 2019, the permit had already expired. And each time we contacted them, I don't know if you guys remember about the huge fire we had in Lahaina? So, they weren't ready. It wasn't that I didn't try to contact them.

The other issue is, you know, I think to me if they're in violation, that's it. There's no more discussion. And if we have it in Committee, we're going to get choke testimony again and whatnot. And I don't know that it will be different than what we already heard. So, I mean, if they are in violation, that's the end of the story for me. We don't need to discuss it more. If they're not in violation, then I'm open to bringing it back to Committee.

CHAIR LEE: Member, oh, Vice-Chair, did you have your hand up? Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I'm just trying to understand this to the fullest. The great news that we just heard from First Deputy Corporation

Counsel Thomson is that we don't have to be so concerned about the Charter mandate regarding the timeline. So, Member Paltin can kind of not be so stressed out about all those deadlines. So, I, it sounds like I support what Member King was just saying about recommitting. And I know that Member Paltin has a full plate always, as we all do. But it sounds like we're going to keep it on the Clerk's desk until we hear back from the Planning Department about potential violations regarding the Conditional Permit.

But the RV issue is a separate issue, not involving the Conditional Permit. And so, we want to hear about violations on both before we make decisions, even though the RV issue is not connected to the Conditional Permit. But that's because we want to ensure that those that get Conditional Permits from us are not violating the law, and any other part of our Code. And so, I guess if we could get clarification on whether having an RV there is a violation or not. So, getting confirmation from the Planning Department about whether they are allowed to have an RV there or not, and that's a separate issue from the Conditional Permit, but connected because we want them to be in compliance with the law.

And regardless of whether we vote up or down, that this Conditional Permit, it sounds like from Member Paltin that it's not the Conditional Permit that's causing the frustrations and complaints from the neighbor. So, the neighbor will still be potentially dealing with any of the impacts that she's experiencing that she shared in testimony, because it's not related to the Conditional Permit. Okay, so I just wanted to make sure that we're all clear, or I, well, I'm clear on what's happening.

COUNCILMEMBER PALTIN: Well, I can--

VICE-CHAIR RAWLINS-FERNANDEZ: And then--

COUNCILMEMBER PALTIN: --I mean, if the work--

VICE-CHAIR RAWLINS-FERNANDEZ: --in a second. And then, I, I guess I share Member Johnson's sentiment about we heard, and a lot of us really loved what we heard in Committee about what was going on with all of the educational tours with the kids, how fun that Aqua-Ball is. And we, we all talked about potentially wanting to take our children, grandchildren there to check out their farm operations, because it sounded so wonderful.

But you know, and it sounded like if we, if we don't approve the Conditional Permit, because of the hardships that they experienced with having, you know, the dragon fruit start fruiting, it took a long time. And then in the meantime, they had leafy greens that they were selling. And then there was the, the slug, the semi-slug with all the parasites, and then, there, they, their farm operations totally, you know, disintegrated. And then,

and then their dragon fruit finally fruited. And then the fire burned everything down. And then they, they planted new dragon fruit . . . I'm concerned that they'll lose, you know, their, their, all their operations. And that was the concern we shared at Committee, is if they don't have this supplemental income while they wait for their dragon fruit again after the fire burned everything down to . . . while they wait that they might lose everything. And so, I would like to hear back from them about what that, what would, you know, what would that look like while they're in limbo right now and still kind of operating but kind of without a permit. Just not an approved permit. Mahalo, Chair.

And then, I think Member Paltin wanted to correct me, or share, share with me on something. Mahalo, Chair.

CHAIR LEE: Vice-Chair, you realize that we were all at the same meeting, right? Just kidding. Just giving you a hard time.

Okay. Member Paltin.

COUNCILMEMBER PALTIN: Yea. I guess, you know, a lot of it depends on if the workers still live on the property, or if that, the young single folks are still renting the house. Because that's the nighttime noise that I think is going on. But yea, you're right, the, if farm tours are allowed and they don't like farm tours, that'll still be going on. The night pollinating of the dragon fruit still be going on. Selling of products that they make on their farm still be going. So, I mean, if we're believing what she said that they haven't been having these weddings, the only other conclusion I have is the, the night partying noise is from either from the workers or the house renters.

CHAIR LEE: Member King.

COUNCILMEMBER PALTIN: So, that was just my clarification of what you were saying that I said.

COUNCILMEMBER KING: Yea, I don't think she said that they weren't doing weddings. In fact, the, the special, the permit they're looking for is to conduct special events. I think she was saying that they weren't doing weddings into the night like they were, the other testifiers said that they were going on till 11:00 at night with loudspeakers. But, you know, according to what they're asking for, they could, they could do weddings and any other special events, because that's part of the permit, the, the Conditional Use Permit that they're asking for. So, I think, I do think that that's, that could be part of the problem, part of the violations. If, if it's, if the investigation is . . . is found out that they're doing outside, you know, more than they're supposed to per month and outside of the actual hours. So, that's part of the, I think that'll be part of the investigation. But you

have the farm tours that are allowed, you know, there's, there's no permit needed for that.

CHAIR LEE: Member, Pro Temp Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Were we going to hear from the property owner at some point in time?

CHAIR LEE: We're just deciding how to deal with this--

COUNCILMEMBER KAMA: Okay.

CHAIR LEE: --item, which was scheduled to be passed.

COUNCILMEMBER KAMA: Okay.

CHAIR LEE: But people are having second thoughts. So, the Chair of the Committee is looking at tabling this item until the investigation produces--

COUNCILMEMBER KAMA: Okay.

CHAIR LEE: --information to us.

Yes. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think Pro Temp Kama wasn't at that meeting, yea?

CHAIR LEE: No.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, see. So, I helped to give Member, Pro Temp Kama a recap of what she missed.

COUNCILMEMBER KAMA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: You're welcome, Pro Temp Kama. And I wouldn't have any objections if Pro Temp Kama wanted to ask if she's on, Ms. Schmitt. But if we're going to table and/or recommit, then we can also take a deeper dive, discussion later.

CHAIR LEE: Have we heard from everybody? Well, the Chair, the Committee Chair's recommendation is to table the item and ask the Planning Department to investigate the allegations.

COUNCILMEMBER KING: Do we need to vote for that? Do we need to remove, or withdraw the original motion then?

CHAIR LEE: Well, did, did you actually move to approve the Committee Report? Oh, you did, eh. Okay, just making life more difficult. Okay. So, but you had your hand up. What is that for?

COUNCILMEMBER PALTIN: Was that on me to follow up with the Planning Director? I got to ask them to do the investigation, and let us know the results?

CHAIR LEE: Yes, because you're making us stay a lot longer than we're supposed to.

COUNCILMEMBER PALTIN: Okay. I mean we're on the clock till 4:30, right?

CHAIR LEE: No.

COUNCILMEMBER PALTIN: Punch in.

CHAIR LEE: We could have gone home earlier. Okay, so you're withdrawing your motion then, right?

COUNCILMEMBER PALTIN:

WITHDRAWING IT. YEA, CORRECT.

CHAIR LEE: And who was the second on, on this beautiful motion? Who, who was the second? Member Sugimura, you're withdrawing your second? So, you want to make a new motion?

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sinenci was the second.

CHAIR LEE: Oh, okay.

VICE-CHAIR RAWLINS-FERNANDEZ: I got you deputy director, uh, Deputy Clerk.

COUNCILMEMBER PALTIN:

YES, I'LL, I'LL MOVE THIS TIME TO LAY THIS ON THE CLERK'S DESK.

I'LL COMMUNICATE WITH THE PLANNING DEPARTMENT AND ASK THEM TO LET US KNOW THE RESULTS OF THEIR INVESTIGATION. AND IF THEY CAN BROADEN IT BEYOND THE RV TO NON-COMPLIANCE WITH THE ORIGINAL CUP.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Since you already gave your explanation, anybody else want to chime in? If not, all those in favor of the motion, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

CHAIR LEE: Okay. Nine "ayes", zero "noes"; motion carries.

So, that brings us to the end of the calendar. Mr. Clerk?

DEPUTY COUNTY CLERK: Chair, there is no further business before the Council.

CHAIR LEE: Whew, I feel like we have worked overtime. Okay. Alright everybody, any parting words, any words of wisdom?

COUNCILMEMBER KING: I'll just say that we could have, we could have done mine last like it was scheduled. We could have ended on a real positive note.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: I just want to say congratulations Fire Chief Brad Ventura. That was announced yesterday. And then, next week Friday, we're going to hear who the next Fire Chief, I mean, sorry, Police Chief is. So, we're going to be full, full, fully staffed. So, congratulations to Brad.

CHAIR LEE: Anything exciting happening this weekend, anybody? Nothing?

COUNCILMEMBER SUGIMURA: Staying home for COVID.

CHAIR LEE: Okay, everybody, I expect you to be working in the yard.

VICE-CHAIR RAWLINS-FERNANDEZ: I'm going to paddle for 20 miles.

CHAIR LEE: You're going to paddle where?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, 20 miles.

COUNCILMEMBER SUGIMURA: Wow.

CHAIR LEE: To where?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, just along the coastline.

CHAIR LEE: Wow. Good for you. Good for you.

VICE-CHAIR RAWLINS-FERNANDEZ: Have fun golfing tomorrow.

CHAIR LEE: Oh, yea. Of course, I have to. It's like breathing. My only outlet I have, have you know.

COUNCILMEMBER SUGIMURA: Take a picture of greens, if it's still beautiful.

CHAIR LEE: Yea, okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: I don't drink, I don't smoke, I don't do drugs, but I golf on weekends; Saturday and Sunday.

COUNCILMEMBER SUGIMURA: Wow.

CHAIR LEE: Yea. Okay, everybody, have a wonderful weekend. Be safe. Be happy. And please come back to work next week. Take care, everybody. Thank you so much for everything. Thank you.

COUNCILMEMBER MOLINA: Meeting adjourned.

CHAIR LEE: Meeting adjourned.

COUNCILMEMBER KING: Does that mean if we don't play golf, we can drink?

CHAIR LEE: I know you guys' drink. I know you love your wine.

COUNCILMEMBER KING: I'm also--

CHAIR LEE: Okay, meeting adjourned.

ADJOURNMENT

The regular meeting of September 17, 2021 was adjourned by the Chair at 4:10 p.m.



KATHY KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII



Hawaii

Holding Power Accountable

RECEIVED

2021 SEP 16 PM 1:26

OFFICE OF THE
COUNTY CLERK

P.O. Box 2240
Honolulu, Hawaii 96804
808.275.6275

www.commoncause.org/hi

September 16, 2021

Council of the County of Maui
Kalana O Maui Building, 8th floor
200 S. High St.
Wailuku, Hawaii 96793

Via Email Only

Re: September 17, 2021 Agenda Item E "Recognizing September 28, 2021 as National Voter Registration Day"

Dear Chair Lee, Vice Chair Rawlins-Fernandez, and Councilmembers:

Common Cause Hawaii is a nonpartisan, nonprofit, grassroots organization dedicated to upholding the core values of a representative democracy through increasing access to voting, civic education, and public participation in government.

Common Cause Hawaii supports the Ceremonial Resolution "Recognizing September 28, 2021 as National Voter Registration Day". Common Cause Hawaii commends the Maui County Council for recognizing the importance of voter registration and civic education and the notion that voter engagement occurs every day of the year and not just during election season. Common Cause Hawaii also applauds the Maui County Council for recognizing the vital work of our election officials in securing our democracy.

Common Cause Hawaii sincerely appreciates the opportunity to support this Ceremonial Resolution. Please do not hesitate to contact me, if you have any questions or concerns.

Very respectfully yours,

Sandy

Sandy Ma
Executive Director
Common Cause Hawaii





P. O. Box 235026 | Honolulu, HI 96823
lwwh.org | 808.377.6727 | voters@lwwhi.org

RECEIVED

2021 SEP 17 AM 7:52

OFFICE OF THE
COUNTY CLERK

County of Maui Regular Council Meeting

Friday, September 17, 2021, 9:00 a.m.

TESTIMONY

RECOGNIZING SEPTEMBER 28, 2021, AS NATIONAL VOTER REGISTRATION DAY

Donna Oba, President, League of Women Voters of Hawaii

Chair Lee, Vice-Chair Rawlins-Fernandez, and Council Members:

The League of Women Voters of Hawaii strongly supports your proposed Resolution “Recognizing September 28, 2021, as National Voter Registration Day.” Our position is based on the National Voter Registration Act of 1993, whereby Congress reaffirmed that voting is a fundamental right, and it is the duty of governments to promote the exercise of that right.

Truthfully, Hawaii has one of the most modern voter registration systems in the United States, offering voter registration online, voter registration in person on Election Day at Voter Service Centers, and of course, voter registration in person at our County Clerk offices. We acknowledge and thank the Office of the Maui County Clerk for its ongoing voter registration service to the residents of Maui County.

Also, since Act 126, Hawaii’s “Automatic Voter Registration Law,” passed this year, an application for voter registration will soon be part of all state identification card and driver’s license applications. Changes to the names and addresses of people already registered to vote will be automatically updated unless the applicant declines. Voter registration information will be shared only among the counties, Department of Transportation, election personnel, and the online voter registration system.

For 101 years the League has been a nonpartisan, activist organization whose core value is to protect the right to vote and encourage citizens to vote. Though we have worked hard to realize the voter registration conveniences described above, estimates from U.S. census data in November 2020 indicate only 40% of those **eligible** to vote in Hawaii were registered, so we all have work to do to make it easier for the remaining 212,000 eligible but unregistered Hawaii citizens to register to vote.

Registering to vote (and then voting) is core to sustaining our democracy. We thank the Council of Maui County for helping raise public awareness of the importance of registering to vote, and also cooperating with the League of Women Voters, an official Community Partner in “National Voter Registration Day 2021.”

We urge you to adopt this resolution. Thank you for the opportunity to submit testimony.

County Clerk

RECEIVED

From: vera sreda <verasreda@gmail.com>
Sent: Wednesday, September 15, 2021 7:56 PM
To: County Clerk; Tamara A. Paltin; Robert Carroll
Subject: Testimony Regarding County Council Item CR 21-85-Please DENY
Attachments: Dragon Fruit Farm Lay out.jpg; Crystal Text Saying 12 events per quarter.jpeg

2021 SEP 16 AM 8:06

OFFICE OF THE
COUNTY CLERK

Some people who received this message don't often get email from verasreda@gmail.com. [Learn why this is important](#)

Dear Maui Council Members,

I, Vera Sredanovic and my husband Winston Cheshire live at 959 Punakea Loop, Lahaina, right under Dragon Fruit Farm. Over the past 6 years we have had many issues with Dragon Fruit Farm Commercial non-agricultural activities which are creating daily noise from Zip lining, Aqua Rolling Balls, weddings, Transient vacation rental and unpaid workers who sleep & party at the farm.

We have not received any notices regarding CUP and its amendments for Dragon Fruit Farm. I found out about this Friday meeting from Michaela McLean a couple of days ago. I found her name in an online article regarding permitting of Zip lines. I contacted her regarding noise from Dragon Farm and other CUP violations and she told me that CUP is on the docket this Friday. She advised me to write to you. That explains why you never received any letters from the community, as they are not being notified and were kept in the dark on the county's CUP restrictions, amendments and extensions. I also talked to other neighbors 500 feet from Dragon fruit farm and they have not received notices either. One neighbor said he received something in 2017, but nothing after that. Crystal was called by many neighbors with complaints about the noise, so I guess she chose not to send notices to us. I see that CUP states that you have on file proof that mailing was sent to us, it would be good to review those proofs. Also, we have never received a copy of the CUP and its restrictions, so I contacted Crystal-Owner and asked her how many events she is allowed to have. This is her text: (also attached bellow if not visible in the body of the e-mail)

Here you can see that she didn't want to answer how many events per month-so I had to ask twice., She states here she has unlimited picnics and 12 weddings per quarter (that is 4 weddings per month according to Crystal). Classification of picnics is murky too, as there was a wedding on 4/24/21 that she claims was a picnic-I think that was during the time when weddings were not permitted as per public health order-but I am not positive on when that was in effect). CUP available on-line from 2016 states 2 events/month are permitted? Are there some other rules not spelled in the CUP that Crystal is referring to?

I will guide you through a typical day we experience living here: from am-through afternoon, we hear screams from tourists Zip Lining and Aqua Ball rolling down the hill. We also hear very loud farm tours, as guides are having to yell to large groups of tourists and these tours are conducted right along our property line. We see daily, multiple large groups of tourists, sometimes 20-30 in each group having tours, Zip lining on the double zip line-2 lanes running at once-thus double screams, and aqua balling. During the pandemic Dragon Fruit Farm also built a large- about 50 feet by 30 feet pad with multiple dining tables for their Mountain Café-and noise is coming from there throughout the day also. In the afternoons and through evenings and late into the night we have large weddings with very loudspeakers, DJs and screaming wedding guests. Once they all leave and Dragon Fruit Farm is closed for adventure tours and other activities, we hear unpaid staff party hard, sometimes well into midnight and 1 am. They also invite guests who will drive up the hill and join their parties.

To give you a background on the people living at the farm and what they do: People at the farm are conducting tours, operating ZIP and Aqua Ball adventures, I have yet to see them do any farm work. Over the years I met many of them-

nice kids (young adults from all over the world who come to HI on the farm exchange programs and work for free in exchange for lodging and food. Many of them live in very bad conditions, in tents in extreme heat and direct west side sun. They told me they are bitten by centipedes in their sleeping quarters and the kitchen area is hot and not sanitary. So it is no wonder that at night they gather at the tour reception Cottage and party deep into the night under bright lights. They invite other friends, so we will see a lot of kids at the farm playing football, yelling, parting, listening to loud music and sometimes drugs. Couple of months ago I brought the Duck that was lost to them, as they have those ducks and I could smell Marihuana in the air. That explains why I would awaken in the middle of the night with screams and hysterical laughter.

I have, of course, notified Crystal-owner about these disturbances, I would call and text her in the middle of the night but would not hear back from her until the next day (owners don't live at this property and are not available to respond to disturbance calls), just to be told by her next day, that there was no noise coming from her farm (that is very blatant to claim if you are not here to know for sure). Once she also stated that noise is coming from a neighbor above her- which of course was not true. At this point the only remedy I had was to call the police. MPD has 3 of my middle of the night disturbance calls, which they confirmed were coming from Dragon Fruit Farm. They have reports and also contacted Crystal directly to warn her. I feel bad calling the police on weddings as that would ruin their wedding day, but I have recordings of weddings going well into the night. All past 8 pm, all using loudspeakers, no lights are shielded and of course a lot of cheering, screaming, and yelling. Party tents are erected the day before the event and removed the day after the event-this is standard practice and I have dated photos confirming that too. The last wedding that was conducted on 9/12/2021 had over 50 people in attendance, 96 ceremony chairs were set up, it looked like the tent was over 700 sf (it would be prudent to see if fire department was notified to obtain their review and approval), couple of cars were parked on the street, loud speakers were used, unshielded string lights were used.

I have documented proofs of most of the conditions from 2016 CUP being violated, and you are welcome to contact me to provide you with videos and photos. I do see that one neighbor above the farm pointed to those similar complaints with an official form filed to the ZAED department. I was not aware of this process to file complaints, and it seems that if the complaint is past 7 days it doesn't get investigated. So it is good that I have digital proofs that can be verified.

Looking at the history of Dragon Fruit farm, I see that they conducted the same weddings and events even before being granted CUP, which was collaborated by neighbors who were here before we moved in 2016. After obtaining CUP they repeatedly violated the conditions of CUP. They also kept adding other activities to their CUP-all not related to agricultural activities. If you review their source of revenues and actual activities conducted on this location you will realize that all the profits are coming from Weddings, Zip Lines, Aqua Balls and "farm tours". Their unpaid staff is engaged in those activities and not farming activities. It is difficult to get actual dragon fruits grown at the farm even during the season from June-end of November. Land doesn't look like it is being worked and cultivated to produce crops. Dragon fruits are just left unattended. Their presentation looks nice but is disconnected from reality as the farming component is just used as a cover for other activities that should not be conducted on agricultural lands and are generating huge profits to owners to the detriments of this land and its neighbors. It doesn't contribute to economic development as there is minimal paid staff working at the farm. Less than 30% of their land is used for agriculture (even though they claim 15 acres is used), the rest is devoted to 2 large wedding pads, large parking areas, TVR and its yard-also used for weddings, Zip lines, some circular stone structures for photo props, Aqua Ball run, there is a portion of land that used to be natural rain run off-but they built large wedding/observations deck on top of that natural runoff and land below that is left unfarmed. I have provided the actual map of the lot as an attachment (this map is taken from Crystal's presentation to the county in 2018 CUP extension process, where she omitted certain elements not used for farming. Area shaded in yellow indicates the area entirely used for weddings and other events, shaded in white is unused land-and includes a part that used to be natural water runoff but now covered by their half circle ceremonies/viewing area, pink shaded is used for zip line and Aqua ball run-and not used for Dragon fruits-Crystal's presentation stated it was all used for Dragon Fruit farming. Only area shaded in green is dragon fruits.

Considering that the farm has a history of doing commercial activities without permit, violating CUP restrictions, falsely certifying that none of the CUP conditions were violated in their extension application, false claims that neighbors

adjacent to them were notified of their applications-so that they could have a chance to object, misstating surface of the land used in farming, not contributing in a substantial way to the welfare of the community by providing employment opportunities for local residents, and using agricultural lands as an excuse for profitable adventure and events activities while disturbing a peace of the land that is not zoned for such commercial activities, I would respectfully ask you to immediately revoke the CUP and ensure that those activities are stopped.

Thank you for your service to the community and I apologize for the lengthy testimony-but this is an accumulation of years of issues and disturbing activities at Dragon Fruit Farm.

Respectfully, Vera Sredanovic and Winston Cheshire



Crystal Maui Dragon Fruit Farm >

This was second in the last 30 days.
My question is how many weddings/
receptions are you premier for per
month

Permitted for- how many

I do not think we have another one
earlier. There is a ceremony earlier

Please respond_ I can call count
and ask if you refuse to answer

The one prior suppose to be a
picnic. We can have unlimited
amount picnic

Wedding reception 12 per quarter

I am trying not to do much reception
after dark. Less than 6 per quarter

So far we only had one. If that picnic
lady actually did a reception as you
described, I will totally bring up the
issue with her since that was not
suppose to .



Text Message



Guests/tours reception area-
UTILITY SHED PER
COUNTY TAX RECORDS

Area with
existing CP

UNUSED LAND

Large Wedding/Ceremony pad
Encroaching on adjacent property

New large concrete pad with multiple tents for
shade and dozens of tables-New Cafe area

2 lanes ZIP Line Towers

ZORB line and zorb storage building

Proposed TVR
2 bedroom ohana

Paved Parking (4 stalls)

Paved Driveway

Paved Parking (3 stalls)

200 sq. ft. 2nd building

Driveway

Restrooms 12 x 12

Paved Parking (25 regular stalls 2 bus stalls)

Gravel Parking (4 stalls)

Driveway

Grass Parking (40 stalls)

Nothing is planted in this pink
encircled area

Total Parking
76 regular stalls
2 bus stalls

Spiral rock attraction area

Nothing is planted here



Elyssa S.L. Tsolis
10 Mikiola Street
Makawao, HI 96768
(808) 276-2796

RECEIVED
2021 SEP 17 AM 10:34

OFFICE OF THE
COUNTY CLERK

Public Testimony

RE: CC 21-453 Bicycle Tour Public Safety

Aloha Maui County Councilmembers,

My name is Elyssa Tsolis and I am a resident of Makawao. We are now in year two of this thing we call the pandemic. It has been trying on all of us citizens of Maui County. I know most of you have been going above and beyond in keeping Maui safe and I thank you for that.

My current concern, well one of many, is the bicycle tours utilizing Baldwin Avenue. My nine year old son attends Kula Kaiapuni at Pa'ā Elementary. Traffic in the morning and afternoon can get quite busy especially during school hours.

Why are bicycle tours being allowed to operate during school drop off and pick up hours? Baldwin Avenue is a narrow two lane road with no shoulders. In some areas of the road there aren't any guardrails as well. There have been so many times where we would have to come to a complete stop; going around them create a huge risk of a head on collision because of all the blind turns. A lot of these cyclers are oblivious to traffic and take up the whole lane not allowing any room to pass when safe. This also goes for the cyclers traveling in the opposite direction that possibly are training for cycling events. They create traffic jams as well as high risks for major accidents.

We have witnessed cyclers fall off their bikes. We have also seen bikers flying down at speeds they can't control because of the decline. A lot of them are kids, inexperienced and unguided. I don't understand how a group of tourists are allowed to bike down an island that they have no knowledge of without a guide. Where is the accountability for the tour companies?

There needs to be some ordinance in place with restrictions of times. The whole upcountry is being affected by these bicyclers being able to 'bike down a volcano' during peak school hours. Take into account how many schools are being affected; Makawao School, Seabury Hall, St. Joseph's, Pa'iā Elementary, Dorris Todd not to mention all the preschools along the way.

Parents, guardians and caregivers are trying to get their kids to school safely and in a timely manner and get themselves to work safely too. Something needs to be done. There are much more reasonable hours during the day that will allow these tours to operate.

We live in a time where uncertainty has been our daily life. We have become adjusted to rules constantly changing because of this pandemic. We have a divide going on in our community that is so huge because everyone is right and no one wants to listen, just talk.

This is one thing that I believe most of Maui residents would agree on. An ordinance in place restricting bicycle tour companies from operating during school traffic hours in the morning and afternoon. What is it going to take before action is taken? There have been so many accidents in Maui county this year already involving tourists. I am not asking to stop bicycle tours altogether. Limiting their hours is justifiable in helping to prevent bicycling accidents.

Our keiki deserve to go to school and return home from school safely and on time.

Mahalo a nui,

Elyssa Tsolis

County Clerk

From: Crystal Schmitt <crystal@mauidragonfruit.com>
Sent: Wednesday, September 15, 2021 9:30 PM
To: County Clerk
Subject: Our response to Mr. Thompson and Mrs. Thom's Testimonies
Attachments: ThompsonResponse.doc; Mrs.ThomResponse.doc

[You don't often get email from crystal@mauidragonfruit.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Dear council members:

We appreciate all of our neighbors' feedback since we are always trying to be good neighbors.

Attached please find our response to our neighbors Mr. Thompson and Mrs. Thom's testimonies.

Mahalo!

Crystal Schmitt
Maui Dragon Fruit Farm
(808)264-6127

RECEIVED
2021 SEP 16 AM 8:07
OFFICE OF THE
COUNTY CLERK

Dear Council Members,

We are writing this letter in response to Margot Thom's objection to the renewal of our conditional use permit.

Our farm was devastated by the fire that swept through the area during Hurricane Lane. We have spent the last few years replanting our dragonfruit fields, expanding our pineapple and banana plantings, and planting an assortment of additional fruit trees. These plants are still small but are growing quickly and will hopefully be productive in a few more years. In the meantime, the revenue we receive from the farm tours, including the zipline, and from the occasional wedding are helping to pay the bills while we recover from the disaster. We humbly ask that you not take away this supplemental revenue from us as we rebuild.

We have tried to be respectful to the neighbors and have been limiting our farm tours to weekday mornings to minimize the impact on the area. Additionally, the area is a large lot agricultural area, so most neighbors are pretty far away and are not much affected by our activities. The area is not residential, but agricultural, so a certain amount of noise, be it from machinery, animals, or staff is to be expected. Our ag tourism activities do not significantly increase this basic noise level.

We would like to thank the council for their support of agriculture over the years. Farming can be difficult at times and is subject to many unforeseen problems such as drought, fire, floods, invasive plants, insects, etc. By diversifying our income with other revenue streams, we have been able to weather these storms and continue to survive as an organic farm which provides benefits to the island and to its people. We hope that you will continue this support and approve the renewal of our CUP.

Sincerely yours,

Crystal and Lawrence Schmitt
Maui Dragon Fruit Farm

Dear Council Members,

This letter is in response to the Thompson's objection to the renewal of our Conditional Use Permit.

Our farm suffered in the 2018 fire that raged through the Lahaina hillside during Hurricane Lane. We have spent the last few years rebuilding the crops which were destroyed in the fire. While they have mostly been replanted, they are still small and will take a few more years before they are again fully productive. In addition to dragonfruit, we are continuing to plant other crops such as bananas, pineapples and sour sop and are constantly expanding our agricultural area. These continue to grow and are getting better every year. Our weddings had stopped for over a year due to the COVID restrictions and have just recently resumed. They only happen sporadically and are generally fairly quiet events. We have been on site for these and have observed that there is not much sound noticeable in the neighborhood when they occur. While we do have visitors to the farm to help supplement our income, the vast majority of these and the associated traffic are walking tours which are a permitted use of the property. Out of respect for our neighbors, we have been limiting these tours to weekdays in the mornings. We respectfully ask that you renew our CUP as the additional income does help us to make ends meet as our crops continue to recover.

Sincerely yours,

Crystal and Larry Schmitt
Maui Dragon Fruit Farm

County Clerk

RECEIVED

From: Larry Schmitt <larry@mauidragonfruit.com>
Sent: Thursday, September 16, 2021 2:22 PM
To: County Clerk; "Tamara.Paltin"@mauicounty.us
Subject: Response to Vera Sredanovic's Complaint
Attachments: farm_recovered.jpg; after_fire_accessroad.JPG

2021 SEP 16 PM 2:41

OFFICE OF THE
COUNTY CLERK

You don't often get email from larry@mauidragonfruit.com. [Learn why this is important](#)

Dear Council Members,

This letter is in response to the objections raised by our neighbor Mrs. Vera Sredanovic and Mr. Winston Cheshire.

First of all, we would like to let you know that we love our neighbors and we always try to be great neighbors. There are a lot of issues Mrs. Sredanovic has raised and we would like to address them as best as we can as below:

1. We had never heard from Vera until this year when she moved into her home. We were told that they are retired doctors from California. She bought the property a few years back but has only used it as vacation home staying there a couple of times a year.
2. The minute she moved into the property, she started the process of constructing a gentleman's estate. Currently, she is in the process of constructing a large in-ground pool and Jacuzzi. Apparently, she doesn't like living next to an actual farm and is objecting the commercial activities that are going on there. She has been harassing our staff since she arrived. She has been spying on us with drones and constantly monitors us with TV cameras. She even entered our farm with an injured duck (not ours) to get a close look at our back of house areas without our permission. She obviously ignores the fact that our neighborhood is suppose to be a farming community. She just wants people all around her that are people like her who do not do any farming. Our farm has been in operation since long before she arrived. To us, people with her mindset perhaps are better suited to live in a residential area such as Wailea.
3. Regardless of what efforts we have made, Mrs. Vera Sredanovic seems to be determined to drive our farm out of business. The information she supplied to you was obtained by her flying her drone into our property and does seem to be accurate. Our county's ag inspector personally came last year in August along with the staff planner Kim from the Planning Department and walked the whole property with us and certified our growing area. The areas that have not been cultivated are pretty much all rocks at this point. Even with the rocky area, we still have plans down the road to clear the land and plant crops on them. Our goal is to use the land as much as we can to grow fruits. Mrs. Sredanovic has refused to meet with me in person after I invited her to have a talk. Instead, she flew her drone over to inspect our property. The drone footage obviously is not as good as our county's ag inspector walking the property with us on foot.

4. We have never had a TVR at the farm. We were in the process of getting a permit for one and were waiting for the county council. While waiting for the permits, all tenants in the cottage have been long term. Although weddings have restrictions on sound and when they need to finish, our long term tenants and our staff have a right to enjoy themselves on their own time, including playing music and making noise until 10pm. As Vera has the right to enjoy her own property, so do we have a right to enjoy ours.

5. While some of our staff are short term interns who volunteer on a short term basis for the experience of living on a farm on Maui, others are paid employees who have been here for several years. Although they all help with tours, much of their day is spent in actual farm work such as weeding the fields, harvesting the fruits, planting new crops, mulching, tending to irrigation etc. They are young and energetic and so do get a bit loud at times, but that has nothing to do with the conditional use permit or weddings. On many occasions, Vera has complained about weddings when there was no wedding going on. It was just staff who were hanging out, playing music, and talking. Ever since she complained to me about them, we have been telling our staff to be very careful and to not make loud noises. We will continue to be better on being good neighbors.

6. We do want to point out to you that dragon fruit is a night blooming cactus. To effectively cultivate them, hand pollination at night is needed. During peak full moon days, hours and hours of time are needed to go through the fields at night. Pollination normally start around 10:00pm and depending on the day of the month and our staffing level, sometimes it will go until 1:00am or even 3:00am. So we do have some late noises sometimes. But we always remind the workers to try to be quiet and be mindful of the neighbors. When Vera bought the property, she should have known that agricultural activities comes with noise some time. For dragon fruit, that noise sometimes happens at night. Vera has hired machinery to construct her pool, etc. and they have noise all day long. Sometime it is so loud that it really disrupts our tour operations. But we never complained.

7. Additional problems in her complaint include the statement that lawn next to our parking encroaches on the adjacent property. It does not and its size is exaggerated. The pink area she claimed has nothing planted has in fact many bananas, papayas, pineapples, cacao, sugar cane, lilikoi, and an assortment of small fruit trees. She claimed the farm stand / reception building was listed as a utility shed in county records. In fact it is called a farm stand. The concrete area that we installed to provide outdoor seating for our fruit tasting is an effort to pivot toward outdoor eating instead of indoor tasting due to covid-19. She complained that we are adding activities that are not included in the CUP, meaning farm tours, ziplining and aquaball. These were permitted activities when the CUP was issued, so they were not included at the time.

8. Notice was given to all neighbors when we applied for the CUP amendment in 2017. After we made it through the planning commission and finally to the council, the council deferred the decision at the time. We were also surprised when it finally made it onto the agenda and did not deliberately fail to give notice to anyone. We have not had weddings when we were shut down for covid and have only recently been having them again. The wedding she claimed had 95 chairs on the lawn was in fact a 50 person wedding. Half the chairs were supposed to be set up for the reception but were mistakenly put on the lawn. They were moved to their proper location before the event began. She did the drone footage the night before. By the time the wedding came, the chairs has been moved to the reception where they

belonged. Although a tent or wedding arch might occasionally go up the day before a wedding, most of the time they go up the same day. Most of the time they are removed the following day. This does not mean the wedding is going on for 3 days, it simply means that we have to work with the tent vendor's schedule. We try to have this work done in the middle of the day when it will cause the least disturbance to anyone.

9. They have hired somebody to plant a bunch of coconuts and other plants at the beginning of the year. Maybe it was an effort to try to bring their land to be ag compliant so that they could obtain their building permit for pools, gazebo, etc. When some of them did not survive, she texted me accusing us that we poisoned her coconuts with a motive. I told her that we are organic farmers and we do not even have one single drop of poison at our farm. I told her we love coconuts and try to grow as many coconuts as we can at our farm. Why would an organic fruit farmer try to poison a neighbor's fruit tree? We told her we would buy as much fruits from her as she can produce.

In summary, we are always trying to do the right thing and be a good neighbor. Mrs. Sredanovic's constant harassment of us is doing great harm to our staff and our business. I sincerely ask your support and we hope she would try to be a good neighbor as well.

Sincerely yours,

Crystal and Larry Schmitt

Maui Dragon Fruit Farm





County Clerk

From: Crystal Schmitt <crystal@mauidragonfruit.com>
Sent: Thursday, September 16, 2021 10:10 PM
To: County Clerk
Subject: Our response to Mr. Anderson Testimony
Attachments: JeffAndersonResponse.doc

RECEIVED

2021 SEP 17 AM 7:53

OFFICE OF THE
COUNTY CLERK

[You don't often get email from crystal@mauidragonfruit.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Dear Council Members:

Attached please find our response to our neighbors Mr. Anderson's testimonies.

We do want to bring to your attention that dragon fruit is a night bloom cactus. They are all hand pollinated at night. So sometimes we do get into late night for doing that.

Mahalo!

Crystal Schmitt
Maui Dragon Fruit Farm
(808)264-6127

Dear Councilmembers,

This letter is in response to the objections raised by our neighbor Jeff Anderson to our conditional use permit. Our weddings had been shut down or canceled for over a year due to COVID-19. Only recently have we resumed hosting weddings. These have been subdued events and only happen sporadically, about one wedding every two or three weeks. We have been on hand for these events and have observed that they are barely noticeable from neighboring properties. We only hold zipline tours weekdays in the mornings. Only three tours are held per day, starting at 9:00, 10:30 and 12:00. We try to keep these groups small (typically less than 10 people) so everyone can have a better time. The noise from the farm comes from our staff and tenants who are a bit young and energetic. Since dragon fruit is a night blooming cactus, we need staff in the evenings for pollination. Additionally, Launiopoko can get hot in the afternoon, so we try to get work done in the mornings before the sun gets too strong. While we try to have them control their noise and be respectful of our neighbor's desire for quiet, what they do is not related to our conditional use permit in any way. Any additional enforcement of the provisions of the permit or the cancellation of the permit would have no effect on this issue.

Sincerely yours,

Crystal and Larry Schmitt
Maui Dragon Fruit Farm



Maui Hotel & Lodging ASSOCIATION

September 17, 2021

To the honorable Chair Alice Lee, Vice-Chair Keani Rawlins-Fernandez and our Maui County Council Members,

The Maui Hotel & Lodging Association would like to make the following comments regarding the bill to establish a new Chapter 3.47, Maui County Code, to create a 3 percent transient accommodations tax (TAT) on all gross rental, gross rental proceeds, and fair market rental value considered taxable under the definitions of Section 237D-1, Hawai'i Revised Statutes.

THE MHLA respectfully requests that this new TAT collection start date be delayed until after October 1, 2021, and preferably sometime in 2022.

The reason for this is that guests book in advance and prepay in full for their stays when booking online – in such cases they have received a “paid in full” receipt – and adding an additional charge after the fact may create legal and ethical issues, changing price after a quote and or payment collect is an issue. At minimum a 60-day notice is needed to allow for adjustment to the tax rates, notification to affected guests and collection of additional tax.

When the State of Hawaii increased the TAT for the State notice was given allowing time for notification and changes to be made.

Changes in a tax rate with a same day affective date (no notice) will affect guests already in-house causing a change in what balance they signed for upon arrival and a different negative balance upon check-out.

It also takes time to adjust all the Hotel, Transient Rental and other computer systems to change the new tax, the law requires the tax to be disclosed and it takes time to make the software changes needed.

Third-party sales agents must update their computer systems with the new taxes, internal pricing, websites etc.

Travel Agents who have booked clients will need to reach out and advise those clients of changes.

Website disclosures in addition to the pricing changes will have to be updated this takes time it cannot be done the same day to be affective that day.

Sincerely,

Rod Antone

Executive Director of the Maui Hotel & Lodging Association

RECEIVED
2021 SEP 17 AM 9:30
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Fred Adolphsen <fredhaiku1811@gmail.com>
Sent: Wednesday, September 15, 2021 6:37 PM
To: County Clerk
Subject: Support testimony for CR21-85

You don't often get email from fredhaiku1811@gmail.com. [Learn why this is important](#)

Dear Council Chair and Council Members:

My name is Fred Adolphsen and I am writing to you to support the Maui Dragon Fruit Farm.

I have worked in both of their lettuce farm in Haiku and their dragon fruit farm in Lahaina. I have to tell you that Lawrence and Crystal Schmitt are making a real impact on agriculture here on Maui. Their farms (Lahaina, Haiku and Pukalani) are all USDA certified and the way they treat our Aina is so admirable. We never used any chemical or any pesticides ever! They believe in nurturing the soil in an organic way so that the soil gets richer and richer over the years and is regenerative. Unlike industrial chemical farming like the big farms practice, they deplete and destroy our soil and our earth.

Lawrence and Crystal Schmitt also believe in teaching kids early on to grow their own food. We have school tours to show kids how to plant pineapple and how to pollinate. Kids are so happy to come to the farm and they also have fun in our zipline. To me, to have a farm like this on Maui is a blessing to our island.

Please support them .

Mahalo!

Fred Adolphsen

RECEIVED
2021 SEP 16 AM 8:06
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Jeff and Sue Anderson <smander@pacbell.net>
Sent: Wednesday, September 15, 2021 6:58 PM
To: County Clerk
Cc: Tamara A. Paltin
Subject: RE: Testimony Regarding County Council Item CR 21-85

You don't often get email from smander@pacbell.net. [Learn why this is important](#)

Council Members,

For the record, I did not receive notice for this permit update request. I understand notification to nearby neighbors is a required part of the application process. I happened to find out about it from a neighbor two days ago. Had I known about it, I would have submitted testimony while under consideration by the Planning and Sustainable Land Use Committee.

Jeff Anderson
619-203-9542

RECEIVED
2021 SEP 16 AM 8:06
OFFICE OF THE
COUNTY CLERK

From: Jeff and Sue Anderson [mailto:smander@pacbell.net]
Sent: Tuesday, September 14, 2021 4:16 PM
To: 'county.clerk@mauicounty.us' <county.clerk@mauicounty.us>
Cc: 'Tamara.Paltin@mauicounty.us' <Tamara.Paltin@mauicounty.us>
Subject: Testimony Regarding County Council Item CR 21-85

Council Members,

I'm writing regarding agenda item CR 21-85 pertaining to the conditional use permit for Maui Dragon Fruit Farm.

I own and reside on a small farm adjacent to the Dragon Fruit Farm on the makai side. Given the geographical relationship between our properties, I'm mostly affected by noise rather than lighting or traffic issues.

The noise level from the Dragon Fruit Farm improved substantially from the unregulated high decibel blowouts prior to 2016 when they received their first restricted conditional use permit. The noise level also seemed to improve a bit more in 2020 during Covid lockdowns.

That said, coming out from the lockdowns the farm still generates a lot of noise and often appears out of compliance with its conditional use permit. There are two sources of noise. The first is from events. The farm hosts frequent weddings and other gatherings attended by large crowds, which are often accompanied with moderately high volume amplified music. These gatherings are frequent (though less so during 2020 lockdowns), they usually start quietly midafternoon but heat up late in the evening. The second source of noise is the zipline where participants tend to scream like banshees as operators cheer them on. The zipline noise is sporadic, mostly during the day however I'm occasionally disturbed by a bunch of whooping and hollering from people riding the zipline in the middle of the night. I don't know if these are paid guests or employees partying.

I support the restrictions in the conditional use permit, especially no amplified sound and limits on guest numbers, hours and event frequency. But, these restrictions are meaningless if not adhered to. Please enact a compliance program to ensure adherence or if that's not possible, I suggest you cancel the permit.

County Clerk

From: Aaron Arcangel <aaronarcangel1234@gmail.com>
Sent: Wednesday, September 15, 2021 6:08 PM
To: County Clerk
Subject: Support Testimony for Maui Dragon Fruit Farm For Their Conditional Use Permit Extension

You don't often get email from aaronarcangel1234@gmail.com. [Learn why this is important](#)

Aloha Council Members:

My name is Aron-Michael Arcangel. I am writing to you to support the Maui Dragon Fruit Farm and their application to extend their conditional use permit.

I was borned and raised here on Maui and live in Pukalani, next to their lettuce and herb farm in upcountry. Lawrence and Crystal Schmitt are the nicest people I ever met. They are hard working and full of aloha spirit. I also see their struggle as farmers since I saw their productions were affected in many different ways over the years. Recently, their biggest challenge is Axis deer in our area. I saw their crops damaged severely by deers in a few occasions. Sometimes they came at night hiding in their cars to try to catch or scare the deers. Not sure how successful those efforts were to them, but I know it must be hard to see crops gotten eaten. The current drought in upcountry are also affecting their crops as well since I see they have to irrigate their crops now constantly. They must have expensive water bills now I am thinking.

This pandemic made all of us aware that we need to grow more food on Maui to feed ourselves. I see how quickly our grocery store shelves went empty at the beginning of the pandemic. It is scary to me sometimes thinking what happens if the ships stop coming to Maui! We need more farmers!

To support them and approve their application is the right thing to do, especially if we as a community trying to strive for food-self sufficiency.

Mahalo!

Aaron-Michael Arcangel

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2021 SEP 16 AM 8:06
OFFICE OF THE
COUNTY CLERK



PO Box 148, Kula, HI 96790
mauicountyfarmbureau.org

Executive Director
Warren K. Watanabe

Board of Directors:

President
Kyle Caires

Vice President
Joshua Shyloh Stafford Jones

Secretary
Heidi Watanabe

Treasurer
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Directors:

Rodrigo Balala

Brendan Balthazar

James "Kimo" Falconer

Mario Gaggero

Teena Rasmussen

Carver Wilson

September 17, 2021

TESTIMONY

21-443 2 and 21-444 2 "APPROVING FOR INCLUSION IN THE 2022 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF HEALTH RULES":

Chair Lee and Members of the Maui County Council:

My name is Kyle Caires, President of the Maui County Farm Bureau. I am here on behalf of Maui's commercial farm and ranch families and organizations **in opposition** of the matter regulating noise in the Ag District.

MCFB is concerned about the many unintended consequences to agriculture in general if this initiative is passed. The matter initiating this measure has been reviewed by the State Department of Agriculture as well as the Hawaii State Legislature.

In 2020, a measure was passed by the Legislature requiring the Department of Agriculture to review practices associated with hemp, resulting from the case that initiated the measure before you. After review, the Board of Agriculture passed interim rules relating to Hemp culture in September of 2020 with a caveat that further research into lighting, odor and noise was needed. In January of 2021, the Board decided not to amend the interim rule based on technical information provided by the Department of Health and moved to have it go to public hearing. The measure is scheduled to go to the Governor and then to the public for comment. The comments will be considered and the rule amended as needed for final passage. The public comment period will allow those concerned an opportunity to suggest changes in the rule.

We also understand that a mediation process is underway between South Maui Gardens and the neighbors. Proceedings are confidential so we do not know the current status. Ag producers normally work with their neighbors to resolve these problems. Creating a law due to one grower that affects the entire industry does not seem prudent.

The interim rule as passed by the Board of Agriculture is attached. MCFB respectfully requests that the measure be **filed and instead encourage participation in the Hemp interim rule process by the Department of Agriculture.**

We appreciate this opportunity to provide our opinion on this important matter.

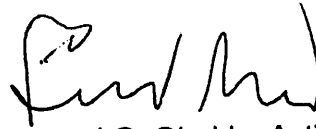
Attachment: Hemp Interim Rule

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2021 SEP 17 AM 7:54

OFFICE OF THE
COUNTY CLERK

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Leonard G. Obaldo'.

Leonard G. Obaldo, Acting Administrator
Quality Assurance Division

APPROVED FOR SUBMISSION:

A handwritten signature in black ink, appearing to read 'Phyllis Shimabukuro-Geiser'.

Phyllis Shimabukuro-Geiser, Chairperson
Board of Agriculture

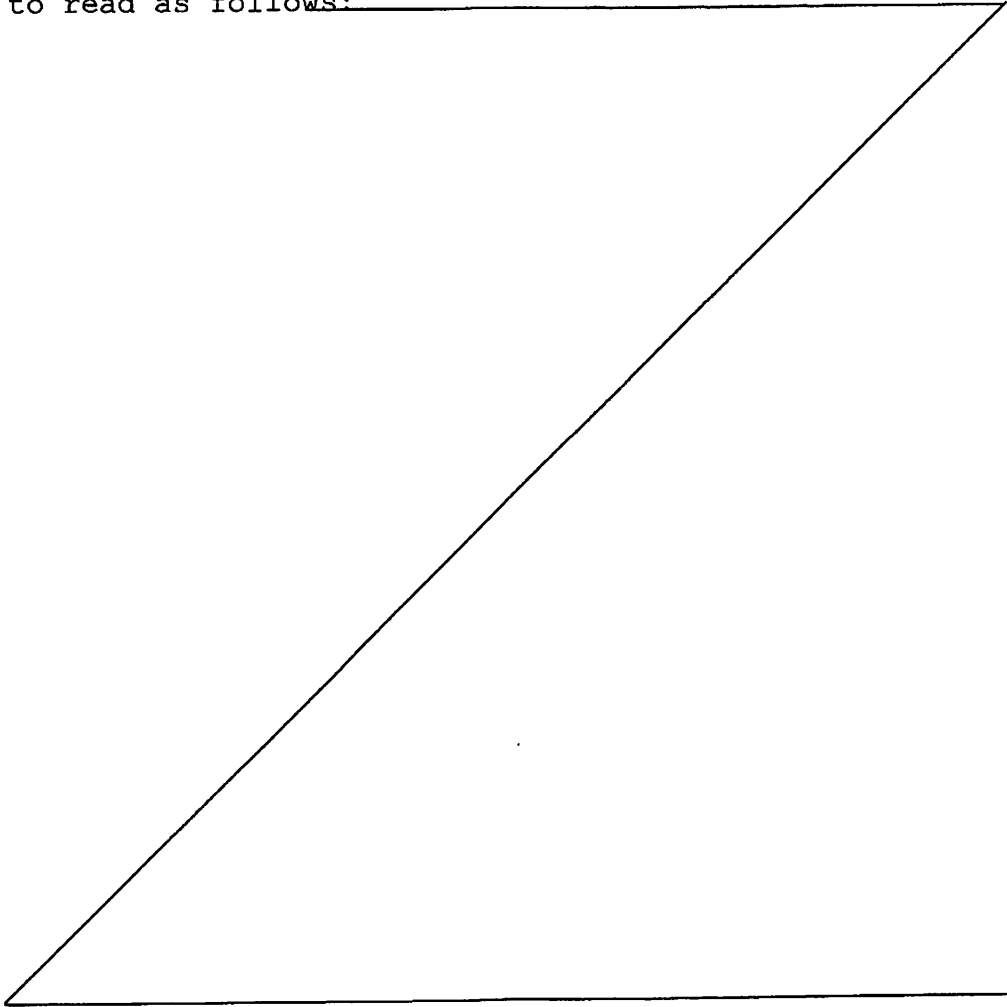
Attachment

DEPARTMENT OF AGRICULTURE

Adoption of Chapter 4-161
Hawaii Administrative Rules

September 22, 2020

1. Chapter 4-161, Hawaii Administrative Rules, entitled "HEMP PRODUCTION INTERIM RULES," is adopted to read as follows:



HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 161

HEMP PRODUCTION INTERIM RULES

\$4-161-1	Definitions
\$4-161-2	Transportation
\$4-161-3	Nuisance
\$4-161-4	Inspection
\$4-161-5	Violations/Penalties

\$4-161-1 Definitions. As used in this chapter:

"Board" means the board of agriculture or the board's designee.

"Cannabis" means the genus of flowering plants in the family Cannabaceae. For the purposes of this chapter, cannabis means any form of the plant where the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

"Chairperson" means the chairperson of the Hawaii Board of Agriculture.

"Decarboxylated" means the completion of the chemical reaction that converts delta-9 tetrahydrocannabinol's acids (THCA) into delta-9 tetrahydrocannabinol. The decarboxylated value may be calculated using a conversion formula that sums delta-9 tetrahydrocannabinol and eighty-seven and seven tenths (87.7) per cent of THCA.

"Delta-9 tetrahydrocannabinol" or "THC" is the primary psychoactive component of cannabis.

"Department" means the department of agriculture.

"Dry weight basis" means the method of determining the percentage of a chemical in a

substance after removing the moisture from the substance.

"Dwelling unit" means a structure which is intended to be used primarily as a place of residence, meets all applicable zoning and building code requirements, and which is one among several individual residences within a single larger structure which has a solid base, exterior walls that encircle the entire structure on all sides, and a roof that protects the interior units from the elements of the weather.

"Entity" means a firm, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a state or local government entity.

"Export" means shipment to any point outside of the State.

"Grow area" means the area authorized to be utilized for hemp production under a license issued by the Secretary of the United States Department of Agriculture pursuant to title 7 United States Code section 1639q.

"Harvest" means the termination of the cultivation process at a grow area for usage rather than disposal.

"Hemp" means cannabis and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry weight basis, as measured post-decarboxylation or by other similarly reliable method. "Hemp" as used in this chapter does not include hemp products.

"Hemp product" shall have the same meaning as in chapter 328, Hawaii Revised Statutes.

"House" means a structure intended to be used primarily as a place of residence and which meets all applicable zoning and building code requirements. It must have a solid floor, rigid exterior walls that

encircle the entire structure on all sides, and a roof that protects the interior from the elements of the weather.

"Licensee" means a person or entity that has obtained a license to produce hemp in the state of Hawaii, issued by the Secretary of the United States Department of Agriculture pursuant to title 7 United States Code section 1639q.

"Law enforcement" means any federal, state, or local law enforcement agency or drug suppression unit.

"Person" means an individual.

"Playground" means any public outdoor facility, including any parking lot appurtenant thereto, that is intended for recreation, with any portion thereof containing three or more separate apparatus intended for the recreation of children, including but not limited to sliding boards, swing sets, and teeterboards.

"Post-decarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis.

"Processor" means a person or entity with a valid certificate of registration issued by the department of health allowing them to legally process hemp to manufacture a hemp product in the state.

"Produce" or "production" refers to the propagation or cultivation of hemp.

"Residential structure" means a structure that contains one or more individual dwelling units intended for usage as a residence, and which meets all applicable zoning and building code requirements. Residential apartment shall have the same meaning as residential structure.

"School" means any public or private preschool, kindergarten, elementary, intermediate, middle, secondary, high school, or university.

"State" means the State of Hawaii.

"USDA" means the United States Department of Agriculture.

§4-161-2 Transportation. (a) The reporting requirements of this section apply to:

- (1) Harvested hemp flowers and leaves in their raw botanical form, whether wet or dried, which were produced in state by a licensee; and
- (2) Living hemp plants or plant parts which can be used to propagate a new plant, and viable hemp seeds which were produced in state by a licensee.

(b) The reporting requirements of this section do not apply to:

- (1) Mature stalks or mature stalk material if the stalk material has been stripped of leaves and flowers with only a de minimus amount of leaves and floral material remaining attached;
- (2) Sterilized hemp seed incapable of germination;
- (3) Rhetted hemp fiber; or
- (4) Hemp products.

(c) Hemp in the forms specified in subsection (a) shall not be transported outside of a licensed grow area except by a person or entity that holds a license to produce hemp issued by the USDA.

(d) A person or entity that has a license to produce hemp issued by the USDA may transport hemp in the forms specified in subsection (a) outside of a licensed grow area, provided that:

- (1) The hemp is transported to an authorized processor within the state;
- (2) The hemp is transported to a licensed grow area within the state; or
- (3) The hemp is exported.

(e) Any hemp to be transported shall have passed all compliance testing required by the USDA and comply with all other applicable state or federal laws or regulations, including those found in chapter 4-72, Hawaii Administrative Rules.

(f) Any hemp to be exported shall comply with all applicable state or federal laws and regulations

relating to exportation, including the laws of the state or country that the hemp is being exported to.

(g) No hemp in the forms specified in subsection (a) shall be transported outside of a licensed grow area unless a licensee files a transportation report with the department at least three business days prior to the intended transportation date.

(h) The transportation report shall be in a form and submitted in a manner prescribed by the department and shall contain the following:

- (1) The licensee's name and USDA hemp producer license number;
- (2) Date of transportation;
- (3) Method of transportation;
- (4) Identification of the person transporting the hemp;
- (5) Address of the grow area that the hemp is to be removed from;
- (6) Address the hemp is to be transported to with contact information for recipient;
- (7) Kind and quantity of packages, or if in bulk the total quantity of hemp to be transported;
- (8) Documentation confirming the specific hemp to be transported has passed all compliance testing required by the USDA; and
- (9) Any additional information or documentation required by the department or law enforcement.

(i) During any transportation of hemp, the licensee or employee of the licensee shall carry with them a copy of the transportation report, the licensee's USDA hemp production license, and any other documentation required to be included with the transportation report by the department or law enforcement.

(j) Licensees shall complete and submit to the department all required reports and statements relative to the licensee's transportation of hemp at least three business days prior to the intended transportation date. A failure to timely complete and

submit any required report may result in the penalties set forth in section 4-161-5.

(k) Licensees shall allow the department or law enforcement to inspect and sample harvested hemp cargoes prior to and during transport, including at ports of origin or arrival.

(l) Licensees shall comply with any direction of the chairperson with respect to the transportation of hemp when the circumstances require. [Eff: Upon approval] (Auth: Act 014 SLH 2020)

§4-161-3 Nuisance. (a) Hemp shall not be grown within 500 feet of a preexisting playground, childcare facility, or school; provided that this restriction shall not apply to a person or entity:

- (1) That was licensed to grow hemp under the state industrial hemp pilot program prior to August 27, 2020;
- (2) Whose licensed area to grow hemp under the state industrial hemp pilot program is within 500 feet of a preexisting playground, childcare facility, or school; and
- (3) Who is growing hemp under a license to produce hemp issued by the USDA in the same area approved under their industrial hemp pilot program license that is within 500 feet of real property with a preexisting playground, childcare facility, or school.

(b) Hemp shall not be grown within 500 feet of any pre-existing house, dwelling unit, residential apartment, or other residential structure that is not owned or controlled by the licensee; provided that this restriction shall not apply to a person or entity:

- (1) That was licensed to grow hemp under the state industrial hemp pilot program prior to August 27, 2020;
- (2) Whose licensed area to grow hemp under the State industrial hemp pilot program is within 500 feet of any pre-existing house, dwelling unit, residential apartment, or

- other residential structure that is not owned or controlled by the license; and
- (3) Who is growing hemp under a license to produce hemp issued by the USDA in the same area approved under their industrial hemp pilot program license that is within 500 feet of any pre-existing house, dwelling unit, residential apartment, or other residential structure that is not owned or controlled by the license.

(c) Hemp shall not be grown in any house, dwelling unit, residential apartment, or other residential structure.

(d) Hemp shall not be grown outside of a state agricultural district.

(e) Licensees shall comply with all applicable regulations, including nuisance regulations, environmental regulations, and county land usage ordinances.

(f) Upon notice from the regulatory agency with primary enforcement authority over nuisance, environmental, or land usage regulations, as applicable, that a licensee who was previously licensed to grow hemp under the state industrial hemp pilot program is not in compliance with nuisance, environmental, or land usage regulations, the department may issue a notice of violation and assess fines for the violation in accordance with section 4-161-5.[Eff: Upon approval] (Auth: Act 014 SLH 2020)

§4-161-4 Inspection. (a) All licensees shall allow federal, state, and county law enforcement authorities to inspect the records, growing area, equipment, facilities, and areas incident to the production or transportation of hemp to verify compliance with the requirements of this chapter.

(b) The department, law enforcement, and third party agents authorized by the department may enter during business hours upon any growing area or place of business associated with a licensee to inspect the records, growing area, equipment, facilities, and areas incident to the production and transportation of

hemp to ensure compliance with the requirements of this chapter.

(c) An authorized representative of the licensee or the licensee shall be present during the inspection.

(d) Licensees shall pay the department or third-parties authorized by the department a fee of \$50 an hour plus mileage for the performance of inspections to ensure compliance with section 3 of Act 14, Session Laws of Hawaii 2020, and the purposes of this chapter. [Eff: Upon approval] (Auth: Act 014 SLH 2020)

§4-161-5 Violations and Penalties. (a) For any violation of this chapter or section 3 of Act 14, Session Laws of Hawaii 2020, the department may impose civil penalties up to \$10,000.00 and disciplinary sanctions, including denying or suspending any transportation, and issuing cease and desist orders.

(b) In addition to other violations of this chapter or section 3 of Act 14, Session Laws of Hawaii 2020. The following acts and omissions by any licensee or authorized representative thereof constitute violations:

- (1) Refusal or failure by a licensee or authorized representative to fully cooperate with the department or law enforcement regarding any inspection or sampling;
- (2) Failure to provide any information required or requested by the department for the purposes of this chapter; or
- (3) Providing false, misleading, or incorrect information to the department by any means, including but not limited to information provided in any form, report, record, or inspection required or maintained pursuant to this chapter. [Eff: Upon approval] (Auth: Act 014 SLH 2020)

2. The adoption of chapter 4-161, Hawaii Administrative Rules, shall take effect upon board approval.

I certify that the foregoing are copies of the
rules, which were adopted on _____.

PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

APPROVED AS TO FORM:

Deputy Attorney General

County Clerk

From: Nikoya Collier <ncollier@KBHMAUI.com>
Sent: Thursday, September 16, 2021 5:44 PM
To: County Clerk
Subject: Written Testimony CR 21-79

RECEIVED

2021 SEP 17 AM 7:52

OFFICE OF THE
COUNTY CLERK

You don't often get email from ncollier@kbhmaui.com. [Learn why this is important](#)

Aloha County Council,

I am not in favor of the 3% TAT increase to the hospitality industry.

I understand that our industry generates revenue the fastest, but as we've seen over the last 18 months, that stream of revenue can be cut at any time. In the early parts of 2021, we saw a rapid increase in tourism, and now are seeing cancellations due to the Governor asking tourists to "stay home." The west side of Maui has seen millions of dollars lost due to cancellations, and O'ahu is on the verge of yet another round of layoffs to their employees. With this increase, it will again cause incoming tourists to think twice about their upcoming trip causing huge strain on our industry and for those of who wo work in it. The outlook is not always so bright.

I know that the tourism industry has brought in some not so desirable domestic travelers in 2021, but what I am seeing right now with this CR is the county putting too many eggs in one basket. Hotels already pay the highest in property taxes as it currently stands. And now we are paying an additional amount of tax to fund more Maui County's projects. Where does that money go currently? And if we give you so much, what does it fund?

If you are going to increase the tax, I would recommend starting off slow at 1 – 1.5% in 2021 and increasing the tax by 1.5 – 2% next year to equal the three percent. Tourism is slow as it currently stands, and 2022 hopefully will be a better year for revenues. With this tax, I would love to see that the majority of the tax money bet put into affordable housing, better water management, and more sustainability initiatives such as agriculture and clean energy.

Mahalo for your time.

Mahalo,



Koy Collier | Sales Account Executive
2525 Kaanapali Parkway, Lahaina HI 96761
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US & Canada 800.262.8450 | Hotel Direct: +1.808.661.0011
e ncollier@kbhmaui.com
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County Clerk

From: Ron Daniel <ron@bikemaui.com>
Sent: Wednesday, September 15, 2021 12:39 PM
To: County Clerk
Cc: Mike J. Molina; Ana L. Lillis; Jeremy Hall; Ben Hall; Lewis Upfold; Phil Feliciano
Subject: CC 21-453

Some people who received this message don't often get email from ron@bikemaui.com. [Learn why this is important](#)

Aloha Honorable Maui County Council Members,

This letter is in response to County Communication 21-453, regarding Bicycle Tour Public Safety and Related Litigation Concerns.

Proposal 21-453 is suggesting an assortment of possible regulations towards the Maui Downhill Bicycle Tour Industry, of which there are (6) active companies still in operation today. It is imperative that the industry is allowed to help disseminate information so that you, the Council Members, understand all sides of this complex issue.

We at Haleakala Bike Company would like to be involved in any committee meetings in order to provide valuable insight into the industry. Phil Feliciano, former owner of Cruiser Phil's Volcano Riders and well versed in the history of the bike tours and all previous council meetings involving this industry, is now the Director of Operations at Haleakala Bike Company. Our long time management team, Lewis Upfold, Ron Daniel, and owner Jeremy Hall, is available and willing to help in any way possible.

We would also like to extend an invite for you to participate in our tours so that you may have firsthand experience and see how both guided and self-guided tours operate. We would be happy to organize this for you.

We look forward to the dialog in which we all can endeavor to understand the issues and resolve them as best as possible.

Mahalo,

Haleakala Bike Company, established 1993

Ron Daniel
Director of Sales/Marketing
(808) 575-9575
ron@bikemaui.com

RECEIVED
2021 SEP 15 PM 1:18
OFFICE OF THE
COUNTY CLERK



AQUA-ASTON

HOSPITALITY

RECEIVED

2021 SEP 16 PM 2:41

OFFICE OF THE
COUNTY CLERK

September 16, 2021

TO: Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
Members of the Maui County Council

FR: Aqua-Aston Hospitality

RE: Comments on Committee Report 21-79 ("CR 21-79") Relating to County Transient Accommodations Tax

(Sent via e-mail county.clerk@mauicounty.us)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members Maui County Council,

Thank you for allowing Aqua-Aston Hospitality, LLC ("Aqua-Aston") to provide **Comments and Amendments** to CR 21-79, establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. Aqua-Aston has engaged in hotel and resort management in the state of Hawaii for over 75 years.

CR 21-79 establishes a county transient accommodation tax of three percent (3%) ("**County TAT**"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County the tax imposed. The County TAT takes effect upon the approval of the ordinance.

Aqua-Aston understands the County's intentions in establishing the County TAT in response to Act 1, Special Session Laws of Hawai'i, which stripped the County of allocated State Transient Accommodations Tax. Nevertheless, we have concerns with the implementation of the additional 3 percent increase. Having the County TAT effective upon approval puts hotel operators at a disadvantage. Primarily, hotel operators will not be able to: 1) disclose the new tax to guests in advance; and 2) collect the new tax as the guest already booked their room at a specific price including tax.

Aqua-Aston respectfully requests the effective date of the bill be made not earlier than 60 days after signing CR 21-29 into law to allow: 1) appropriate notice to be given to travel partners; 2) booking engines to be updated with the new County TAT; and 3) rental agreements to be modified with the new required language.

Accordingly, Aqua-Aston recommends the following amendment to CR 21-79:

Office: 820 Mililani St, Ste. 600, Honolulu, HI 96813 T 808-931-1400
Mailing Address: 6649 Westwood Blvd., Orlando, FL 32821

1. Amend Section 3 of the bill to state "This Ordinance shall be effective 60 days from approval and signature by the Mayor."

Mahalo for your consideration of these amendments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise", with a large, stylized initial "D" and a flourish at the end.

Denis Ebrill
Aqua Aston Hospitality, LLC, Managing Director

MARRIOTT
VACATIONS
WORLDWIDE
SM

RECEIVED

2021 SEP 16 PM 2:41

September 16, 2021

OFFICE OF THE
COUNTY CLERK

TO: Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
Members of the Maui County Council

FR: Denis Ebrill, Marriott Vacations Worldwide Corporation

RE: Comments on Committee Report 21-79 ("**CR 21-79**") Relating to County Transient Accommodations Tax

(Sent via e-mail county.clerk@mauicounty.us)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members Maui County Council,

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation ("**MVWC**") **providing comments** to the proposed bill establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. MVWC is a global leader in the timeshare industry with ten resort properties in Hawaii. Timeshare resorts are an important and stabilizing part of the tourism industry, and resort development provides thousands of construction jobs in Hawaii per year.

The new proposed bill establishes a county transient accommodation tax of three percent (3%) ("**County TAT**"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County the tax imposed. The County TAT takes effect upon the approval of the ordinance.

MVWC understands the County's intentions in establishing the County TAT, however, we have concerns with the implementation of the additional 3 percent increase. Having the County TAT effective upon approval puts hotel operators at a disadvantage. Primarily, these hotel operators will not be able to disclose the new tax to guests in advance, and therefore, may not be able to collect the new tax as the guest already booked their room at a specific price including tax. Furthermore, timeshare resorts will need to update their Hawaii disclosure statements and file with the Department of Commerce and Consumer Affairs ("**DCCA**").

Accordingly, MVWC respectfully requests the effective date of the bill be made not earlier than 60 days after signing CR 21-29 into law to allow: 1) appropriate notice to be given to travel partners; 2) booking engines to be updated with the new County TAT; and 3) rental agreements to be modified with the new required language. Further, the additional 30-60 days provide timeshare resorts adequate amount of time to update disclosure statements with DCCA and provide consumers with full and fair disclosure.

Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
September 16, 2021
Page 2

Based upon the foregoing, MVWC recommends the following amendments to the County TAT bill:

1. Amend Section 3 of the bill to state "This Ordinance shall be effective 60 days from approval and signature by the Mayor."

Mahalo for your consideration of these amendments.

Aloha,

A handwritten signature in black ink, appearing to read "Ebrill", followed by a period.

Denis Ebrill
Senior Vice President
Marriott Vacations Worldwide Corporation

County Clerk

From: Rusty Fujihara <fujirusty@gmail.com>
Sent: Wednesday, September 15, 2021 6:57 PM
To: County Clerk
Subject: Testimony for CR-21-85/Support

You don't often get email from fujirusty@gmail.com. [Learn why this is important](#)

Aloha Council members:

My name is Rusty Fujihara and I am sending this email to you to show support for the Maui Dragon Fruit Farm.

I am a contractor borned and raised on Maui. I have known Crystal and Lawrence Schmitt for quite a long time since I did some road work for them both on their dragon fruit farm in Lahaina and their vegetable farm in Haiku.

Crystal and Larry are such nice people. They are hard working, sincere, and treat everyone with dignity and respect. We always get paid right after our work and they have always done what they said. Over the years, I witnessed how hard to be farmers like them. We saw the fire destruction in Lahaina a few years ago and we also saw how this early spring the flood in Haiku wiped out their lettuce. I have to give them credit by sticking to what they do. I think a lot of people would just quit already.

I sincerely hope that you would support them as I do and approve their conditional permit extension.

Mahalo!

Rusty

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2021 SEP 16 AM 8:06
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HAWAII STATE ENERGY OFFICE STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-3807
Web: energy.hawaii.gov

Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
MAUI COUNTY COUNCIL

September 17, 2021
9:00 AM

Comments in consideration of
CARE-42
RELATING TO ZERO NET ENERGY HOMES

RECEIVED
2021 SEP 16 AM 10:55
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Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Council, the Hawaii State Energy Office (HSEO) supports the intent of CARE-42, which would require new one and two family residential buildings over 5,000 square feet to be zero net energy homes, and looks forward to further refinements of the measure.

We are all aware of reports from the United Nations, from scientific organizations and other distinguished bodies indicating that climate change is accelerating and which point to worsening droughts, forest fires, floods and rising sea levels. Scientists agree that rising temperatures caused by man-made CO₂ emissions are the prime cause of these catastrophes.

CARE-42 is part of a national shift that recognizes the importance of building codes to steer our buildings, and the energy systems that support them, to more sustainable and efficient designs. Both our buildings and our energy infrastructure generally last more than 50 years.

Measures such as this are intended to move the builders of high-end residences toward highly efficient windows, roofs, air conditioning and water heating technologies which in turn would help to bring these products to hardware department shelves.

Perhaps just as importantly, measures such as this spark conversation and creative thought, as we recognize the importance and lasting impact of the facilities and

Hawai'i State Energy Office Testimony
CARE-42 Relating to Zero Net Energy Homes - Support
September 17, 2021

systems that are built today, and hear about the potential interactions between home design, energy resources, and our natural environment.

Greater building efficiency, and the ability of homes to produce their own energy, reduce pressure on using our limited land, especially agricultural land, for renewable energy development. Maximizing the use of roof space for energy production – even in excess of the amount used for the individual building – has the potential to further reduce demands on our limited land areas, and could also be considered in this bill.

It is important to avoid measures that unintentionally cause facility owners to switch to the use of fossil fuels, or to isolate themselves from the grid. Progress toward decarbonization is supported by greater participation in efficient renewable energy production, distribution and use through interactive, grid responsive systems.

The Hawaii State Energy Office looks forward to participating in these discussions, as the details of CARE 42 are worked out in a way that moves Maui and the state of Hawai'i toward energy self-sufficiency. In joining forces with similar initiatives across the country, advanced building codes and standards have the potential to move the CO₂ needle downward and contribute to Hawai'i's net carbon negative goal.

Thank you for the opportunity to testify.

County Clerk

From: Yolanda Hadley <yolandahandley100@gmail.com>
Sent: Wednesday, September 15, 2021 10:30 PM
To: County Clerk
Subject: Testimony to support Maui Dragon Fruit Farm for Item CR21-85

You don't often get email from yolandahandley100@gmail.com. [Learn why this is important](#)

Aloha Maui County Council Members:

My name is Yolanda Handly and I live in Lahaina not too far from the Maui Dragon Fruit Farm. I am submitting this testimony to support the Maui Dragon Fruit Farm's effort to extend their conditional use permit.

My kids have gone to their farm for school tours a few times. Each time they got back, they could not stop talking about the farm and how much fun they had riding on their zipline and planting pineapples. They even brought home a few dragon fruit cuttings and we planted them together in our yard. They are doing so great that we already start to have fruits!

I ask you to support Maui Dragon Fruit Farm to grant their permit extension. I know you all want to support agriculture on Maui. This is a good opportunity to show people of Maui that you truly care about our land use in West Maui and not just allow all the millionaires come here to build their gentlemen's estate. Launiupoko suppose to be an agricultural community. But all I see is swimming pools and swimming pools. How about growing some real food on our valuable limited available land to feed the island when we are in real need of true food security.

Thank you for your consideration.

Yolanda

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2021 SEP 16 AM 8:07
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Jum Hinds <jumhinds1234@gmail.com>
Sent: Wednesday, September 15, 2021 6:17 PM
To: County Clerk
Subject: Support Testimony for Maui Dragon Fruit Farm

You don't often get email from jumhinds1234@gmail.com. [Learn why this is important](#)

Aloha Council Members:

I am Jum Hinds and I am writing to support the Maui Dragon Fruit Farm and their application to extend their conditional use permit.

I have known Crystal and Lawrence Schmitt for multiple years. I purchase produce from them at the wholesale level. They have the best organic produce grown on Maui. Their dragon fruit is so delicious. I feel so lucky that we actually have our own organic dragon fruit farmer on this island. I always thought that dragon fruit is only available in Asia where I was originally from.

If you want to support agriculture and hope we have more farmers on the island, support them!

Thank you.

Jum Hinds

2021 SEP 16 AM 8:06
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Nancy Huang <nproperties1006@gmail.com>
Sent: Wednesday, September 15, 2021 9:52 PM
To: County Clerk
Subject: Support Testimony for Maui Dragon Fruit Farm

You don't often get email from nproperties1006@gmail.com. [Learn why this is important](#)

Dear Council Members:

I am sending this email to you to provide supporting testimony of Maui Dragon Fruit Farm's conditional use permit application.

Maui Dragon Fruit Farm has successfully brought 16 best varieties of dragon fruit to Maui. More and more people including myself are cultivating dragon fruit now on Maui because of them and people are loving them!

Maui Dragon Fruit Farm provided educational tours to local residents and visitors on how to grow them. A few of my other friends learned about it and obtained cuttings from them to start to grow them too. It will be so beneficial for our island if people start to grow more food on their backyards. Dragon Fruit uses very little water and survives in all soil conditions and is such a great crop for our state. We are very thankful that a new crop has been introduced to our islands.

We ask you to support them. We need more farmers to be able to survive on Maui. Having different sources of income is key considering all the challenges farmers are facing.

Thank you.

Nancy Huang

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2021 SEP 16 AM 8:54

RECEIVED

September 16, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA Hawaii)

RE: Comments on Committee Report 21-79 ("CR 21-79") ("A BILL FOR AN ORDINANCE
ESTABLISHING A NEW CHAPTER 3.47, MAUI COUNTY CODE,
IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX")

(Sent via e-mail to county.clerk@mauicounty.us)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members Maui County Council,

Thank you for allowing ARDA Hawaii to submit testimony **providing comments** to the proposed bill establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. ARDA Hawaii is the local chapter of the trade association for the timeshare industry. Timeshare is an important and stabilizing part of the tourism industry and Maui's economy. Timeshare owners have made a long-term commitment to Maui by purchasing and owning real property in the County. These owners are consistent and dependable visitors who bring substantial tax dollars to the County and continue to come even during periods of economic downturn.

CR 21-79 establishes a county transient accommodation tax of three percent (3%) ("**County TAT**"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County TAT once it takes effect upon the approval of the ordinance.

ARDA Hawaii understands the need for the County to establish the County TAT, however, we have concerns with the timing of the application of the additional 3 percent increase. Having the County TAT *effective upon approval* raises significant compliance issues. Timeshare operators will not be able to disclose the new tax to guests in advance. Operators will not be able to collect the County TAT as the guests have already booked their room at a specific price incorporating the existing taxes.

Moreover, timeshare resorts will need to update their Hawaii disclosure statements and file with the Department of Commerce and Consumer Affairs ("DCCA"). This is often a time-consuming process requiring approval from the DCCA. Having CR 21-79 be effective upon approval will lead to inadequate disclosure to customers. Imposing a tax with an immediate effective date will make it impossible for developers and operators to provide full and fair disclosure to buyers, owners and other occupants.

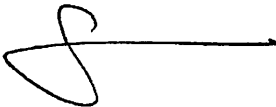
Accordingly, ARDA Hawaii respectfully requests the effective date of the bill be made **not earlier than 60 days after signing CR 21-29 into law** to allow: 1) appropriate notice to be given to travel partners; 2) booking engines to be updated with the new County TAT; and 3) rental agreements to be modified with the new required language. Further, the additional 30-60 days will provide developers and timeshare operators adequate time to update disclosure statements with DCCA and provide consumers with full and fair disclosure.

Specifically, ARDA Hawaii recommends the following amendment to the County TAT bill:

1. Amend Section 3 of the bill to state "This Ordinance shall be effective 60 days from approval and signature by the Mayor."

Mahalo for your consideration of our comments. We look forward to working with the Council on implementing a policy that will enhance the ability of developers and operators to comply with the new existing laws and requirements that compel fair and full disclosure of the County TAT to consumers.

Respectfully Submitted,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line extending to the right.

Mitchell A. Imanaka
Chair
American Resort Development Association of Hawaii

County Clerk

From: Susan <suzmarshall@gmail.com>
Sent: Thursday, September 16, 2021 9:31 AM
To: County Clerk
Subject: CC 21-453

[You don't often get email from suzmarshall@gmail.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Please accept this written testimony urging the mayor to examine the public health and safety of bike tours in Maui. As a Makawao Elementary School PTA Board Member and MMMC Emergency Dept RN, I find the bike tours to be a source of community concern. The roadways along Baldwin Ave and also Kaupakalua/Kokomo are not fit for inexperienced bikers. The roads have very limited shoulders and are often curvy, creating unsafe passing conditions. The riders themselves are inexperienced on the Maui roads and upcountry weather conditions. Speaking to Maui visitors that have participated in the bike tours, several have admitted their lack of experience on a bike in general "I hadn't been on a bike in years, but it was all downhill so we went for it".

I've noted regularly some bikers are not escorted by an guide, thus having to navigate their way independently. Often these unsupervised single or smaller group riders will occupy the entire lane, causing tremendous backup of traffic. At Makawao Elementary, drivers can only access the child dropoff and pickup area from Baldwin Ave, so there are vehicles continuously entering and exiting the road. Limiting the hours of operation to avoid school drop off and pick up times would be help keep our community safe.

As a RN in the emergency department @ Maui Memorial it is not uncommon to see injuries from a downhill bike accident. There are injury hotspots, as AMR paramedics can attest to better than I can. Our hospital is currently at capacity. We are navigating a pandemic and have limited resources. I would like to see more investigation into the true safety of the downhill bike activity.

Aloha-
Susan Marshall
Makawao Elementary PTA Treasurer
MMMC RN

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2021 SEP 16 AM 10:32
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COUNTY CLERK

County Clerk

From: Robert Mitnick <robert.mitnicktaro@gmail.com>
Sent: Wednesday, September 15, 2021 8:27 PM
To: County Clerk
Subject: Testimony for Support of the Maui Dragon Fruit Farm, LLC

You don't often get email from robert.mitnicktaro@gmail.com. [Learn why this is important](#)

To: Maui County Council

My name is Robert Mitnick. I am the founder and president of Hawai'i Taro Company, a locally owned and operated food producer on Maui. Our company's mission is to develop healthy products made from all natural ingredients while working to preserve the beauty and cultural history of our island home. Our goal is to introduce Taro to the world through food products and export which encourages sustainable agriculture and environmentally sensitive, minimal impact development. We believe that if we take care of our Aina, it will provide food for our people for generations to come.

As a resident of Hawai'i for almost forty years, I have seen Hawai'i struggle to balance modernization and development with its agricultural legacy. The generations who have thrived here before us have honored and protected the healthy balance of our islands' eco-systems. Now it is our responsibility to be good stewards of our land.

Crystal and Larry Schmitt embody that kind of land stewardship that our islands need. They conscientiously choose not to use any pesticides on their crops even though that means they regularly sacrifice some of their yields to insect attacks. They strictly use organic fertilizers so that the land and soil are always being nurtured and renewed instead of being poisoned or depleted even though that means their fertilizer cost is higher. They truly care about our Aina. Their organic farming practices not only produce foods that are very healthy for people, but also very beneficial to our Aina and to our ocean and reef system. They diligently guard our fragile eco-system on the island while supplying food for our island people. They are committed to introducing and commercializing organic dragonfruit on Maui, which is rapidly on its way to becoming a major agricultural crop here to benefit our state as a whole.

I understand that Maui Dragon Fruit Farm is trying to renew their special and conditional use permits which allow them to host weddings on their farm and to sell products at their farm stand which are not 100% produced on the farm. I would like to inform you that I strongly support the renewal of these permits so that they can have a diversified income which will help them survive in the long-run regardless of adverse farming conditions. Your support of them will benefit our island and our organic food industry.

If you have any questions or need any more information from me, please feel free to contact me at (808) 214-6362 or email robert.mitnicktaro@gmail.com.

Aloha,

Robert Mitnick

Founder & President

Hawai'i Taro Company, LLC

RECEIVED
2021 SEP 16 AM 8:07
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Christopher Mrahunec <christopherm1811@gmail.com>
Sent: Wednesday, September 15, 2021 5:40 PM
To: County Clerk
Subject: Supporting Testimony Regarding County Council Item CR 21-85

You don't often get email from christopherm1811@gmail.com. [Learn why this is important](#)

Dear Council Members:

My name is Christopher Mrahunec. I'm writing regarding agenda item CR 21-85 pertaining to the conditional use permit for Maui Dragon Fruit Farm. I strongly support the Maui Dragon Fruit Farm and ask you to approve their application.

I worked at the Maui Dragon Fruit Farm's lettuce production operation in Haiku for over five years. Lawrence and Crystal Schmitt are the hardest working people I ever know. They both are smart and educated people. I know they do not need to farm to make a living. However, they have dedicated their lives in the last 10 years to grow organic vegetables and fruits to help support Maui's food security and to help people including myself to live a healthier lifestyle.

I am originally from Texas. When I first joined their farm, I was severely overweight. After farming with them for a year, I lost 60 lbs in the first year. I learned how to grow lettuce from seeds to harvest. I learned how to live a healthy lifestyle and care for the land in a very sustainable way.

I learned how to live pono. I have learned so much from them. Their aloha spirit toward all of our workers and their dedication to organic farming is truly inspiring. They treat us like family and they are showing us the way to live in harmony with our land. We need more people like Lawrence and Crystal Schmitt on Maui!

I strongly support their effort to get a conditional use permit to diversify their income. What they have gone through in the last few years clearly shows that in order to survive as a farmer, income diversification is needed. I know you all support agriculture on Maui. Please support them.

Mahalo!

Christopher Mrahunec

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COUNTY CLERK



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2021 SEP 16 PM 2:41

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COUNTY CLERK

SCOTT T. NAGO
CHIEF ELECTION OFFICER

STATE OF HAWAII
OFFICE OF ELECTIONS
802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE MAUI COUNTY COUNCIL
ON A RESOLUTION TO RECOGNIZE SEPTEMBER 28, 2021 AS
NATIONAL VOTER REGISTRATION DAY

September 16, 2021

Chair Lee and members of the Maui County Council, thank you for the opportunity to testify in support of a resolution to recognize September 28, 2021 as National Voter Registration Day.

This resolution encourages voter registration and reminds Hawaii voters to make sure that their voter registration record is up to date. There are many ways for Hawaii residents to register to vote or check their registration status including online, by submitting a voter registration application, or when receiving government services like signing up for a Hawaii driver license or Hawaii state identification card, or when applying to receive public assistance with the Department of Health and Department of Human Services.

As noted in the resolution, we are also launching our annual Young Voter Registration Program to distribute voter registration applications to high school students statewide. Hawaii allows all eligible voters at least 16 years of age to pre-register. When a pre-registered voter turns 18 years old, they will automatically be mailed a ballot. This resolution brings attention to the options and importance of voter registration.

Thank you for the opportunity to testify in support of this resolution.

County Clerk

From: Jayz Paleka-Wright <kekaimalino2@gmail.com>
Sent: Wednesday, September 15, 2021 10:50 PM
To: County Clerk
Subject: Maui Dragon Fruit Farm

You don't often get email from kekaimalino2@gmail.com. [Learn why this is important](#)

Aloha, I'm emailing regarding the Maui Dragon Fruit Farm at launiupoko. I've been working next door the past couple months and have experienced obnoxious noise. They haven't been using this farm for cultural purposes. I have seen many weddings, zip lining, and partying. I haven't seen any farming in any sorts ever since I've started working here. I've been working there for 3-4 months and I haven't seen any locals go there. Also their plants are overgrown and the land is dry.

If this land is meant for agricultural purposes then they shouldn't be able to hold such events. Especially in a neighborhood where people live and want to relax. This is disrespectful to the community and others who would love to have this chance.

Mahalo for listening to my concerns,
Kekai Paleka-Wright

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2021 SEP 16 AM 8:07
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Laurie Robello <trackshawaii@gmail.com>
Sent: Thursday, September 16, 2021 5:02 PM
To: County Clerk
Subject: Fwd: Support of Maui Dragon Farm

RECEIVED

2021 SEP 17 AM 7:52

OFFICE OF THE
COUNTY CLERK

You don't often get email from trackshawaii@gmail.com. [Learn why this is important](#)

9/16/21

Dear council member:

I am emailing to you to ask for your support of Maui Dragon Fruit Farm's application to extend their conditional use permit.

I have known Crystal and Lawrence for many years. They are great dedicated farmers and have gone through a lot trying to survive as farmers. As an island community, we need more farmers like them and grow more food locally. Please support them and approve their request so that they can have diversified income source to overcome unexpected obstacles in farming.

Thank you.

Laurie Robello

County Clerk

RECEIVED

From: Karissa Sanders <karissasandersloha@gmail.com>
Sent: Wednesday, September 15, 2021 11:10 PM
To: County Clerk
Subject: Support for Maui Dragon Fruit Farm

2021 SEP 16 AM 8:08

OFFICE OF THE
COUNTY CLERK

You don't often get email from karissasandersloha@gmail.com. [Learn why this is important](#)

Aloha Council Members:

My name is Carisa Sand and I was born and raised here on west Maui. My grandparents like to garden. While growing up, each time we visited them, we would bring fresh vegetables home from their yard. They always told me that their vegetables are organic since they did not spray any pesticides on them and they are good for me. So I always tried to eat organic.

A few years ago, my uncle died of colon cancer. Then my best friend Dad also died of colon cancer. It seems more and more people are getting all forms of cancer nowadays. So I did some research and I realized that eating chemically sprayed foods are one of the main reasons people getting cancers like colon cancer. The message to me is loud and clear: we not only need more locally grown food in our state, we also need more organically grown local food on our islands.

I met Crystal Schmitt at one of the organic certification sessions on Maui since I am trying to get more information on the USDA organic certification process. It turns out that Maui Dragon Fruit Farm is one of the very few USDA certified organic farms on Maui. Crystal is not only passionate about farming, she is passionate about organic farming. She told me she would not be farming if it is not organic. She is so knowledgeable on all the organic farming practices and I am so glad that I found such a great organic farmer whom I can learn from.

Being living on the west side most of my life, I have witnessed a lot of changes over the years. The hill of Launiupoko used to be all sugar cane. Now there are more swimming pools there than any other places on Maui. I have witnessed one family hired a landscaper to plant most of their land with crops like bananas, etc. Once they got their building permit and finished building their big vacation house, they cut off water to all the plants and just left their land with yellow brushes, which is becoming a major fire hazard. They have no interest in farming or growing any food for the island. All they want is their big ocean-view vacation home in a very large piece of agricultural land. Their houses sit there empty most of the year, while local people have trouble finding affordable housing. We need to use those valuable land to either grow food or to build more affordable housing for our community. We need to stop those people complaining about their true farm neighbors and ask them to do some real farming if their houses are all called "farm dwellings".

Thank you so much for reading my lengthy testimony and I sincerely hope you will support Crystal and Larry Schmitt to approve their extension request.

Mahalo!

Carisa

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

WRITTEN TESTIMONY
OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE
STATE OF HAWAII

BEFORE THE MAUI COUNTY COUNCIL

SEPTEMBER 17, 2021
REMOTE MEETING
9:00 A.M.

RECEIVED
2021 SEP 16 PM 4:30
OFFICE OF THE
COUNTY CLERK

COUNTY COMMUNICATIONS 21-443 AND 21-444 (CC 21-443 & CC21-444).
APPROVING FOR INCLUSION IN THE 2022 HAWAII STATES ASSOCIATION OF
COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY
REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF
HEALTH RULES.

Chairperson Lee and Members of the Council:

Thank you for the opportunity to present testimony on the proposed legislative bill to amend Section 46-17 by allowing the counties to regulate noise nuisances stricter than that provided by Hawaii Department of Health administrative rules. The Department of Agriculture is concerned whether the proposed bill would be inconsistent with the Hawaii Right to Farm Act, Chapter 165, Hawaii Revised Statutes, which seeks to "...reduce the loss to the State of its agricultural resources by limiting the circumstances under which farming operations may be deemed to be a nuisance." The Act recognized and contemplated the future conflict between the development of residential communities through urban expansion and the pre-existing agricultural production activities that are often a source of smoke, odors, dust, noise, and vibration. We are concerned that should counties enact stricter standards than that of the State, this could have an adverse impact on the availability of agricultural lands for agricultural production and be contrary to the State's food sustainability goals and the Counties' policies, plans, ordinances, and rules that support active agricultural production on agricultural lands.

Thank you for the opportunity to present our written testimony.



County Clerk

RECEIVED

From: Margot Thom <margot_thom@yahoo.com>
Sent: Tuesday, September 14, 2021 9:16 AM
To: County Clerk
Subject: CR 21-85

2021 SEP 14 AM 10: 59

OFFICE OF THE
COUNTY CLERK

[You don't often get email from margot_thom@yahoo.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Hello

We are writing to request that the permit NOT be renewed for the Dragon Fruit Farm, or it be revoked.

We live on Punakea Loop near the Farm and have the following concerns:

- we live in a residential and agricultural neighborhood. It does not make sense to have a commercial zip line and wedding venue in the neighborhood
- they do not appear to be farming the dragon fruit since the fire three years ago, so perhaps they do not meet the ag requirements any longer
- there are multiple structures on the property which do not seem to meet the requirements of the county, state and CPR for number of structures
- there is often loud noise/music which goes beyond the 8pm curfew. They use speakers which amplify the base
- there is high traffic at times which does not seem appropriate in a residential area

Thank you for your consideration

Margot Thom & Laurent Joly
Owners

Sent from my iPad

From: Beth-Ann Thompson <bigredbat@me.com>
Sent: Wednesday, September 15, 2021 9:02 AM
To: County Clerk
Subject: Subject: CR 21-85 Please DENY

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2021 SEP 15 AM 9:05

OFFICE OF THE
COUNTY CLERK

[You don't often get email from bigredbat@me.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

To whom it may concern,

I'm writing to you asking you to please DENY the request of the Maui Dragon Fruit Farm to extend their County Special Use Permit, CUP. My husband and I have lived at 85 Lau Awa Place (down the street from the Dragon Fruit Farm) since 2009 and watched as this property was developed. At first they planted lots of Dragon Fruit and were able to grow lots of fruit to support the needs of the local restaurants and other venues around the Island. They hired transient mainland and international workers that were young who worked the farm for food and lodging (tents) but the farm was small so things weren't out of control. Now they have frequent weddings that are noisy, lots of young workers that party at night and the land has turned into an amusement park. The whole idea of Agricultural property is to maintain the land as Agriculture and their property has severely diverted from this and the land is now more focused on wedding venues and adventures. When we bought our property in 2009 there were strict guidelines in place requiring our land to be 50% Agriculture and we were in compliance. The County should be enforcing that requirement to all properties so that this development can remain as it was intended....Agricultural.

We are all for the Maui Dragon Fruit Farm being used for what it is designated...a Dragon Fruit Farm. If they want to give tours to show people how the farm was created and how it is operated...that's great! We understand first hand how expensive it can be to farm so we are all for them supplementing their income with tours of their farm. That will give tourists and locals an understanding of how to grow agriculture on Maui and may even encourage more people to farm.

We understand how difficult it is to monitor people's use of their own properties but something needs to be done to protect the people who live around this property as it is not fair to them or anyone else in this Agricultural development.

Please DENY their extension of their CUP.

Respectfully,
Beth and Kurt Thompson

Sent from my iPhone

County Clerk

From: Elileen Welter <elileenwelter@gmail.com>
Sent: Wednesday, September 15, 2021 10:07 PM
To: County Clerk
Subject: Testimony to support Maui Dragon Fruit Farm

You don't often get email from elileenwelter@gmail.com. [Learn why this is important](#)

Aloha Council Chair and Council Members:

My name is Elileen Welter and I am writing to you to support the Maui Dragon Fruit Farm's conditional permit extension.

I love dragon fruit! I am so happy that we have a dragon fruit farm on Maui and they have so many different varieties of them. I get to know Crystal and Lawrence by attending one of their educational tours and they are so knowledgeable and helpful! They inspired me to grow this fruit on my small patch of land and the fruits are coming in now.

We need more organic farms and organic farmers on Maui. This COVID-19 pandemic especially makes me think that we as a community needs to support each other to make farming a part of our lives. Our kids need to learn where the foods are coming from and how we can grow more of our own food. By supporting farmers like Crystal and Larry, we are making a good step toward trying to achieve food self-sufficiency in our state.

I appreciate you reading my testimony and I hope you can approve their application.

Mahalo!

Elileen

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2021 SEP 16 AM 8:07
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COUNTY CLERK

County Clerk

From: Suinan zhong <suinanzhong@gmail.com>
Sent: Wednesday, September 15, 2021 8:41 PM
To: County Clerk
Subject: Written Testimony for support of Maui Dragon Fruit Farm

You don't often get email from suinanzhong@gmail.com. [Learn why this is important](#)

Dear Maui County Council Members:

I am submitting a written testimony to support Maui Dragon Fruit Farm's conditional use permit extension application.

Being a farmer myself, I would like to let you know that farming on Maui is both challenging and rewarding. Challenging because it is hard to find workers who like to work in the field rain and shine. Especially young people, most of them growing up on Maui now do not have much motivation to go to the agricultural field. Rewarding because we see we need more food growers on Maui and a lot of people out there love the food that is grown here locally.

I have known Crystal and Larry for a long time since we exchange produce sometimes. They are responsible and reliable. They are always there to help their friends. They are people I know I can count on when I need an extra hand. They are devoted to organic farming and take care of our aina. They have a vision for Maui to become the dragon fruit capital of the U.S.. We admire them for their courage to overcome obstacles and for their vision that we can grow a lot more food on Maui.

I sincerely ask your support of them. I know their success is our island's success.

Mahalo!

Suinan Zhong

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