

# GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

## M I N U T E S

Online Only via BlueJeans Link

January 18, 2022

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

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair  
Councilmember Gabe Johnson, Member  
Councilmember Tasha Kama, Member  
Councilmember Kelly T. King, Member (left at 11:32 a.m.)  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member (arrived at 9:11 a.m.)

**STAFF:** Shelly Espeleta, Supervising Legislative Analyst  
David Raatz, Deputy Director of Council Services  
James Forrest, Legislative Attorney  
Kasie Apo Takayama, Legislative Analyst  
Jerry Paredes, Legislative Analyst  
Wilton Leauanae, Legislative Analyst  
Pauline Martins, Committee Secretary  
Lenora Dinneen, Council Services Assistant Clerk  
  
Ana Lillis, Executive Assistant to Councilmember Paltin  
Laura McDowell, Executive Assistant to Councilmember Paltin  
Anabelle Hernandez, Executive Assistant to Councilmember Molina  
Angela Lucero, Executive Assistant to Councilmember Paltin  
Davideane Sickels, Executive Assistant to Councilmember Kama  
Ellen McKinley, Executive Assistant to Councilmember King  
Evan Dust, Executive Assistant to Councilmember Kama  
Jordan Helle, Executive Assistant to Councilmember Sugimura  
Kate Griffiths, Executive Assistant to Councilmember Johnson  
Lois Whitney, Executive Assistant to Councilmember Kama  
Roxanne Morita, Executive Assistant to Councilmember Johnson

**ADMIN.:** Keola Whittaker, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Daniel Kunkel, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Moana M. Lutey, Corporation Counsel, Department of the  
Corporation Counsel

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Richelle Thomson, First Deputy Corporation Counsel, Department  
of the Corporation Counsel  
Stephanie Chen, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
John Pelletier, Chief of Police, Department of Police  
Ipo Mossman, Executive Assistant, Office of the Mayor  
Andrew Martin, Prosecuting Attorney, Department of the  
Prosecuting Attorney  
Rowena Dagdag-Andaya, Director, Department of Public Works  
Karla Peters, Director, Department of Parks and Recreation  
Lisa Almeida, Park Permits Officer, Department of Parks and  
Recreation  
Scott Teruya, Director, Department of Finance  
Carmelito Vila, Motor Vehicle and Licensing Administrator,  
Department of Finance

**OTHERS:** Dick Mayer, Kula Community Association  
Phil Feliciano, Bike Maui  
Jack Patnode  
Bobbie Patnode  
Faith Chase  
Mike Moran  
Lewis Upfold  
Albert Perez  
Ben Hall  
Ron Daniel  
Zachary LaPrade  
Michael L. Williams, Charter Commission nominee  
Plus (5) other people

**PRESS:** *Akakū Maui Community Television, Inc.*  
*Kehau Cerizo, Maui Now*

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CHAIR MOLINA: The Government Relations, Ethics, and Transparency Committee meeting for Tuesday, January 18th, 2022, will now come to order. I'm Mike Molina, your Committee Chair. And for the record, I am transmitting out of Heritage Hall here in beautiful Pā'ia today, and I'm accompanied by Staff members Ana Lillis, Laura McDowell, and we have our new District Office Staff member on board today, making her debut, Anabelle (*phonetic*) Hernandez. Welcome. Members, the online meeting today is being conducted in accordance with the Governor's most recent emergency proclamation on Sunshine Law in-person meetings, which has suspended the use of in-person testimony and viewing locations due to the recent COVID-19 surge. The Governor's most recent emergency proclamation suspended the requirement for in-person testimony through February 28, 2022. Now, as a reminder, please note the following mandate by the Governor. A board holding a remote meeting pursuant to the section shall not be

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required to allow members of the public to join board members in person at nonpublic locations where board members are physically present, or to identify those locations in the notice required by Section 92-7 HRS, provided that at the meeting, each board member shall state who, if anyone, is present at the nonpublic location with the member. In accordance with the Governor's mandate, if you are at a nonpublic workspace when your name is called, please identify by name who is present with you in the room, vehicle, or workspace. So let's continue now with Committee roll call, and we'll start first with our Council Chair, Alice Lee. Good morning, and Happy New Year.

COUNCILMEMBER LEE: Good morning. Happy New Year, and happy...I wish we had the weekend back, it was very restful. Today's greeting is from Sri Lanka in South Asia, and the pronunciation is, [ah-you-boh-wan] ayubowan. I'm here in my office...home office alone, with my little pet, Koa Lei Lee (*phonetic*). Thank you.

CHAIR MOLINA: Okay, mahalo, Chair Lee, and ayubowan to you. All right, now let's go to...up to beautiful Moloka'i, and check in on my Committee Vice-Chair Keani Rawlins-Fernandez. Aloha, and good morning, and ayubowan.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. Mai Moloka'i nui a Hina. I am at the Moloka'i District Office, alone on my side of the office. Ayubowan kākou.

CHAIR MOLINA: Mahalo, Vice-Chair Rawlins-Fernandez. All right. Let's go out to heavenly Hāna, and say aloha and ayubowan to Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aloha, and ayubowan, Chair. Aloha kakahiaka, kākou Mai Maui Hikina. And today we're broadcasting from the Hāna Cultural Center with myself and my EA, Dawn Lono. Aloha.

CHAIR MOLINA: Aloha, Councilmember Sinenci. Now, let's go back across the pond, and check in on Lāna'i Councilmember Gabe Johnson. Aloha, and ayubowan.

COUNCILMEMBER JOHNSON: Ayubowan, Chair, and fellow Councilmembers. Good morning. I am home alone on this beautiful day in Lāna'i City. I...I really enjoy these three-d...three-day weekends. Maybe we can make that a habit. So looking forward to the next one, and aloha.

CHAIR MOLINA: Mahalo, Councilmember Johnson. No objections to that suggestion. Let's go out to West Maui and check in on Councilmember Paltin. Ayubowan.

COUNCILMEMBER PALTIN: Aloha kakahiaka kākou, and ayubowan, to all. I'm broadcasting live and direct from the West Maui District Office. We just hired a new District Office Staff, but we didn't onboard him yet, so looking forward to that. I'm currently alone, but my EA Angela will be right back, she just stepped out to take a phone call. And Happy Tuesday that feels like a Monday.

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CHAIR MOLINA: All right. Mahalo, Member Paltin. Okay, let's go out to Central Maui and check in on the neighborhood. Councilmember Tasha Kama. Aloha, and ayubowan.

COUNCILMEMBER KAMA: Aloha kakahiaka, to you, Chair, a me ayubowan to all my colleagues out there in beautiful *Akakū* land. I am in my workspace in my home, and I am in...I am alone. And looking forward to a wonderful, but brief, meeting today.

CHAIR MOLINA: All right. Mahalo, Member Kama. And let's go out to South Maui and check in on Councilmember King. Aloha, and ayubowan.

COUNCILMEMBER KING: Aloha, ayubowan. I second Member Kama and Member Johnson's...maybe Member Johnson can work on an ordinance proposal for three-day weekends once a month. But I am actually at my house, I had a 7:30 a.m. meeting with (*audio interference*), so I didn't get down to the District Office. And I'm alone in my spare bedroom/office.

CHAIR MOLINA: Mahalo, Member King.

COUNCILMEMBER KING: I'm just...just to let everyone know, I do have to leave at 11:30 for another meeting. Thank you.

CHAIR MOLINA: Okay. Thank you for notifying the Committee of that. And we've just been informed that Councilmember Sugimura will be running a bit late, but she will be joining us shortly. Continuing with personnel, as far as who's here from the Administration, from Corporation Counsel we have Mr. Keola Whittaker, as well as Mr. Dan Kunkel. From the Office of the Mayor, Community Liaison Ipo Mossman will be joining us later. And from the Police Department, Chief Pelletier and Captain Okamoto will be joining us as well. And our Prosecuting Attorney, Mr. Andrew Martin, will be joining us for GREAT Item-44. And the Department of Finance, I believe, Mr. Lito Vila...Department of Finance, DMV Administrator, Mr. Vila. And we did make a request for the Planning Department to join us; however, the Mayor denied our request. It was because, again, Director McLean mentioned that because the revised bill that's been posted for GREAT Item-44 no longer references Board of Variances and Appeals, Planning basically has no involvement or bearing, and therefore, would not be needed as a department rep to attend. Just wanted to set the record straight on that. Public Works Director Rowena Dagdag-Andaya will be joining us as well for that same item, GREAT-44, as well as Parks Director Karla Peters, and Parks Permit Officer Lisa Almeida for GREAT-44. And Members, if there are no objections, the Chair has invited out...outside resource personnel to join us based on the Council Rules. Dick Mayer from Kula...the Kula Community Association; Robin Shishido, District Engineer for the State Department of Transportation; Phil Feliciano, director of operations for Bike Maui; and Michael L. Williams for GREAT Item 18-2. Mr. Williams will be the nominee for...up for consideration for the Charter Commission. Any objections for outside resource personnel?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

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CHAIR MOLINA: Okay, so noted. Moving on, we have from Committee Staff, Ms. Shelly Espeleta, Kasie Apo Takayama, Jerry Paredes, Mr. James Forrest, Legislative Attorney, and Pauline Martins, Committee Secretary, and Lei Dinneen, Council Services Assistant Clerk. Members, we've got four items on our agenda today. I'm confident we will finish up before...or by 12:00 noon, because we do have a 1:30 APT meeting under the Chairmanship of Mr. Sinenci. So now, moving on with instructions for public testimony. Oral testimony via phone or video conference will be accepted. Testifiers wanting to provide testimony should have joined the online meeting via the BlueJeans meeting link at BlueJeans.com, 175115369, as noted on the agenda. And for those testifiers who prefer to provide testimony just via audio, without any video, you can participate by phone, by dialing 1-408-915-6290, and enter the meeting code that I just mentioned. Committee intends to keep the same meeting link and phone number for future GREAT meetings this term, for the ease and convenience of the Members and the public. Written testimony is also highly encouraged, using the eComment link listed for today's agenda on mauicounty.us/agendas, and instructions also provided there as to how you can use the eComment. And let's see. Oral testimony, finally, will be limited to three minutes per item. If you are still testifying beyond that time, I'll kindly ask you to complete your testimony. And you will be hearing a bell at the three-minute warning, just to remind you. And please, when testifying, state your first and last name. If you are testifying on behalf of an organization, or if you are a paid lobbyist, please inform the Committee of that. Please be mindful regarding the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. And while others are testifying, please be courteous by turning off your video and muting your microphone while waiting for your turn to testify. And those who simply would like to just view the meeting without providing testimony, you can tune in to *Akakū* on Channel 53. And I'd like to remind Members, the Administration, and the public, please be patient in the event that we run into any technical issues during the meeting. So with that being said, I'd like to now proceed with testimony. And we have Mr. Paredes to announce our first test...two testifiers. Mr. Paredes, if you will.

MR. PAREDES: Chair Molina, the first individual signed up on the list to testify is Jack Patnode, to be followed by Bobbie Patnode.

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

CHAIR MOLINA: Good morning, Mr. Patnode. Mr. Patnode? Jack Patnode, if you're there? Okay, Mr. Paredes, let's go ahead and move on to the next testifier, and we can come back to Mr. Patnode at a later point.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Bobbie Patnode.

CHAIR MOLINA: Okay, good morning, Ms. Patnode.

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MS. PATNODE: Good morning. I think I have everything turned on now.

CHAIR MOLINA: We can hear you fine. Proceed.

MS. PATNODE: Okay, thank you. Aloha, Chair Molina and Councilmembers. My name is Bobbie Patnode, and I am testifying on GREAT-44. I'm testifying for myself. My family has been on Crater Road almost 22 years now. It's a beautiful road, and residents and visitors love it. Unfortunately, putting the vacationing tourist bike tours into a residential neighborhood on a narrow, winding road has created a real safety problem for everyone. Haleakalā Highway, in a residential area starting at about 4,000 feet and below, is mostly a narrow, winding road, with 30-mile-per-hour speed limit. In some places, there's room for rented bikes and bike tours to be far to the right and cars to move by, but mostly the bikes are in the traffic lane. And except for one spot, they don't move at the speed of traffic. Typically, they're going less than 20, and in the areas where they need to pedal, their speed is far less. Resident traffic and visitor auto traffic want to get by, but cannot safely pass due to the nature of the road. Residents know the road and when it's safe to pass and when it isn't, but can get frustrated at being blocked by a slow-going bike tour with 14 bikes and a van. The unescorted bikes ride in the middle of the lane, and when turning to look at the view or back at traffic, fall off the bike. Bikes ride in the middle of the road, even in the few legal passing areas, preventing cars from getting around them safely. The congestion in the morning commute is the biggest source of aggravation to residents, and causes the most unsafe driving. This is also the time the visitor traffic is coming down from viewing sunrise at the summit. I believe we can pass a law, that...if we can pass a law that limits the amount that the visitor bikes and bike tours are sharing the road, we can increase safety for all. Personally, I'd like to see the bike tours stop at 4,000 feet. If we can ensure there are fewer bikes on the road when residents are trying to get to work and school, I think that would help. If we can get the bike tour companies to keep the tours in tight formation and to the right whenever possible, especially in the primary passing areas, that that will help. I'd like to have your understanding and support for making the road I live on a safer place, and many thanks to Chair Molina for bringing this bill to Committee. I'd also like to thank the bike tour industry for working with the KCA to remedy the unsafe conditions, and creating their industry standards. I think we are making progress. Thank you for listening.

CHAIR MOLINA: Thank you very much, Ms. Patnode. And by the way, Members, for information, Ms. Patnode happens to be the Vice-Chair of the Maui Police Commission. And we really appreciate you taking time out to share your concerns and thoughts on this matter. Members, any need to clarify Ms. Patnode's testimony? I see Member Kama. Proceed.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Ms. Patnode, for being here. I just wanted to ask you to help me to clarify if I heard you correctly. Did you...when you mentioned you wanted to limit, were you talking about limiting the amount of tours that's coming down the highway, or were you wanting to limit the number of bikes that

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are in the tours that are coming down the highway? Or were you talking about limiting the amount of tour companies, period?

MS. PATNODE: All of the above.

COUNCILMEMBER KAMA: Okay.

MS. PATNODE: Anything we can do to limit the number of bikes merging in with traffic, that will help.

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

CHAIR MOLINA: All right. Thank you very much, Member Kama. And joining us this morning, we have a...a Kula area representative, Yuki Lei Sugimura. Aloha, and thank you for joining us, Member Sugimura. You have...you'll be asking clarific...clarific...questions.

COUNCILMEMBER SUGIMURA: Apologies for me being late, but I...I was having internet connection, so I decided to drive to the office. So I'm actually here in the office. But Bobbie, thank you very much for your years of working on this in behalf of the KCA and, of course, your residents. So are you saying that you would like the bike tours to start at a certain place and stop along the way? So you're...you're limiting...you would like to suggest that?

MS. PATNODE: Yes, that's...that's...you know, I honestly think that that would be the easiest way for us to create a safer road and enforce the safety, if we were to have...the bike tours are not allowed in the park anymore, but they can start below the park and go down to about 4,000 feet, and I think everybody would get a very nice ride, and it's...it's still very beautiful up there. And it would keep the bike tour businesses in business, and it would keep them out of the way of the residents in our neighborhood.

COUNCILMEMBER SUGIMURA: And is there a location at the 4,000 elevation area for the bike companies --

MS. PATNODE: Yes, my understanding that --

COUNCILMEMBER SUGIMURA: -- keep up --

MS. PATNODE: Yes, there is a place that they could stop. Yes.

COUNCILMEMBER SUGIMURA: Okay, so it...it's something you think feasible. Okay.

MS. PATNODE: Yes.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Members.

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CHAIR MOLINA: Thank you very much, Member Sugimura. Member Paltin, clarifying questions for Ms. Patnode? Proceed.

COUNCILMEMBER PALTIN: I guess I'm...I'm just not clear on if it's the bike tours, or just the bikes in general that is your problem. Because I'm not sure, maybe you know more than me, being on the Police Commission. If the bike tours stopped, is there anything preventing the businesses from just dropping...or anyone from dropping off, like, a load of bikers, and not having a tour, and if that would be worse?

MS. PATNODE: To answer your question, they're...they're both a problem, but they're a problem in different ways. The big bike tours with the vans that are blocking the traffic are...are impossible to pass. The...the unescorted, or what we call loose riders, generally are in two to six people, and it's almost easier for us to pass them because there's less distance that we have to go around. So they both have a problem. I don't know how to solve the unescorted people because I do think the tours...the bike companies would probably want to continue to rent to those folks. But if we could try to emphasize that they need to make it possible for cars to get by. When I see the...the unescorted people who are considerate and move over, we really appreciate that, and we can get around them and keep on going. The ones who don't know we're there, and they're still riding in the middle of the road, that's impossible, and we can't go by them safely.

COUNCILMEMBER PALTIN: Okay, I...I think I have a little better understanding. Thank you very much. Although I don't know the solution either, but hopefully, I guess, in the discussion we can work it out.

CHAIR MOLINA: Okay. Thank you very much, Member Paltin. Members, any other clarifying questions for Ms. Patnode? Seeing none, thank you for your testimony, Commissioner Patnode.

MS. PATNODE: Thank you.

CHAIR MOLINA: Okay, let's...I saw Mr. Patnode come back online. So let's go back to Mr. Patnode if he's available to provide testimony. Mr. Patnode, please go ahead. Proceed.

MR. PATNODE: I believe I am at this time. Are you picking me up now?

CHAIR MOLINA: Yep, you're coming in loud and clear.

MR. PATNODE: My name is Jack Patnode. I've been a resident of Maui, living on Crater Road for the past 17 years. I'm testifying on my own behalf in regard to GREAT-44. Unguided tours result in scattered bicycle riders all along the roadways. These so-called loose riders believe that it is okay to ride in the middle of the roadway for the entire extent of the ride, because of State Law 291C-145, Section 2, allowing it when a road has substandard width lane [sic]. Loose riders have no idea who is behind them, as their equipment has no mirrors, and their helmets are made for motorcycles, so they can hear



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nothing. Loose riders have been known to ride two or more abreast. Loose riders have stopped directly in front of me in the center of the road. Loose riders believe they're on a ride at a theme park, and do not behave like real bicycle riders. Guided tours with trailing vans cause traffic to back up behind them on many portions of the roads where the road is not steep enough for them to maintain speed without pedaling. Pedaling is something people on bike tours do not like to do. Guided tours do pull over when they believe there's an opportunity for cars to pass, but the roads have very few places where it is safe. Nothing is more frustrating than to pass one group tour [sic], and catch up to the next one 30 seconds later. The County commissioned a bike study by Kimura. The results of the study were never implemented. I urge the County to regulate the bike tour industry. Best would be to eliminate the bike tours on roads with substandard width lane [sic], which is all Upcountry roads. Next best would be eliminating loose riders, restrict operating hours to between 9:00 and 1:00 p.m., space groups a minimum of 15 minutes apart, starting where residents begin on State Highway 378, also known as Crater Road, add more shoulder space along State Highway 377, also known as Haleakalā Highway, and maintain the shoulders on the roads traveled by bicycles by mowing and cleaning more frequently. Where do we want...what do...where and what do we want visitors to do? Let's plan, instead of being held hostage. The National Park Service eliminated tours because they are unsafe and disrupt traffic. The County needs to do this too. Thanks for your time.

CHAIR MOLINA: All right. Thank you very much for your testimony, Mr. Patnode. Members, any need to clarify Mr. Patnode's testimony? Councilmember King?

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. Patnode, thanks for being here. It...so two things that you mentioned. One was the State law that allows bicyclists to ride in the middle of the road if the road is substandard. Is there a definition in that...in that HRS of what substandard means?

MR. PATNODE: Where there is not enough room for the bicycle to pull over to the right without having enough room for a car to pass them.

COUNCILMEMBER KING: Okay, so it...I guess it sounds like it...it's recognizing that you can ride a bike, even if there's not a bike path there.

MR. PATNODE: That is correct.

COUNCILMEMBER KING: Okay. Thanks for that. And then the other thing you mentioned, the County's Kimura study, you called it?

MR. PATNODE: Yes.

COUNCILMEMBER KING: Did the County commission...did that have recommendations in it? Or was it just a study?

MR. PATNODE: One of the primary ones was to space out the tours.

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COUNCILMEMBER KING: Okay.

MR. PATNODE: Yep. For the...for the County and the State to put in more shoulders along the highway whenever they're maintaining the road.

COUNCILMEMBER KING: Okay.

MR. PATNODE: Those are the two ones that I remember.

COUNCILMEMBER KING: And that...when was that done?

MR. PATNODE: I don't remember the exact date, but I believe Ms. Sugimura was on the...was on the...was on the Council at the time.

COUNCILMEMBER KING: No, she's shaking her head, so she...she...she's been on as long as I have, which is about five years. So it must have been before that.

MR. PATNODE: Okay (*audio interference*) both of you. But...but if --

COUNCILMEMBER KING: But if you see the (*audio interference*) okay.

CHAIR MOLINA: (*Audio interference*)

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR MOLINA: Thank you, Member King. Members, any other need to clarify Mr. Patnode's testimony? Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Patnode, for your testimony. I was wondering if you could repeat the HRS number? I...I didn't write it down fast enough.

MR. PATNODE: 291C-145, Section 2.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you very much, Member Paltin. Members, any other need to clarify Mr. Patnode's testimony? Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you for being here, Mr. Patnode. So my question was...is, you know, you mentioned that...that unescorted riders travel in two or three abreast --

MR. PATNODE: Yes, that --

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COUNCILMEMBER KAMA: -- and I can see how that could be problematic. Was there anything in the ordinance that said that they should be traveling in a single file? Or is there any ordinance that says they should be traveling in single file?

MR. PATNODE: It is in the State law that bike riders must travel single file, particularly on roadways that are not wide enough.

COUNCILMEMBER KAMA: Right.

MR. PATNODE: It's the same State law, 291C-145. But I believe there's another section in there that covers that.

COUNCILMEMBER KAMA: And is there anything in the section that talks about if they are in violation, what happens?

MR. PATNODE: I saw nothing in there that says what happens if you're in violation.

COUNCILMEMBER KAMA: Okay, okay, okay. Well, thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. Members, any other need to clarify Mr. Patnode's testimony? Seeing none, thank you for your testimony, Mr. Patnode.

MR. PATNODE: You're welcome.

CHAIR MOLINA: Okay, Mister...thank you. Mr. Paredes, please continue with announcing our next testifiers.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Mike Moran, to be followed by Michael.

CHAIR MOLINA: Good morning, Mr. Moran.

MR. MORAN: Good morning, Chair and Council...Councilmembers. I did get the memo to be brief today, so I will try and make my testimony brief. We're changing topics. This is on...on...think I forgot the number already, but it's on Michael Williams for the Charter Commission. And number one, we have tried to follow the Charter Commission, attending as many meetings as possible, and we think it's urgent to get them up to full speed as quickly as possible. I know we were unpleasantly surprised when Chair Collins resigned at the end of the meeting, so you didn't have much time, but kudos to you, Chair, for...for getting a nominee up. And we're not quite clear on the process. We see him up in this agenda item today, but I believe it said no action today. And then we were looking ahead, and we see he's also on the full Council meeting on Friday. So with limited understanding, we're kind of hoping that...that a quick decision can be made, and get him on. So we certainly need someone, and...and we certainly feel he is a very well-qualified person. Where we had true admiration for all the people that were on there, that we felt that all of you picked excellent people to participate. And we think

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he will be a...a good one too. But again, the need is urgent that they're now making a decision, or they will be making decisions, to pare down that huge number they have, to get the right number. So anything that's possible to get Mr. Williams on there as quickly as possible is mostly what we're asking for today. Thank you for the opportunity to testify.

CHAIR MOLINA: Thank you very much for your testimony, Mr. Moran. And to answer your question, we're using a process where we can expedite getting Mr. Williams onto the Charter Commission by February. So basically today is the vetting process. We'll interview Mr. Williams, and we'll defer it to Friday's Council meeting for final decision making so we can get him on...assuming he passes, so we can get him on board to the Charter Commission by February. So I just wanted to make that clarification for you. But thank you for bringing that up. Okay, Members, any --

MR. MORAN: Thank you for clarifying.

CHAIR MOLINA: Okay. Thank you, Mr. Moran. Members, any need to clarify Mr. Moran's testimony? Seeing none, thank you for your testimony, Mr. Moran. All right, aloha. Mr. Paredes, please continue with announcing our next testifiers.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Lewis Upfold, to be followed by Albert Perez.

CHAIR MOLINA: Good morning, Mr. Upfold. Mr. Upfold, you're up for testimony, are you there?

UNIDENTIFIED SPEAKER: Hey, Mike, can you hear me?

CHAIR MOLINA: Okay, is that you? I see...it looks awful, but I see Mr. Feliciano there. Okay, Philip, are you on...is Mr. Upfold there?

MR. UPFOLD: I...I'm here as well, Mr. Molina, but --

CHAIR MOLINA: Okay, go ahead, Mr. Upfold. You can go ahead and testify.

MR. UPFOLD: Okay, well my intention was not to jump on just yet. Phil is actually logged in as me on my iPad, that's why his name came up. But either way, I've got the floor and I appreciate that. Thank you for...for allowing me to...to testify once again on GREAT-44. As mentioned before, I'm actually the COO of Haleakalā Bike Company, and I've been operating, or I have been working for this company for about over 15 years now. Resident of Ha'ikū. I've got four kids that attend Ha'ikū School, and I grew up in the area, so I'm well aware of the bike industry even before I worked here. I just want to, you know, mention that over the past couple of months, we've had the privilege of working closely with the Kula Community Association and the other bike companies. And through our discussions, there's been a lot of productivity in the things that we've been able to do and discuss. I think there's been a lot of enlightenment, both to the

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Kula community, as well as to the bike companies, and how we can work together to make the situation better. And in the end, we came to the conclusion that...that we don't want to harm the local businesses, and we also want to address the concerns of the Kula community, and the other communities as well. And by doing so, we've come up and we've submitted a couple of draft ordinances and suggestions of best practices, documents, things like that, that I think will immediately help out the situation even before passing an ordinance. But, you know, that's just what I wanted to say really quick. I appreciate the time. I appreciate the Council for...for facilitating this discussion, because I think it's actually done a lot of good for us, as well as the community, and also bringing together bike companies to set some really good standards. So thank you again for that, and thank you for your time.

CHAIR MOLINA: Okay. Thank you very much for your testimony, Mr. Upfold, and on behalf of many, we really appreciate your company, as well as others, doing outreach with the community to address us...the concerns. Members, any need to clarify Mr. Upfold's testimony? Seeing none. Thank you very much for your testimony, Mr. Upfold.

MR. UPFOLD: Thank you.

CHAIR MOLINA: Okay, Mr. Paredes, please continue with announcing our next testifiers.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Albert Perez, to be followed by the individual calling on the phone number ending in the last four digits 0002.

CHAIR MOLINA: All right, good morning, Mr. Perez.

MR. PEREZ: Aloha, Chair Molina, Councilmembers. I must admit that...well, first of all, Mr. Perez and I are not related, although (*audio interference*) some time. But every time you say, all right, Mr. Perez, I...I get distracted, so...anyway, I'm here to testify on my own behalf today on two different items. One is the nomination of Michael Williams to the Charter Commission. I support Mike. He has an amazing capacity to gather and process information, and he's been keeping track of the Charter Commission meetings, so he can get up to speed quickly. And I will leave it at that, support him wholeheartedly. As far as the...the downhill bike tours, if we could restart my time? I'd like to make it clear that I support recreational cyclists and their right to use our public roadways. But downhill bike tours are a very different animal. They're a combination of vehicles and cyclists that do not belong on Upper Kula Highway, which is winding and steep, no shoulders, limited sight in distance. I went over this last time, but the bottom line is, it's very dangerous. It creates a lot of stress for residents. And sometimes there are as many as five bike tours going down the hill, and just as many coming back up. So people are trying to pass the recreational cyclists who are coming up the hill, the bike tour vans are passing them, big trucks are passing them, and then you have these tours going down the hill, and it is just...it's frightening, so...and if you don't pass, then you have other drivers coming behind you who try to pass you and the bike tour, which is even more dangerous. And I just want to mention something that happened a couple

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of weeks ago. The lead guide on one of the downhill bike tours was riding down the center line, looking backwards at the tour group. And I had to swerve to avoid hitting him because he was over the center line. And I'd just like to remind you folks that as far as climate impacts, this is not a...it's not a climate friendly activity, because they're being driven up in fossil fuel vans, unlike the recreational cyclists who are earning their way up the hill under their own power. Self-regulation by the bike companies will not work. There's always an incentive to violate voluntary agreements, and enforcement is really, really difficult. I don't support the bike company best practices for that reason. And the Police Chief has stated that there's a staff shortage; their priority is responding to violent crime. The roads are too narrow to see violations or pull people over anyway. So I would prefer that the tours be banned completely, or alternatively, as Bobbie Patnode said, restrict them to the area from just below the national park at about 6,000 . . . *(timer sounds)* . . . feet, down to 4,000 feet. It's much safer and much easier to enforce. Mahalo.

CHAIR MOLINA: Thank you very much, Mr. Perez. Members, any need to clarify Mr. Perez's testimony? Seeing none, mahalo...oh, sorry, Member Paltin. Proceed.

COUNCILMEMBER PALTIN: Thank you. I just wanted to clarify, I mean, if we are able to ban the tours, does that...I mean, is there any HRS or law or ordinance that prevents bicycle companies from just doing the same, but not being a guided tour, like taking the whole van up to the top and just dropping them off?

MR. PEREZ: Well, that...that would be illegal. And actually, I have sat in a restaurant and listened to the bike tour company people figure out ways to get around. When Haleakalā first banned, they decided...they were talking about...they didn't decide, they were talking about doing unmarked vans and doing it that way so they wouldn't be noticed, but --

COUNCILMEMBER PALTIN: Can you clarify what the illegal is? Is it a County or a State ordinance on that?

MR. PEREZ: No, what I'm saying is if...if you folks make it illegal, right, then that has to be enforced. Like if you were to ban them completely, then they could still try to break the law, is what I'm saying.

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

CHAIR MOLINA: Thank you very much, Member Paltin. Members, any other need to clarify Mr. Perez's testimony? Seeing none. Thank you for your testimony, Albert.

MR. PEREZ: Okay, aloha.

CHAIR MOLINA: Aloha. Okay, Mr. Paredes, please continue with announcing our next testifiers.

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MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is the individual calling from the phone number ending in the last four digits 0002, to be followed by Faith Chase.

CHAIR MOLINA: Okay, testifier number 0002, if you're on board, please go ahead and proceed with providing testimony, and state your full name. Calling again for testifier number 0002, please proceed with your testimony. I see you there, but I can't hear anything coming from you. Okay, tell you what, let's go to our next testifier, and we can come back to testifier number 0002. I believe that's Ms. Chase. Ms. Chase, if you're on board, please go ahead and start your testimony.

MS. CHASE: Good morning, Chair Mike Molina. Aloha, Committee members. I am in appreciation of 44. This issue has been widely rogue for years. My family lived across Crater Road entrance for about 15 years, and following the bicycle tours, yeah, has been actually traumatizing. I once saw a woman shake her front tire and lose control, and sorry for the visual, but, you know, a middle aged woman bouncing off the pavement. It was really...it was...it...it was really...it still haunts me to this day. So I'm glad that this issue is being spoke about. I just recently saw a Maui Time Eh Brah column or cartoon, where somebody was complaining about the way the bike tours, they hoot and holler every time they get to an intersection or a corner. They're like, it...it's...I guess they make it like it's exciting, or they alert their tour, like we're going to be making a right turn, or so be it. It's extremely inconsiderate. That used to happen every time they hooked the corner at Crater Road for 15 years. And I guess the Eh Brah column mentioned it was happening in Makawao, where they hook a right from Polli's. I'm not sure if something has changed in the last few months, but I'm pretty sure there's unmanned tours still going on, because I regularly have to give lost bicyclers directions. They're...they're at the corner of the intersection going towards Seabury, or that right that goes towards Seabury. They're at the intersection of King Kekaulike High School and Haleakalā Highway. They're...they're looking at their maps, they're lost. So I'm not sure if that has changed, but yeah, I hear a little bit of discussion about that. So I...I'm not sure what you want to do about unmanned tours, but as far as I know, that still happens. I...I don't know if they have to show that they're some skilled bicyclist or cyclist or anything. But you know, I just...I...I in a compassionate approach, I think that OED, some workforce development, this body, I don't know, you know, how many jobs are actually being affected. I...I do sympathize for that workforce, because you know what, they're not jet skis, they're not burning fossil fuels, they're not motorcycles, they're not burning, you know, gas. I...I...I just...it's...it's actually an activity that has a low sort of, you know, carbon footprint. And so...but while us residents are suffering, please, before you...I don't know, just somebody needs to consider either occupational transition or, you know, how do you hāpai all the...how do you carry those people as their jobs might be affected? And while I see...I read the fines and 30 days in jail and all this strong language, I really...I thought we were, like, short 100 officers in our Police Department, so I actually sympathize for the Maui Police Department in trying to regulate this. I know that's been an ongoing complaint, that we create regulations, and then we can't enforce it. I don't know . . . *(timer sounds)*. . . if confiscating the bicycles might be *(audio interference)* anyway. So I'm...my last two things I'd like to speak on is

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that, of course, I'm in absolute favor of Michael Williams being on the Charter Commission. How did we...how did Maui get blessed with this individual moving to Maui is beyond me. I don't know if everybody realizes he's a retired environmental lawyer, and he has done Maui wonders. He is definitely qualified for this. I hope...I...I'm glad that you guys are looking at how to do it swiftly...swiftly. And as far as the Board of Water Supply, you know, I'm not sure if the exact reason for Ms. Perry...Mrs. Perry having not been able to fulfill that commitment, I know that she's been doing a lot of community outreach. So maybe that during COVID alarm has maybe kept her busy. But I do also know from some off-the...sort of like, you know, talk story, that Ipo Mossman has been really working well to find a replacement for the Board of Water Supply. So I wouldn't...I wouldn't shrug. I would just move that through quickly, because there's good people in line. Thank you so much for the time.

CHAIR MOLINA: Thank you very much for your testimony, Ms. Chase. Members, any need to clarify Ms. Chase's testimony? Councilmember Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair, and mahalo, Ms. Chase, for your testimony this morning. I was just curious, were you able to turn in an application or any other East Maui resident?

MS. CHASE: It's not really mine to share, but I know that other East Maui residents have put in their application, and I --

COUNCILMEMBER SINENCI: Oh, okay.

MS. CHASE: -- I don't think that I would ever, because it's just too...there's just be too many conflict of interests, as far as water goes, being a East Maui resident fighting this long. But thank you.

COUNCILMEMBER SINENCI: Okay, thank you.

CHAIR MOLINA: Okay, thank you, Councilmember Sinenci. Members any other need to clarify Ms. Chase's testimony? Seeing none. Thank you for your testimony, Ms. Chase.

MS. CHASE: A hui hou.

CHAIR MOLINA: Okay, Mr. Paredes, please continue with announcing our next testifiers.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Phil Feliciano, to be followed by Ron Daniel.

CHAIR MOLINA: Okay, good morning, Feliciano. And Members, by the way, as you...as the Chair mentioned, Mr. Feliciano will be serving as a resource person too. So if at all possible, if you could save your questions once we start the item for Mr. Feliciano, if you have any. Good morning, Mr. Feliciano. Go ahead.



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MR. FELICIANO: Good morning, Mr. Molina. Can you all hear me? Yeah? Okay, cool. Thank you. You know, I...I'm not quite sure what a resource person does. You know, if I can ask questions myself, but I guess we can get to that. As a testifier, I used to own a company called Cruiser Phil's Volcano Riders. We merged into Bike Maui, making a more diversified bicycle tour company. What concerns me about all the things I hear about banning, eliminating, you know, all of that...all of that is...is...it's disheartening, because you're trying to put us out of business. A lot of the testifiers make it seem like we're lawbreakers, when in fact, the bicycles are doing the speed limit for the most part, the vehicles are breaking the law. The law states that a vehicle must give a cyclist--any cyclist--whether they're on a tour or riding on their own, at least three feet. And if they can't give them the three feet, then they're not allowed to pass. But daily, people pass, and people do what's called flybys. You talk about self-guided and guided groups. A guided group has a van following behind. Those people try and move over as best they can, to let the cars go by, because we know we impact Kula, Ha'ikū, Pā'ia. We know that, so we try and slide over best we can. But there are vehicles out there that do not wait, and they just go around blind turns. So who's the lawbreakers? It's those type of drivers, and there's no punishment for them. You're trying to punish the bike tours, instead of embracing it. The bicycle tour is world renowned. Yes, it impacts the communities, and we understand that, but why not take this and...and do some of the recommendations, even in the testifiers who's talking about banning, they talk about safety. What would enhance the safety? Widening the shoulders. You widen the shoulders, you eliminate probably 99 percent of all the complaints. So...so that's what I'd like to see the County do, is move in that direction, you know, enhance it and make it safe for the community members and for the people who choose to ride down on this activity. That's all I got for now.

CHAIR MOLINA: Okay. Thank you very much, Mr. Feliciano, for your testimony. Members, any pressing need to clarify Mr. Feliciano's testimony? Otherwise, I'm going to ask you to, if possible, save your questions for when we get to the item. Okay, Member King, if you do have a quick question, go ahead. And then I'll --

COUNCILMEMBER KING: Yes, Chair.

CHAIR MOLINA: -- because we do have other testifiers I'd like to get to. Go ahead.

COUNCILMEMBER KING: No, I'm...I just wanted to ask Phil if he's...are you...oh, your...your...your (*audio interference*). So you said there was a law requiring three feet. I don't remember that law passing. What...what...is that a State law or County law that you're referring to?

MR. FELICIANO: I believe it's in that same statute that Mr. Patnode referenced.

COUNCILMEMBER KING: The State law?

MR. FELICIANO: Yes. It's in the Hawai'i...it's in the Hawai'i statutes.

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COUNCILMEMBER KING: Okay, I'll look at it. Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Member King. Okay, Members, again, we have...Mr. Feliciano who'll be with us for the item. You can ask any other questions you have of him at that point. So in the meantime, Mr. Paredes, please announce our next testifiers.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Ron Daniel, to be followed by Dick Mayer.

CHAIR MOLINA: Okay, good morning, Mr. Daniel. Ron Daniel, if you're on board, please proceed with your testimony. Okay, I guess Mr. Daniel is still trying to get on here. Let's go ahead and move forward. I believe we had to testifier earlier with the last four numbers 0002. I'd like to give that person an opportunity to testify before we go to Mr. Mayer. Testifier number 0002, if you're on board, now's your opportunity to testify.

MS. ESPELETA: Chair, that individual seems to have disconnected.

CHAIR MOLINA: Okay. Thank you, Ms. Espeleta. Well, let's move on to our next testifier. I believe that was Mr. Mayer.

MR. MAYER: Good morning. I'll be...I'll be standing by as a resource person later on, but I do want to give you a little background on the Kula Community Association and its position. We've been talking about this item for about two decades now, and ordinances have been discussed, and we are so pleased that Councilmember Molina, supported by Councilmember Sugimura, have urged us to continue doing this, and have actually now put this item before you all. The Kula Association looked at the present ordinance. We also listened very well and very hard at a meeting with the bicycle tour companies. We got correspondence back and forth with them, and we came up with recommendations for a draft ordinance that we would like very much to have you look at. I'm going to give you some of the...some flavor of the recommendations we're making. There are some who would like to abandon the industry entirely, to restrict it to the higher elevations above the community. But if you decide that you want to let this industry continue, these are some of our recommendations: That the bike groups be ten minutes apart when they leave the 6,500-foot level, and they...when they go down the hill, rather than stretching out over long distances, they should try, to the best they can, to compact themselves. They should not start before 8:30 in the morning from that elevation. That would allow the commuter traffic, school traffic to go through the community smoothly, without the interference of bicycle tour groups. We urge that the bike tour leaders allow cars to pass safely whenever they can and wherever they can. And that goes along with our recommendation that we would be making separate from the bill, and that is that we would like the County to appropriate funds to put in pullouts where bicycles can pull off the side of the road, perhaps using transient accommodations tax funds to do that. We urge that the company make sure that each rider is safe and capable of doing a trip like that down the mountain, something that many of them have not been on a bike for years and would be perhaps endangering themselves. We also ask for a minimum age of 12 years old. We don't think children should be doing this activity on

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a road that could be quite dangerous. We urge that the riders sign a waiver, to waive their rights to sue the County, recognizing that this road was not designed for bicycles. It's winding, it's...has many turns, it's steep, it can go through foggy areas, et cetera, and we urge them to recognize that they have an obligation to protect themselves if they feel they can't handle it properly. Accidents themselves should be the responsibility of the rider, not suddenly thrown on the burden of the County or the State, or the health system to take care of. Each bike should be inspected on a regular schedule. County should initiate...initiate the construction of pullouts, as I said. The Kula Community Association did not recommend super strict regulations, but we think it can be managed if many of these ideas I just mentioned and other ones that were...that are in the bill that we're proposing are considered. Mr. Molina did recommend some very, very strict regulations, but the majority of our board did not feel it was absolutely necessary to close down the industry entirely. But we leave it in your hands to decide whether it's safe. We do want to remind you of one item, and that is State law gave authority to the County to regulate bicycle tours and the bicycle industry, and that's an important provision. And for example, in the law...the draft that you have in front of you right now, it says that this covers the...the...the roads and things that are under the County control. I would urge you not to put it under government...County control, but should be under County and State, since many of the highways that are being utilized are State highways, and the State has given you permission to regulate the industry over those roads. Those are...that's just a flavor of the things that are in the proposed ordinance. And I will remain as a resource person later.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mayer. Members, unless you have any pressing need to ask a clarifying question, I'd like to ask you to hold off on your questions for Mr. Mayer at this point. Member King, do you have something really pressing? Go ahead and ask Mr. Mayer.

COUNCILMEMBER KING: I wanted to ask...thank you, Chair. I just wanted to ask you, Dick, if you were...so this bill was not the bill that was proposed by the Kula Community Association, because it's got some contradictory things in it from what you just testified about.

MR. MAYER: Yeah, the bill that's...that you have now before you, is a draft that was put together to get the process, the discussion, going as we look at it. We (*audio interference*) --

COUNCILMEMBER KING: (*Audio interference*) had...had changes you would like to see in this bill?

MR. MAYER: We would like to see extensive changes. And right now it's 5.22. We're suggesting that perhaps you may want to do what you've done before for other County ordinances, and create a whole new 5.23. In other words, eliminate 5.22, and write a new bill that incorporates some of the ideas that Mr. Molina has put in, some from the Kula Association, and some from the industry itself, that would allow this...this whole operation to go. I also want to reassure that this bill deals only with the downhill bicycle

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industry. It does not affect West Maui or South Maui bicycle groups that are over there. You may, at some point, want to have separate legislation that deals with those areas where they're *(audio interference)*

COUNCILMEMBER KING: I think they *(audio interference)*. I'll...I'll...I'll follow up with you when we get to the item. Thank you.

MR. MAYER: Thank you.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR MOLINA: All right. Thank you, Member King. All right, Members, let's move on to our next testifiers. Mr. Paredes, please continue.

MR. PAREDES: Chair Molina, the next individual signed up to testify on the list is Tatanga *(phonetic)*, to be followed by Zachary LaPrade.

CHAIR MOLINA: Okay, good morning, Mr. Tanga *(phonetic)*, go ahead and proceed with your testimony. Mr. Tanga *(phonetic)*, if you're there, please go ahead and proceed with your testimony. Okay, if not, we will move forward with our next testifier. Mr. Paredes, please continue.

MR. PAREDES: Chair Molina, the next testifier on the list is Zachary LaPrade.

CHAIR MOLINA: Okay, Zachary LaPrade, please proceed with your testimony.

MR. LAPRADE: Aloha, Councilmembers, can I confirm that you can hear me? Okay --

CHAIR MOLINA: Coming in loud and clear.

MR. LAPRADE: -- thank you. Thank you for your time, and thank you for your service to the community, and your hard work. I am calling in on behalf of Boss Frogs Dive and Surf. We are a 30-year-old family business that operates out of South Maui and West Maui. We operate a run-of-the-mill bike rental company. We rent hybrids, road bikes, and beach cruisers, and have done so for a very long time. I apologize, I am not familiar with the exact form of the bill as it is before the Committee. I've seen various versions, and I won't take up too much of your time, only to ask that as you work your way through this bill, please distinguish between bike rental...run-of-the-mill bike rental companies and some of the issues facing the Upcountry community on the downhill biking. And I have to admit, there hasn't been a lot of outreach to...from our perspective on run-of-the-mill bike companies, and as you know, legislation oftentimes can include numerous groups that aren't involved in the pressing issues facing Upcountry. And we just ask to be involved, and to recognize that if there are versions of the bill that do impact our organization, that we, as stakeholders, are...have the opportunity to be heard and involved. And with that, I'll end my testimony. And thank you very much for your time.

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CHAIR MOLINA: Okay.; Thank you very much for your testimony, Mr. LaPrade, and we'll be sure to add to our list if you are...you're not on there already, to keep you informed about what the latest is with regards to these proposed regulations. We have a question for you from Member Sugimura. Go ahead.

COUNCILMEMBER SUGIMURA: Thank you very much for testifying. Can you give me the name of your company again?

MR. LAPRADE: Our company is Boss Frog's Dive and Surf.

COUNCILMEMBER SUGIMURA: Oh, Boss Frog's. Okay.

MR. LAPRADE: Yes.

COUNCILMEMBER SUGIMURA: So is this the first time you're hearing about these revisions to the bill?

MR. LAPRADE: Well, we've...no, we've...we've seen a couple of different versions of the bill. Some through their interpretation would include our organization, others didn't include our organization. And so this isn't the first time we've heard of the bill, but I'm not entirely clear exact...exactly which revisions to 5.22 the Committee is considering today. And so that's why I wanted to let you know that there were some revisions, specifically some of the original ones that were proposed by the Kula Community Association, were broad enough to include organizations, such as ours, that aren't involved in that particular issue. But as you just heard from the last testifier, he seems to think that the version doesn't include us. But like I said, that...that often...you know, down the road, when somebody else is reading that statute or bill, they might not interpret it that way. So I just want to be cautious here.

COUNCILMEMBER SUGIMURA: And your company is a guided tour company for biking.

MR. LAPRADE: No, no, we...we don't offer any guided tours. However, we offer self-guided tours...tours. And those are simply an itinerary for stops along West Maui to snorkel. We don't...I'm not aware of any issues with our community with that process. And they are a self-guided tour, but in essence, they are a bike rental accompanied by some recommendations for some places to ride your bike. And so we think that's a very healthy and productive and positive company in business here in the community. But it...it doesn't present the same challenges as it does in Kula, which I...I don't have a stake in or have a perspective on, and don't...you know, don't really have an opinion on.

COUNCILMEMBER SUGIMURA: Okay, one last question, Chair. So your company, then, does not do biking Upcountry? Basically, I...you mentioned West Maui, or your recommendations would be within other areas? Because this bill is for Upcountry.

MR. LAPRADE: Yes, well, our organization is not Upcountry. That's correct.

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COUNCILMEMBER SUGIMURA: Oh, okay. So this bill wouldn't...well, it depends on what happens, but it doesn't necessarily apply to your company then. Thank you.

MR. LAPRADE: Right. Exactly. Some interpretations have.

COUNCILMEMBER SUGIMURA: Okay, thank you. Thanks for the clarification.

CHAIR MOLINA: All right. Thank you, Member Sugimura. Mr. LaPrade, we have *(clears throat)*, excuse me. We have Member Paltin, who has some questions for you to clarify your testimony. Member Paltin, go ahead

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. LaPrade, for your testimony. I just wanted to clarify, are you dropping bikers off in Kahakuloa at all?

MR. LAPRADE: No, we don't do any shuttling. The only...the only version that the...the possible overlap with you guys...a version did include a definition of self-guided tours. We do offer, under certain interpretations of the bill, a self-guided tour, as I just mentioned. But we do not do any shuttling.

COUNCILMEMBER PALTIN: Is any of your self-guided tours through Kahakuloa Town?

MR. LAPRADE: No.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: All right. Thank you very much, Member Paltin. Members, any other need to clarify Mr. LaPrade's testimony? Member King, go ahead.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. LaPrade. I...I...actually, I did get your email about this a little while ago. Can you...can you take a look at the...the latest legislation that we'll be...we're...we're discussing today, so you can see if there's anything in there that would affect you? And also...it should be listed with the agenda for the online, on the item...on this item, GREAT-44. Also, you know, if you have...if you're renting bicycles out, if there are...if there is something in there, or ends up being something in the final...the final draft of it that applies to people riding their bikes, you know, riding rented bikes on their own, you would be...would you be able to at least give them guidance? If someone...if someone...if you rent a bike to somebody, and you ask them, are you going to ride Upcountry, and they tell you that they're planning to ride...do that downhill biking on their own, would you be able to give them advice? Give them a flyer, or this...this bike pono pledge, and advise them on whatever the...the County ordinance is and the safety rules?

MR. LAPRADE: Absolutely, we'd be happy to.

COUNCILMEMBER KING: Okay.

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MR. LAPRADE: We...we encourage that kind of safe activity in biking, and sympathize with the members of the community up there that need to educate the public on this issue. So we would...we would be happy to.

COUNCILMEMBER KING: Okay, great. All right. Thank you. Appreciate it.

CHAIR MOLINA: Okay. Thank you very much, Member King. Members, any other need to clarify Mr. LaPrade's testimony? Seeing none. Thank you very much for your testimony.

MR. LAPRADE: Thank you.

AUTOMATED VOICE: I didn't understand that.

CHAIR MOLINA: All right, Mr. Paredes, please continue with the...announcing you're...our next testifiers.

MR. PAREDES: Chair Molina, there are no further testifiers on the list.

CHAIR MOLINA: Okay. Thank you very much for that, Mr. Paredes. Okay, last call for anyone that would like to testify on any of our agenda items for today. Mr. Paredes, has there been any notification made to you about individuals wanting to testify on our agenda today?

MR. PAREDES: Chair Molina, there has been made no such notification.

CHAIR MOLINA: All right. Thank you very much, Mr. Paredes. So with that said, Members, any objections to closing public testimony, as well as accepting any written testimony?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: Okay, so ordered. Very good, Members.

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

CHAIR MOLINA: All right. The time is 10:00. Members, we do have...one of our agenda items relates to Mr. Williams as a member of the Charter Commission, that I know he has a...possible commitments. Any objections to taking the agenda out of order, and addressing GREAT Item 18-2, and then we'll go back to the first agenda item, the bicycle tour matter? Any objections to taking up Mr. Williams now?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: Okay, so ordered. At this point, since it is your Chair who is asking you for the consideration of hearing out Mr. Williams for today, I'm going to step down from the

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rostrum. And at this point, I don't know if it's better for us to just take a short recess and turn the rostrum over to Ms. Rawlins-Fernandez, or if there would be any problem right now, with just handing over the gavel here to my Vice-Chair Rawlins-Fernandez to facilitate? Any objections to just doing this without a recess?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: Okay, so ordered. So all right. I'll hand over the proverbial gavel to Ms. Rawlins, to facilitate GREAT Item 18-2. Mahalo for that, Member Rawlins. You have the floor.

**GREAT-18(2) NOMINATING MICHAEL L. WILLIAMS AS A MEMBER TO THE CHARTER COMMISSION FOR THE COUNTY OF MAUI (RULE 7(B))**

VICE-CHAIR RAWLINS-FERNANDEZ: You're very welcome, Chair. Okay, so we'll bring up GREAT Item 18-2, nominating Michael L. Williams as a member to the Charter Commission for the County of Maui. The purpose of the proposed resolution, is to nominate Mr. Michael L. Williams as a member to the Charter Commission for a term expiring on July 1st, 2022, to fill a vacancy due to the resignation of Mr. Lance Collins. Charter Section 14-3 states that the Council appoints 9 of the 11 members, with each Councilmember nominating one of the nine members, and the Mayor appointing the remaining two members. Councilmember Molina nominated Mr. Lance Collins, who was subsequently appointed by the Council. Therefore, Councilmember Molina can nominate the individual to fill the seat vacated by Mr. Collins. Mr. Williams applied for the Charter Commission back in February 2021, when the Council was seeking applicants to fill the nine seats. A copy of the proposed resolution relating to Mr. Williams' nomination, a copy of Mr. Williams' application, and a copy of the current board listing has been uploaded to Granicus. Because of the ongoing and important work of the Charter Commission, a tight time frame the Commission is currently working towards to transmit a report to the Council by February 18th, this is a time-sensitive matter to fill the vacancy. Therefore, after discussion, the Chair's...Chair Molina's intention is to defer this item and take possible action at Friday's Council meeting. And we'll go to Member Molina for opening remarks.

CHAIR MOLINA: Okay. Thank you, Committee Vice-Chair Rawlins-Fernandez. And Members, I guess many of us know Mr. Williams pretty well enough, and he currently serves as the Chair of the Cost of Government Commission. And of course, all of his information and background is on Granicus, and so I'll yield the floor to Mr. Williams to provide us any additional reasons as to why he would like to be selected. And Members, the reason why I would recommend Mr. Williams is he would be replacing Mr. Collins, who is an attorney, and has a lot of legal expertise. And of course, Mr. Williams' background, he is, as well, himself an attorney. So I believe for the sake of consistency, I would like to recommend Mr. Williams to serve on the Charter Commission in this capacity. So I'll go ahead and yield the floor, Madam Vice-Chair. Thank you.



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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Molina. Mr. Williams, aloha, would you like to provide opening remarks?

MR. WILLIAMS: Aloha kakahiaka to all of you, and all you, and ayubowan to Chair Lee. I want to thank Councilmember Molina for nominating me for this position, or at least I think I want to thank him. We're going to...there's a lot of work to be done if you approve me. And although I'm an attorney like Lance Collins, I am no way as versed in both Hawaiian law and the history of the charters as Lance was, so he's not really replaceable. But all I can tell you is I will take this on with humility and respect for all of the hard work and thought that the other highly qualified ten members of the Commission have put in. They've had over 20 meetings already, and most of them last two hours or more. So the amount of work that's been done is...is enormous. On the other hand, there's a lot of work to be done too...yet to go, because they have like 85 different Charter amendment sections, and somehow we have to simplify those, and consolidate them into something the voters can understand. You...you people will have a chance to help the Commission do that, because you get to comment on and propose changes to anything that the Commission sends you, and then the Commission looks at it again. So there's still a lot of work to be done, and I'm...I'm willing and able to take it on. I think all of you know me, and I probably don't need to say any more. Happy to answer any questions.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Williams. And before I open the floor to questions, I'll put three minutes on the clock for everyone. Mr. Williams, will you please speak to the amount of meetings that you've attended for the Charter Commission if...if you've kept track?

MR. WILLIAMS: I've attended eight or nine of the meetings out of the 20-some they've held, and I testified at at least two of them. We...the Cost of Government Commission proposed some charter amendments, a couple of which have been recommended for approval. So I was involved in that process. And then two years ago, I was the...I helped run two ballot measure committees on the Charter amendments that were on the 2020 ballot. And so I...I got a kind of a flavor of how you...how you go about convincing the public that certain Charter amendments are...are both wise and necessary. So that's...that's basically where I am in terms of, you know, understanding where they are right now. I have got my hands on the minutes of all their meetings, and I intend to try to read through them. The next couple of meetings, if...if I'm appointed and...and take office in time, where about eight hours of public testimony coming up next week. And I...I have put those on my calendar, and hope to be more up to speed when those happen.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Williams. And would you speak to your ability to attend the meetings moving forward? I know that the *(audio interference)* Lānaʻi has been missing a lot of the meetings, and so it's imperative that everyone, you know, attend the meetings as much as possible *(audio interference)*.

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MR. WILLIAMS: Yeah, I intend to attend every meeting that I...I...you know, absent unforeseen circumstances. I haven't missed a Cost of Government Commission meeting in the last three years. And so if you appoint me, I...I'll be there, I'll show up, and I will do my homework as best I can, and try not to let you down.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Williams. I'll open the floor to questions, and I have three minutes on the clock. Members, questions? I see Member Sinenci. Member Sinenci, please proceed.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a quick question for Mr. Williams. *(audio interference)* 85 Charter *(audio interference)* --

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sinenci, we heard the beginning part of the question, but it kind of faded out.

COUNCILMEMBER SINENCI: Yeah, just for clarification, did I hear him correctly when he said they're looking at 85 Charter amendments?

MR. WILLIAMS: Yeah, that's my understanding of how many different changes are proposed. A lot of them are technical changes that can probably be grouped into one charter amendment that just deals with technical changes that are really nonsubstantive. And then some of the others...you know, a lot of them deal with planning issues. A lot of them deal with restructuring the Administration. And, you know, I can't speak for the Commission, but I know that they're hoping to consolidate those 85 changes into less than 20, maybe a lot less than 20, but, you know, that work has to be done yet.

COUNCILMEMBER SINENCI: Mahalo, Mr. Williams, for that clarification, and I'm happy to hear your willingness to serve. Thank you. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. My understanding is there are 16 proposed ballot questions. Mr. Whittaker, I see your video has popped up.

MR. WHITTAKER: Thank you, Chair. Just for clarification, since I advise the Charter Commission, I can give you information. So that...yes, 85 separate proposals have been approved. The...the analyst, Sherry Broder, is going to come out with her report either today or tomorrow. I've seen a preliminary draft of that report. So far, she's grouped them into 40 different ballot questions.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Whittaker.

COUNCILMEMBER SINENCI: *(Audio interference)* Mahalo.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Pro Tem Kama, I see your hand up.

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COUNCILMEMBER KAMA: Thank you very much, Vice-Chair...Vice-Chair. So thank you very much, Mike, for being here. And, you know, you mentioned in your opening comments that you're to replace the former chair of the Commission, Mr. Lance Collins, and you kind of compared yourself to him in saying that you do not believe that you have the same kind of Hawaiian...I mean, the same kind of knowledge about Hawaiian law and Hawaiian history. And I would not expect you to, because you are a newcomer here. But I do...and I would like you to share with me your understanding of our State motto.

MR. WILLIAMS: I'm sorry, I didn't...understanding of what did you ask?

COUNCILMEMBER KAMA: I would like for you to share with me your understanding of our State motto.

MR. WILLIAMS: Oh. The life of the land is brought forth by the righteous actions, is just generally when I understand it to be, and it's...it's very important that anybody working in the government, whether you're in the legislative branch like you all, or in the administrative branches, executive branches, or the judicial branches, try to keep in mind the entire context of Hawaiian history and Hawaiian traditions, and the unique nature of the Hawaiian environment, and concentrate on trying to preserve and enhance that special environment that we have here, both the physical and the cultural background.

COUNCILMEMBER KAMA: Thank you. And so my next question, if you...we have time, Chair, is that you also mentioned that, as you were speaking with our Vice-Chair of the Committee, that you would hope that you would be able to do your homework, and not be able to let us down. Do you remember speaking that to our Vice-Chair a few moments ago --

MR. WILLIAMS: Yes.

COUNCILMEMBER KAMA: -- when she asks you some questions?

MR. WILLIAMS: Just...yes.

COUNCILMEMBER KAMA: Okay. So I want you to know that, you know, as a Councilmember, I expect nothing more and nothing less than what our commissioners who volunteer all their time and all their energies, and especially their own expertise, you know, to whatever it is, the work that they are doing. And we don't expect perfection--at least I do not. But I just want to say thank you very much for your service, and for all the time that you do give, and for where your heart is, in terms of wanting to serve on behalf of our community. So I think maybe my question to you is, do you really believe you could let us down?

MR. WILLIAMS: Well, I...I...I hope not. I don't...you know, I'm...I'm certainly not perfect, and I certainly don't have all of the...the wisdom that a lot of the other commissioners had who are born and raised here. But I...I will...I will certainly do my best.

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COUNCILMEMBER KAMA: I would not expect anything less. But thank you so much for being here today, and thank you for your service. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama. And I'm going to ask Staff to help with the timer. On three minutes, it was really quiet. I don't think anyone could hear it. Mr. Paredes, if you could help with that, please? Mahalo. Member Sugimura, I saw your hand up for questions. You have three minutes.

COUNCILMEMBER SUGIMURA: Thank you. Good morning, Mr. Williams. Nice to see you. I'm a little bit selfish in this question. He's a big part of the Kula Community Association, so on the flip side, then, will you be able to still be part of the KCA if you take on this responsibility, is my question to you.

MR. WILLIAMS: Yes...yes, I think so. The KCA Board only meets once a month in the evening, and I don't believe any of the scheduled Charter Commission meetings conflict with...with those scheduled board meetings. As you know, I've ended up playing the Zoom host most of the time for the most recent KCA board meetings, and so I have a kind of a special obligation to make sure I still do that. I was a little surprised that Albert Perez supported me for this nomination, because I suspect that maybe he...he's glad to have me distracted for a while from looking over him at Maui Tomorrow.

COUNCILMEMBER SUGIMURA: Ah, well, you're...you're needed, and have done a lot with many different organizations. So are there any organizations that would conflict this Charter Commission appointment?

MR. WILLIAMS: I don't think so. The only other organization...you know, I'm President of Maui Tomorrow, I'm on the board of the KCA, as you pointed out, and I'm the Chair of the Cost of Government Commission. Fortunately, The Cost of Government Commission doesn't have any real deadlines. We got...we...we develop our own work schedule, and if I have to postpone something because the Charter Commission is more urgent, that's...that's something that's easy to do. And then I'm also on the board of Stand Up Maui, the...the housing advocacy group, and they have a board meeting once a month, but also in the evening. And I'm not as essential a member of that organization as I am of...of Maui Tomorrow, but I...I...I think I can do it. I...I'm, you know, I'm retired, I don't have any other obligations than these...these commission appointments, and I...I really do think I can handle it.

COUNCILMEMBER SUGIMURA: And your farm; is that right?

MR. WILLIAMS: No, my wife is the farmer. She...really, I do almost nothing on the farm.

COUNCILMEMBER SUGIMURA: Thank you very much. Nice to see you. I think when you're on the Zoom call, we always see your name there as you're regulating our KCA meeting. So --

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MR. WILLIAMS: Yeah.

COUNCILMEMBER SUGIMURA: -- nice to see you, I guess, in person-ish. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Members, any additional questions? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Vice-Chair. Thank you, Mr. Williams, for your willingness to serve. My question is along the...so full disclosure, I have not followed the Charter Commission one bit. Everything I know about it is second-hand information. But my question is in regards to when you were saying that you were on the ballot committee before for something. Is...realistically, how many Charter...is it called Charter amendments or something, or Charter vote things, that you think is appropriate?

MR. WILLIAMS: How many should there be? Is that what you're asking? Well --

COUNCILMEMBER PALTIN: In your opinion.

VICE-CHAIR RAWLINS-FERNANDEZ: That would (*audio interference*) --

MR. WILLIAMS: I think certainly less than...certainly less than 20, if we can get it down to that. I mean, I'd love to get it down to...to ten or so. There were seven Charter amendments on the ballot last time, and six of them passed, one of them didn't. So the voters were able to analyze and discriminate among the choices. And so we know they can handle seven and, you know, if...we'll just have to do the best we can. I mean, the other commissioners have been thinking about this and working on it a long time, and I will certainly listen and...and learn from their thoughts already on the problem.

COUNCILMEMBER PALTIN: Okay, so you're already kind of in your mind prioritizing, and whittling it down before it comes to us? Or was it your thoughts that we should be --

MR. WILLIAMS: Well, it's both...it's both a process of prioritization, but also one of consolidation. So you can try to group related changes to the Charter into one proposed amendment that makes sense. And...and...I...I know that's what the Commission hopes to do, intends to do, and like Mr. Whittaker said, we're going to get a report from the Charter Commission legal adviser today or tomorrow, that will give us a first draft of what can be done.

COUNCILMEMBER PALTIN: Okay, I think that's the extent of my questions, being that I have not followed the process one bit. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. And just to clarify for the public's benefit, that we...we...we're conflating two distinct things. One is amendments, and ballot questions. And a ballot question can have several amendments to it. So just

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so, you know, the public following will understand what it is that we're...we're talking about, so that it's clear. Member King, it looks like you had your hand up.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I...I was just surprised to hear...I don't think it's coming to us. I think it's going straight from the Commission to the ballot, isn't it? I don't believe that it comes to us next.

MR. WILLIAMS: No, no...the proposals from the Charter Commission come to you --

COUNCILMEMBER KING: Okay.

MR. WILLIAMS: -- and you all then get a chance to propose changes or amendments to the...to those, and then that goes back to the Charter Commission one more time. The Charter Commission's final decision on what to recommend does go straight to the ballot.

COUNCILMEMBER KING: Right.

MR. WILLIAMS: And of course --

COUNCILMEMBER KING: Yeah. That's what I wanted to point out, that we're...we're...you know, you have the final decision on what goes to the ballot. But my question to you is, you know, in the past, I've seen other Charter Commissions. I think there was a year when O'ahu printed up a little booklet that had about 20 charter amendments, something like that, somewhere between 15 and 20. So would you be in favor of...you know, if it does get to be that many, because there may be a lot of priorities and we only have a Charter Commission once every ten years. Would you be in favor of doing something like that, like publishing a booklet or something, that's got a deeper explanation of all the Charter amendments?

MR. WILLIAMS: Generally speaking, yes. I think there might be a challenge to choosing the wording sometimes, and agreeing on how to word them, but the...the Charter Commission already has a committee set up to work on public education and so forth. In fact, I think your nominee, Paul Deslaurier, is...is working on that already. And...and...and so there's a...there's a plan in place. And once the...once the final amendments are...the ballot questions are set in June, then there's going to be, you know, a five-month campaign, where both the Commission and outside supporters of various proposals will be trying to educate the public about them. And that...that probably would be pretty intense, given that, as you say, this only happens once every ten years.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Chair Molina.

CHAIR MOLINA: Yeah, thank you, Madam Chair. Just a friendly reminder to the Members. You know me, I'm always paranoid about the Sunshine Law police, but again, to, you

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know, ask you questions related to what's on Mr. Williams's application, and maybe refraining from asking any questions about an item that will be coming to our Committee. And that, of course, was spoken of earlier with the Charter Commission's recommendations that will come before us in...in the near future, because that's something that's not agendized today. So just personally, I'm get...just getting a little nervous about straying into discussions or questions asked of Mr. Williams, what his thoughts and ask him to make any so-called commitments. So just a friendly reminder, Members again, if at all possible, if you could keep your questions confined to what's on Mr. Williams's application. So that's all I have to say, Madam Chair, thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Molina. And then for the benefit of the public, in the Charter under Section 14-3, the Commission may propose amendments to the Charter, or draft a new Charter, which must be submitted to the clerk within 16 months after the Commission has been appointed...after...by the Council, if required by State law. So the Charter mandates that the Commission send its report to the Council for review. And it looks like there are no further questions, so we'll...I wanted to --

COUNCILMEMBER KING: Just point of...point of information, Chair. You said sent it to the clerk, not send it to the Council. The clerk is the one that publishes the ballot, so.

VICE-CHAIR RAWLINS-FERNANDEZ: For...send it to the clerk for (*audio interference*) review, is what I said.

COUNCILMEMBER KING: Oh, I didn't hear the part...so it's in the Charter for Council review? I didn't hear that part. Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. And then Member Sugimura, I see your hand. I'll just quickly share for the Committee and for the public, that the Charter Commission schedule is January 18th to submission of draft Commission report, Commission...and Commission and public consideration. Next week, January 26th and 27th, will be its public hearings. January 28th is the deadline for commissioners to submit proposed motions to amend report. February 8th is...they're going to finalize all proposed amendments and consider motion to modify preliminary report and approval by a majority vote. February 15th, the continuation of February 8 meeting if needed. February 18th, they will submit their amendments to the Council, and then on March 21st, the County Council deadline to submit alternative amendments. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Point of information for yourself or for the Chair. So I looked on the Charter Commission, and for Members, it does say the chair is vacant. So if we do...if Mr. Williams does get appointed, Member Molina, would this be an automatic filling of the chair, or does the Commission then take another vote?

CHAIR MOLINA: Madam Chair, if I may respond? No, I don't believe so. I believe the Vice-Chair is currently the interim Chair. That will be up to the Commission to elect a

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permanent Chair at this point. But I see Mr. Whittaker there, as well, who would like to chime in on your question, Member Sugimura. Madam Chair, if you will?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Whittaker.

MR. WHITTAKER: Thank you, Chair. Yes, that is correct. At the next...at the start of the next meeting, there will be an election for Chair and Vice-Chair. However, the current Vice-Chair, Grant Chun, has been serving as acting Chair.

COUNCILMEMBER SUGIMURA: Thank you for the clarification.

MR. WILLIAMS: And...and Councilmember Sugimura, I can tell you that even if they wanted me to be Chair, I wouldn't take it because I...I...I haven't got the...I just don't have the experience or the...the knowledge to pretend to be able to manage that agenda, that...it...it's going to be all I can do just to be an informed Commission Member.

COUNCILMEMBER SUGIMURA: You're very humble. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Okay, I see no other hands. Listen, it's about our time for our morning break, but I just...I just wanted to also add that Mr. Williams is...is not a resident of the...Member Molina's Council district. And just as my...the representative from...on the Commission for Moloka'i is not a resident of Moloka'i, I believe Mr. Williams would be excellent in representing the voice, and would work together with the...the community. Mr. Williams, did you want to speak to your collaboration with the Council district in ensuring that their voice is represented on the Commission?

MR. WILLIAMS: Sure. I think I'll be the third member from Kula, actually, so it's...it's Ms. Sugimura that's getting the extra clout here, if anybody. But no, I...I will look at this from the entire County's perspective. You know, there's...I...I don't think there's hardly anything on the Charter amendment list that deals with Kula-specific issues, or Makawao-specific issues either, for that matter. So this...these are Countywide problems...Countywide issues.

VICE-CHAIR RAWLINS-FERNANDEZ: It sure is, but we've had Mr. Kuoha attend my monthly town hall meetings to make sure that he hears directly from the residents of Moloka'i, and I know that Ha'ikū has a very active community association. So perhaps, you know, jumping on their meetings to make sure that you hear directly from members of Ha'ikū, Pā'ia, and Makawao to ensure that their voices are being heard and represented, as much as *(audio interference)*

MR. WILLIAMS: I certainly do that. I think that the head of the Ha'ikū Community Association is Lucienne de Naie, who is the Vice-President of Maui Tomorrow, and a good friend of mine. So I...I think I'll be able to find out what...what their views are. I'll certainly do my best.



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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Williams, and mahalo again for your service to our County. Members, any last questions or comments? If not, I will ask that we defer this item, so that we can take action at the Council this Friday. Are there any last comments? Okay. All right. Oh, Member Paltin?

COUNCILMEMBER PALTIN: I just was wondering, with three Kula members, maybe they can address the bike situation in the Charter.

MR. WILLIAMS: I think it's too late for that, unless you want to propose something.

COUNCILMEMBER PALTIN: I'm all empty, sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that morning laugh, Member Paltin. Okay, so are there any objections to deferring GREAT Item 18-2?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Members. Okay, so we'll take our morning break now, and when we reconvene, we'll have our GREAT Committee Chair back at the rostrum. Chair Molina, what time would you like to recess to?

CHAIR MOLINA: Madam Chair, about 10:45 for all the Members?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. All right, Members, we will recess until 10:45. The GREAT Committee meeting is now in recess. . . .(gavel). . .

**RECESS: 10:33 a.m.**

**RECONVENE: 10:45 a.m.**

CHAIR MOLINA: ...*(gavel)*... The GREAT Committee meeting for Tuesday, January 18th, 2022 will now come back to order. Much mahalo for that break, Members, and much mahalo to Committee Vice-Chair Rawlins-Fernandez for facilitating item...GREAT...GREAT Item 18-2. All right, Members, we'll go back to the top of the agenda and deal with our agenda item related to the bicycle tour public safety and related litigation concerns.

**GREAT-44 BICYCLE-TOUR PUBLIC SAFETY AND RELATED LITIGATION CONCERNS**  
**(CC 21-42)**

CHAIR MOLINA: Since the Committee last discussed this matter on November 16th of 2021, your Chair transmitted a revised proposed bill which incorporates comments received from the Departments of the Prosecuting Attorney, Planning Department, and Finance. And this was all transmitted to the Corporation Counsel. And the bill's revisions

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amended include Section 5.22.010 relating to definitions, and also 5.22.060 relating to violations and penalties, and also further additional revisions include Section 5.22.065 relating to appeals, and an added section entitled 5.22.060 [sic] relating to prima facie evidence--I hope I said that right--such that advertising that offers commercial bike tours will constitute prima facie evidence of the operation of a commercial bike tour business, and is subject to enforcement if not legally permitted to operate. And also in a letter dated November 15, 2021 from Acting Police Chief Rickard to the Committee, the Department expressed support of the revisions that will drastically improve the safety and welfare of the bicyclists and vehicle operators of Maui County alike. And also, Members, the Committee received a further revised bill from Corporation Counsel, which is dated January 12, 2022, which is the version we'll be working off today. So with that said, Members, I'm going to ask Corporation Counsel to provide opening comments on the revisions that have been made to the bill, and then I'll open up the floor. We'll do a walk through on the bill, I don't anticipate we'll get done today. I'd like to basically state we're not going to take any action today, this is a work in progress. And from the opening meeting, it was discovered that we've got a lot of work to do ahead of us. And I'd like to give the industry the opportunity as well to provide their input as to how we can address some of the concerns that...concerns that have been mentioned. So before I recognize Corporation Counsel to give comments, I'd like to recognize Member Paltin?

COUNCILMEMBER PALTIN: Oh, thank you, Chair. Just a point of information. Will we be working off of the Item 28 on Granicus, the redline version of the bill, or just the revised bill...which one did you want us to work off of?

CHAIR MOLINA: The one that was just transmitted by Corp. Counsel staff. Maybe, Ms. Espeleta, the bill that is on Granicus, that is the...that is what has been posted for the agenda, right? If you'd confirm that?

MS. ESPELETA: Correct Chair. The version received dated January 12th, 2022, from Corporation Counsel is the most current revised bill.

CHAIR MOLINA: Okay. Member Paltin, does that answer your question?

COUNCILMEMBER PALTIN: 27 or number 28?

CHAIR MOLINA: Ms. Espeleta?

MS. ESPELETA: Oh, I apologize, I'm not sure what item it is in Granicus, but it is dated January 12th, 2022 from Corp. Counsel. I believe it's called Revised Bill, is the link.

COUNCILMEMBER PALTIN: Okay, thank you.

MS. ESPELETA: Item 27. Item 27.

COUNCILMEMBER PALTIN: Thank you.

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CHAIR MOLINA: Okay, all right. Members, we're all clear as to what we'll be working off of today? Okay, Ms. Espeleta, can you do a screen share, and I'll ask Corporation Counsel to kind of go ahead and highlight what revisions that were made to the bill? So in the meantime, while we're trying to do a screen share, let's call upon Mister...I guess Mr. Kunkel or Mr. Whittaker, if you'd like to provide comment?

MR. KUNKEL: Sure. Yes, Chair Molina, this is Dan Kunkel speaking, Deputy Corporation Counsel. And as you noted, you've incorporated a lot of the suggested revisions that were proposed by the Prosecuting Attorney, the Department of Planning, and some others, and all...all seemingly very appropriate. And the...the changes that my Department suggested, the further changes were not substantive changes. They were, you know, quite minor. Basically, for example, under Section 5.22.060, one of the changes that you are proposing is to make someone who, let's see, has a commercial bicycle tour company, operating it without a permit, will be guilty of a petty misdemeanor as opposed to a mere fine. And so our...our minor change on that was based on State law, that when...when something is a petty misdemeanor, then under HRS 706-663, the judge who presides over that, a case involving a petty misdemeanor, also has...in addition to imposing fines, the judge would have discretion to impose imprisonment up to 30 days. And...and so we just suggested adding that language, just so it's clear, that's what petty misdemeanor also potentially involves. Whether the judge would actually do that or not would be up to the judge, of course. Also, you know, to...at least I perceived there was interest in making this a crime, and in... in order to be a crime, imprisonment does have to be a potential punishment for something. If there is nothing but fines, then it would not be what would be called a crime. And as I understood it, there's interest in...very genuine interest on your part in making this a crime to make...you know, to make this a very serious matter, as everyone considers here. The other change was regarding the recourse that a person may take when they are...when they are...have violated the terms of this ordinance. Section 5.22.065, as you drafted it, provides more details on how a person may pursue an appeal of this. The language in the existing version is very vague on that, so you've clarified that there will be an appeal, and I believe in accordance with the suggestion by the Department of Planning, you deleted the former suggestion about making this go to the Board of Variances, and instead this would be an appeal to the Director of Finance. And the minor change that we made was the initial language in this provided that an appeal may be granted if the Director finds, you know, basically. And we thought that that should be changed from an appeal may be granted to the language stating that the Director may reverse or modify the decision in whole or in part if, just because we...we think that more accurately describes what the Director would do. The Director would not grant or deny the appeal, the grant...the Director would reverse, or affirm, or modify the decision. And we just thought that that would help clarify it, but it's not a substantive change. And those are the two main changes that the Department of Corporation Counsel suggested anyway, and in your most recent version of the law.

CHAIR MOLINA: Okay. Thank you very much, Mr. Kunkel. If I may ask first, with regards to the imprisonment aspect now, it would be something really extreme for a person or

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business that violates any of the provisions in the Code. So just to make it clear, so I guess typically it would be, you do the process of doing fines first, and then if, for whatever reasons, the business or individual getting fined, they're not paying their fines, then imprisonment would be something under consideration. And of course, that would be really extreme. Am I correct in interpreting that?

MR. KUNKEL: Yes, you're correct. And...and that would be the discretion of the judge. And the judges are...you know, I find them generally reluctant to impose imprisonment, certainly on a first or second violation of...of any kind of a crime. Our prison system is already very much strained. And there are many things out there that are petty misdemeanors. I believe, for example, giving a massage for compensation without a license to...without being a licensed masseur is, I believe, a petty misdemeanor punishable by imprisonment. And yet, you know, I...I don't hear about unlicensed masseuses going to prison, you know? Yeah, I would think it would be in extreme circumstances only, probably multiple violations, that they would ever resort to it. But that does make it a crime, though. So it will be a much more...much more serious than a violation, and it will not...there will not be a jury trial, since the maximum punishment would be only up to 30 days. So it would not be imposing that burden on the justice system of holding a jury trial for this. This would be something that would be in a bench trial...bench trial before a district court judge.

CHAIR MOLINA: Okay. Thank...thank you, Mr. Kunkel. I would hope no one ever gets into a predicament like that, where they're facing jail time or anything like that, because I would prefer going the fine route before any imprisonment is considered, so...all righty. And I believe I'll go ahead and ask for...thank you, Mr. Kunkel. We do have Chief Pelletier from the Maui Police Department online. I'd like to get comments from him as well, or Captain Okamoto, whoever is available, to provide comments on the revised changes made by Corporation Counsel.

MR. PELLETIER: It'll be...it'll be me, Chair. How are you? Good morning, aloha.

CHAIR MOLINA: Aloha, Chief. Thank you for being here.

MR. PELLETIER: Absolutely. Absolutely. I...I know this is an extremely important issue, and I know that Upcountry has been plagued by having this burden, if you will, on them, because in their...in their right to live and operate daily, they...they have this nuisance that has plagued them for quite some time. I want to be very clear that our keiki, our children, our residents are...their safety is...is at our utmost care and concern. I want to be very specific in that. If there is a traffic...if there is a traffic safety issue, if there is a public safety issue that we see, such as a particular intersection, where there seems to be more fatalities or more accidents, that is something that we...we can address all day long, we would address all day long. If we have to do a thing called DPAs, which are directed patrol activities, we'll do those. If we know that there is an issue at a certain time frame, and we're seeing things, we'll have enforcement action taken to address that issue, and then change the behavior through education, environmental factors or enforcement, right, the three Es as far as traffic; education, environmental, or

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enforcement. Some of these issues might be environmental, maybe speed bumps, that particular things with the bikes coming down in a certain way, I...I don't know if that's been thought of, but you certainly could very easily have Public Works or County correct some of that. Some of the issues...and I...I have to be in this chair, not take a particular viewpoint, it'll...it'll make sense on this, I have to stay with...with what my perimeter is, but there's been a couple of testifiers, Mr. Patnode and Mr. Mayer, that had some suggestions that seem to have some fairness to them. But I'm not going to give my...my personal opinion because, again, it wouldn't be it would not be respectful or proper for me to do that. I do have to say, as far as Corporation Counsel, and the last speaker, it's a misdemeanor; it's not. You're either pregnant or you're not. So what I mean by that is you don't get...it's a...it's a misdemeanor crime, or it's not. And we're not going to sit here and say what a judge would or wouldn't do. When we make arrests, I don't sit here and say, well, I...I hope that this person gets the five years and not the six months. So it's either a crime or it's not, it's punishable by prison or it's not, or it's not a misdemeanor crime. So the only way it's a crime that is a crime, is to say there's jail time associated with it. And if it's a prolific offender, or let's say if there's an accident involved, we don't...we can't sit here...we're not...justice is blind. And when there's three branches of Government, and you guys clearly represent a branch, I represent a branch, another judiciary represents the third branch. And so it's not fair for us to say, well, I hope the judge is going to do this. We just...we can't do that. I...I can't sit here and say that, well, we're only going to write fines and not prison, it doesn't work that way. And...and so I just...I have to be very specific in doing that. The HRS that applies to this does specifically say, on Section F, and it was the one that Mr. Patnode had...had referenced, but clearly the County, by ordinance, can make regulations on...on what they choose to do. So that the power on that is...is well within your purview, or your ability. I would just mention that if we're going to not have it as a fine...I'm sorry, we're not going to not have it as jail time and not have it as a misdemeanor, then it...then it does become civil. And if we're talking business licensing, because what we...what was created what was written on the agenda, is...is very for commercial tour business to address public safety, traffic, illegal parking, and related litigation concerning to Maui Island. Litigation business is...is not criminal, and is not within the purview of the Police Department. And I know that because of things that we talked about a couple of weeks ago, I know folks know the numbers, I'm not going to belate [sic] that. I want to be as respectful as I can to what the...the ordinance says. And so there's some commercial aspects here, and we're trying to curb behavior using a criminal component to curb commercial issues. Not really appropriate, in my opinion, on that. And I'd give you this...I just...so folks understand why I'm saying this, let's just do the worst case scenario, right, what's the worst thing that can happen? Let's just be devil's advocate for a moment. Worst things that could happen. We do a stop of some kind, and there's a use of force that ultimately could be as bad as an officer involved shooting, a fatal...fatal issue. So the first question versus [sic]...*Graham v. Conner*, which is a Supreme Court case which deals with police officer use of force. There's a three-prong test; the first prong is severity of crime, what's the subject actually doing, and is there harm to a third party or an officer? So what's the crime? So if we are doing enforcement action, and there's no crime, it's very difficult for us to be in that situation. If there's not a crime, it's maybe best settled or handled with a different avenue other than MPD.

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Perhaps an expansion of business licensing, expansion of the Department of Finance, or...that would do that. Those might be much better avenues, because absent the criminal aspect, we really are in a lane that policing shouldn't be in. And we've got to be very careful, because policing is not a Band-Aid just to fix the problem. We don't want to...we don't want to be a hammer, when you get...when it's clear that we're not looking for that particular tool, we're looking for a pair of pliers, or a screwdriver, because policing is, in fact, a hammer, and so we want to be very cognizant of that. So I just...I wanted to give you all that. I hope I'm not overly verbose in it. I'm...I'm trying to explain the position and be as respectful as I could, and at least I got the notice, and...and I got...I got this sent to me, and so I'm not flying down a different way, running into somewhere to try to get Wi-Fi after I'm losing you. So I wanted to be as...as respectful to the...to the...to the Council and to the Committee, and to all the Members, and the Councilmembers. I actually spoke to the...the Councilmember responsible for the majority of this in person this morning on it, and...and made sure that she was well aware if there is a policing issue, we're...we're there. If there's a public safety issue, we're there, and so please rest assured on that.

CHAIR MOLINA: Thank you very much, Chief, for your thorough, thorough comments and insight on this matter. Very, very helpful. Chief, you know, also, this kind of works both ways, because it's not only about keeping an eye on the bike tours, but, of course, motorists who are illegally passing that could endanger someone in an oncoming lane as well. So I guess for some, just having an occasional spot patrol, just take a look at things and also be on the lookout for people who are illegally passing. So it's an issue that goes both ways. So your...your insight is certainly very helpful as to how we address the concerns from...from the community. Anyway, but thank you. All right, Members, I'd like to go ahead now, if you could hold off on your questions for a moment, just get comments from Mr. Vila from the Department of Finance. As was mentioned by Mr. Kunkel, the appeals process would go through the Director of Finance, so I would like to get comments from Mr. Vila as well. Mr. Vila, if you're there?

MR. VILA: Good morning, Mr. Chair. Yeah, Lito Vila, your DMV Administrator. And I appreciate Chief's responses. However, at this point in time, the Department of Finance is not set up to do any type of enforcement. We don't have the staffing. We, too, are currently having staffing shortages. However, if properly addressed, and with the proper staffing, and if it goes down that path, then I guess we'll have to pursue it and execute it as the law would be written. And that would be my initial comments. And I'm here to reply to any other questions that the body may have, and that's pretty much it. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Vila. Okay, Members, my original intention was to kind of go...walk through this bill, but I guess we're somewhat limited on time at this point, and I will bring this matter back. So for the sake of today, I'd like to just open up the line of questions from you for any of our resource personnel, as well as Mr. Vila, or Chief Pelletier, as far as their thoughts on the revised bill, and Mr. Kunkel from Corporation Counsel. So Mr. Paredes, please set the timer for three minutes for each Member, and we'll see how far we go before we defer this matter today, so...okay. Floor

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is now open for any Members would like to ask any of our resource personnel questions on this. Okay, we'll start with Member Sugimura. Go ahead.

COUNCILMEMBER SUGIMURA: Thank you, Mr. Molina. I...I just want to acknowledge that Mike has worked really hard in between our two meetings. I had put a meeting together with Dick Mayer and Bobbie Patnode, just to kind of go through this, and that their recommendations from the KCA. I did send it to OCS to come up with amendment summary form for the next meeting if Mr. Molina would allow. But for today, I just wanted to get from...again, for Chief to...to acknowledge or to talk about the criminal handling of this. Imprisonment...imprisonment for up to 30 days or both, which was added to 5.22.060 based upon Corp. Counsel. So it sounds like it's something that may not apply? Chief, are you still there?

MR. PELLETIER: So...so if...if you're asking if...if the way it's written, it's...the way it's written right now on the latest version that I got, it does say it's a petty misdemeanor. And what I'm saying by that is, if it's a misdemeanor crime, that means it is jailable. The person is going to face jail time. It's all up to the judge, whether it's fine or jail. So if you're passing it, you realize you're passing a misdemeanor crime with this. We can't...it's not...that's why I said, you're either pregnant or you're not. You don't get the choice of what the judge is going to do on the back end of this. It's...it's a misdemeanor crime, it's a misdemeanor crime, and they are facing jail potentially. They're also facing up to \$1,000 fine potentially. And then it's also a range in here, between 20 bucks and 100 bucks. So you're giving a range of what they can be fined, which I think is probably the civil component, or they're going to be incarcerated. And what I mean by that is...is...again, the legislative body writes the law, we enforce the law, judge then gives the judgment of what the law is. And so that's why I'm saying we don't get to pick and choose, I don't get to pick and choose, and really, nobody gets to pick and choose except for the...the judge or the jury if it goes that way.

COUNCILMEMBER SUGIMURA: I like your, you're either pregnant or not.

MR. PELLETIER: Thank you. Thank you so much.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Thank you very much, Member Sugimura. You know what, I...I am...my apologies, I forgot to include to give some remarks on the revised bill...Mr. Martin, our Prosecuting Attorney. So Members, if you'll bear with me and allow Mr. Martin to make some comments. Mr. Martin, if you could keep your comments to just preferably three minutes, then I'll go back to the Members for questions. Go ahead, Mr. Martin.

MR. MARTIN: Thank you, Chair. I mean, I can keep my remarks much shorter than that. As I indicated in my original written testimony, I think back in November, you know, our recommended approach was one heavily focused on financial penalties. Significant financial penalties would be an efficient way to handle this. However, if the Committee did wish to take a different route at the time the bill was drafted as a misdemeanor level

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offense, we did recommend, if the Committee wanted to stay on that track, to reduce the potential criminal liability to a petty misdemeanor for a variety of reasons. So I appreciate the fact that that recommendation has been taken into account and added to the bill. And to the extent that any of you have any questions with respect to the impact of that, of course, I'm available to answer those. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Mr. Martin. Okay, Members, the floor is now open again for any questions for our resource personnel. Chair Lee?

COUNCILMEMBER LEE: Mr. Chair, I'd like to ask a question of Mr. Mayer. Is he a resource person?

CHAIR MOLINA: Yes, he is. Go ahead, Chair Lee and Mr. Mayer.

MR. MAYER: Yes, I'm...I'm available.

COUNCILMEMBER LEE: Okay. Mr. Mayer, I was kind of impressed with what you had to offer, as you seem to be working with both sides. And so are you working alone, or are you working as part of the Kula Community Association?

MR. MAYER: Definitely the Kula Community Association. They asked me to work on this because I had done in the past. And so the draft itself, is something that I initially put together, sent it over to the industry, and they looked at it. They came back with a version that they thought would be appropriate. I took all that information, and put together a...a...what...but it's really a redline version of a redrafted bill. So it would be...we're calling it not 5.22, but 5.23, with many of the provisions. I want to separate the recommendations that we're making into two categories. One is how the industry would operate within our communities. Those...the things I talked about earlier; time of day, routes, various things of that sort. That...that's one thing that we're concerned about, and the safety, and not allowing children to do it, et cetera. The other thing is up to you folks, and that is how it's going to be administered with regard to licensing, requirements for insurance, permitting, those types of...that is of less concern to the community, but obviously is a concern that we want to make sure it's done right. But our particular concerns are actually how they operate within the community, the time of day, things of that sort.

COUNCILMEMBER LEE: Okay. I haven't gone over your draft--because I think you sent it to us--I haven't gone over your draft closely, but did it include that criminal element?

MR. MAYER: No, we did not go into that. We feel that you're much more able than, let's say, random community members to decide is it...is it a misdemeanor? Is it criminal? Should it be fines? Should there be jail time? Should you be able to ban the business entirely if it's not operating properly? Who is to do the citing? Should it be a police officer? Can citizens report improper behavior? All of that, we leave up to you as how to do it. If you ask us, send a specific question, we probably could look at it and give you a recommendation, but we did not do that so far.



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COUNCILMEMBER LEE: All right. Thank you. Thanks for your...your help on this. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Chair Lee. Councilmember King?

COUNCILMEMBER KING: Thank you, Chair. I think I'm going to ask Mr. Mayer as well, since he's been working on this bill. A couple of things that you mentioned that aren't in the version that we're looking at, is you said, you wanted it to start at 8:30. In this version, it says 9:00. So that actually gives more time for late, I guess, people getting to school, or wherever they're going. Is that...is that better for your...you think the *(audio interference)* some reason for --

MR. MAYER: There's really not much difference. The 9:00 was just when they could operate at all. We're saying that if they start at the 6,500 foot level at 8:30, it probably would be around 9:00 or 9:15 that they would actually be coming through the residential areas in Kula. So it really comes out to about the same thing. It's just clearer, we think, as to when they can start the tour, 8:30, and that would clarify exactly what the parameters are.

COUNCILMEMBER KING: Okay, but you don't have a problem if it says 9:00?

MR. MAYER: If it's at 9:00? That...as far as we're concerned, we don't think it's absolutely necessary, yeah. If they start later, that would be even better. But it...it's...we feel that most of the commuting and certainly most of school traffic is finished well before 9:00.

COUNCILMEMBER KING: Okay. I don't know because I don't live up there. I lived up there a while ago, but it seems like a lot of people are trying to get to their office at 9:00, which is when we start meetings, and have to leave, you know, around 8:00, and we're travel...we're traveling around 8:30. But the other thing that you mentioned was the section...there's a section that says highway means the entire width between the boundary lines of every County street. And I had a question about that too, because most...isn't most of the...aren't most of the tours going down a State highway?

MR. MAYER: They're going down...much...much of the route is actually through State highways --

COUNCILMEMBER KING: Okay.

MR. MAYER: -- and I think that the State giving you the authority to regulate the industry would allow you to indicate on both County and State highways what the practice should be. And it should be the...consistent all the way through; all...all Government roads and all routes that they take. One of the people from the industry mentioned widening the road, putting in a shoulder on the right for bicycling. It would be ideal if we had that, and that was something, for example, on Mokulele Highway, now Veterans Highway, there is that lane on the right. But we do not have, on this road, an adequate

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right of way, I think, on the right side of the road for that kind of thing to take place. And the best that we could ask for is pullouts every, you know, mile or whatever it might be. What's the proper distance, and whether...where it's appropriate that could be done. And I don't think that would be a huge taking of land. I think that that's possible, and that would get a lot of the bikes off --

COUNCILMEMBER KING: But if we are going ...yeah, if we are going we are going to do that, don't you think that...if we're doing it just for the industry, that the industry, the bike company should contribute to that? *(Audio interference)*

MR. MAYER: Oh, absolute...absolutely. The bike industry should be a major contributor to those improvements because most of the roads are paid for by people who are paying gasoline taxes, driving on the roads, the residents, and not by the bike companies. The bike company does send a vehicle up the...up the mountain, and there's a gas tax there, but most of the problems, most of the issues, are residential issues. Also, the bike --

COUNCILMEMBER KING: Well, let me...let me move on, because I only have three minutes. I don't even know if I...do I have time to ask a question from Phil Feliciano if he's on? Or was he a resource person?

CHAIR MOLINA: Yeah, Phil's a resource...go...go ahead, Member King. Can ask a question.

MR. FELICIANO: I'm still here.

COUNCILMEMBER KING: Okay, hi, Phil. So quickly, would you...do you think the industry would be willing to contribute to something like that, to like putting pull-out...would you support that, as doing those pullouts, so that vans and the bikes have a place to pull over? And then do you think the industry would support contributing to that?

MR. FELICIANO: Absolutely, and we've agreed to it in the past.

COUNCILMEMBER KING: Okay.

MR. FELICIANO: But it's also noteworthy about the money that our State and County is going to be getting that is geared towards road safety improvements. You know, so that could possibly be used a lot sooner than waiting to get all the money from the bike tours.

COUNCILMEMBER KING: Well, the bike tours are making a lot of money off of this, though, so, you know, that's my thought. We do have a lot of road improvements that are needed there that that TAT could go towards, you know, the road to Lāhainā and the North South Collector Road. So you know, if we're going to do something just for the bike industry, it seems like it should be...come from the bike industry. But I'm glad you guys are...have talked about it, and you're willing to contribute.

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MR. FELICIANO: No, absolutely. Absolutely. But it's important to note that it's not just for the bike tour companies. It's for the community who drives through there. Then they would have more peace of mind --

COUNCILMEMBER KING: Right, but there --

MR. FELICIANO: -- because *(audio interference)*

COUNCILMEMBER KING: -- but the peace of mind is related to the bike tours. I mean, you know, that's why we get held up if we drive down that way, because of the bike tours. So anyway, that...I just want to...I wanted to ascertain that.

MR. FELICIANO: Yep.

COUNCILMEMBER KING: I think it's ...I don't know if I'm still on a timer, because --

UNIDENTIFIED SPEAKER: *(Audio interference)*

COUNCILMEMBER KING: Okay, thank you. Thank you for that. Thank you, Chair.

CHAIR MOLINA: Thank you, Member King. Okay, let's go to Member Johnson, followed by Vice-Chair Rawlins-Fernandez. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning --

CHAIR MOLINA: Sorry...Member Johnson, sorry. So one of my Committee Staff, we're not hearing the bell, so if we could make sure that three-minute bell is heard. Go ahead, Member Johnson.

COUNCILMEMBER JOHNSON: I...okay. I see --

COUNCILMEMBER PALTIN: *(Audio interference)*

COUNCILMEMBER JOHNSON: Yeah, I see Paltin's got her hand up.

CHAIR MOLINA: Sorry, Member Paltin, were you first? I...I --

COUNCILMEMBER PALTIN: No, no, I wasn't, but I just...point of information, Mr. Pelletier wrote in the chat that he has to get off in a minute, if anyone has further questions for him. So I just...not sure if you saw that, I wanted to point it out.

CHAIR MOLINA: Oh, thank you for pointing it out, Member Paltin. Okay, we'll make note of that. So Member Johnson, proceed if...if you have any questions for the Chief, or any of our other resource personnel. Go ahead.

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COUNCILMEMBER JOHNSON: I...I...I don't have a question for the Chief. This was for Mr. Feliciano. You mentioned earlier that you had to shut down your business when the...when Haleakalā closed down their bike operations, is it...that's what...did I hear that correctly?

MR. FELICIANO: That's correct.

COUNCILMEMBER JOHNSON: Okay, so can you kind of tell us what the process was? Like how did you find that new route, and what it...what did it do to your company? Can you kind of go through the process of what happened after it shut down?

MR. FELICIANO: Are you referring to the shut down from the...the Federal park? National park?

COUNCILMEMBER JOHNSON: Yes.

MR. FELICIANO: Oh, okay. They just stopped the riding in the National Park, but we could still go up into the park with our vehicles, let the people enjoy Haleakalā, and then bring them out to the 6,500 foot level, basically at the top of Crater Road there. So that's how it...it all proceeds, and it all goes down through the routes. Some people come down into Pā'ia, and our company comes down into Ha'ikū.

COUNCILMEMBER JOHNSON: Okay. So if I'm hearing you correctly, there was a...a section, they said you can't ride bikes here anymore, and you just moved it down a bit, right?

MR. FELICIANO: Correct.

COUNCILMEMBER JOHNSON: And it didn't affect your business anymore? That didn't change up your number of people, and nobody, you know, closed their shop up just by doing something like that?

MR. FELICIANO: Well, you got to remember, that was back in 2007. And it...and it did affect, but then things...things kept chugging along, and it...it grew back. So initially, it did. And...and the bike tours you see today are a fraction of what they were back in 2007, 2010, when the bike tour study was done --

COUNCILMEMBER JOHNSON: Okay.

MR. FELICIANO: -- a...a mere fraction.

COUNCILMEMBER JOHNSON: All right. Okay. Thank you for that. I...I...this is...I figured I'd ask you this question, but, you know, private roads, have you ever looked into private roads with all these giant landowners and these old pineapple and cane roads? Have you ever looked on riding on those?

MR. FELICIANO: No. No.

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COUNCILMEMBER JOHNSON: Okay.

MR. FELICIANO: The...the...yeah, these are...it's a different animal. It would be a different animal.

COUNCILMEMBER JOHNSON: All right. And then just...I figure I'd final up with this one. You...permit...you were talking about the financing of it. The permitting and stuff, is that a big factor for you when it, you know, comes to the cost that you're using to...to get your up and running? Because I'm not sure where we would get the funding. I know you were saying that you would be willing, as a company, to put in the funding for the roads, but does your permits...how much is a permit for that? Do you know off the top of your head? . . .*(timer sounds)*. . .

MR. FELICIANO: I think...and maybe Mr. Vila can verify, I think it's at \$250 now. That was the latest increase. Years ago, it started at, I believe, \$100.

COUNCILMEMBER JOHNSON: Okay.

MR. FELICIANO: -- and as far as funding --

COUNCILMEMBER JOHNSON: All right. That's my time.

MR. FELICIANO: Mr. Johnson, as far as funding, it has been discussed before to levy like a per person fee --

COUNCILMEMBER JOHNSON: Oh, okay.

MR. FELICIANO: -- of \$1 or \$2, you know, and we would report the usage, and I guess pay the fee that way.

COUNCILMEMBER JOHNSON: I see. Okay. Thank you, Phil. I have no further questions, Chair. Mahalo.

MR. FELICIANO: Thank you.

CHAIR MOLINA: All right. Thank you very much, Councilmember Johnson. And also, Chief Pelletier, just want to thank you. I know you're a very, very busy person, and I appreciate you joining us for today. All right. Let's go now to Vice-Chair Rawlins-Fernandez, who has questions for any of our resource personnel. Proceed, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I have a question for Mr. Mayer, and I want to thank all of our resource persons for being here and working this out together. So in testimony, we heard from Ms. Patnode and Mr. Perez about limiting the bike tours to stop at 4,000 foot elevation, and it sounds like Police Chief thought that might be a

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workable solution, to just avoid the residential area altogether. Is there a reason, or would you explain why the KCA did not include that in their proposed bill under 5.23.028(a)?

MR. MAYER: Thank you very much. I'm glad you asked the question. I personally would like to see it stopped at 4,000, but that's not the position that the KCA board voted for. So I'm representing the board today, not my own personal opinions. The board felt sympathetic to the bicycle, thought that bicycles were an excellent activity. If managed properly it could perhaps be compatible with the community, and that's why they recommend that. There...it was not a...it was not a unanimous vote by any means. There were people who were on one side or the other, but the majority of them, the board, voted that...decided that the bike...the bicycles should be allowed to continue, and not have to be forced to stop. If the Council feels though that the only resolution to the problems are to do that, that's, of course, your decision you'll have...you'll be making.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Mayer. And, you know, after hearing the discussion by Member King and Mr. Feliciano, I was thinking that perhaps there could be some kind of a compromise, where stopping at 4,000 feet could be what is implemented now temporarily until that infrastructure improvement for further safety, for the bike tour operators and our residents it...it...happens, so that there is that necessary space for everyone to coexist. And so, you know, perhaps that...that's a idea of moving forward. Mr. Mayer, if you wanted to comment on that idea, and then I can invite Mr. Feliciano to...to comment on that idea?

MR. MAYER: Now, you asked me the...you asked me to comment? Yeah, I mean, that...that --

VICE-CHAIR RAWLINS-FERNANDEZ: *(Audio interference)*

MR. MAYER: -- yeah. No, that would be an interim thing, I...I...I think, like anybody would say that if you stop a business for a period of time, whether it be six months or one year to get pullouts, to get other things done, improvements done, it would really hurt an industry severely to do that. And the employees who are working there would be out of jobs, et cetera. So they would be impacted --

VICE-CHAIR RAWLINS-FERNANDEZ: *(Audio interference)* Oh, I...I . . .*(timer sounds)*. . . I was saying stopping at the 4,000 feet as a temporary --

MR. MAYER: Yeah, it...it would affect a number of people. I'm...I personally would be...support of that, but I think the board said, no, I don't think we necessarily need to do that, that we...that if we in...in...in that section that you mentioned, 2.8...28 of the proposed ordinance, we made a number of recommendations in there. And that's what I hope...and that's totally in addition to the redline ordinance you have in front of you. And I'm hoping that most of those recommendations can be included in a final ordinance. If you stop it temporarily at 4,000, that would be one way of doing it, and

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then work and get the improvements made, get everything implemented. That would be that would be a step perhaps to solving some of the problems.

VICE-CHAIR RAWLINS-FERNANDEZ: Right. Mahalo, Mr. Mayer. And while those improvements would be made, they would have to stop operating over that section so that it could be paved anyway. But mahalo for your...your comments. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Vice-Chair Rawlins-Fernandez. Before I recognize the next Member, just for the Members' information. I've been informed by Representative Linda Clark's office that they're considering legislation related to tacking on a fee, not only just on bike tours, but also on other tours like van tours that, for example, go to Hāna, that would help offset the costs for road improvements. So that's upcoming legislation that Representative Linda Clark is considering as far as proposing it to the State. But anyway, so there seems to be movement in that area. All right, let's go to our next Member. I believe, was it Member Paltin? You had questions for any of our resource personnel?

COUNCILMEMBER PALTIN: Oh, I'm not sure if I was next. I just raised my hand, but if anybody else was before me, I'll yield.

CHAIR MOLINA: Anyone else before Chair recognizes Member Paltin? Seeing none. Go ahead, Member Paltin, you have the floor.

COUNCILMEMBER PALTIN: Thank you. I guess part of my concern is the unintended consequence of making legislation surrounding tours, and then the...the...the unguided...the proliferation of unguided bicycling. And I read through the...the bike law, HBL.org bike laws, and I didn't see anything in the books prohibiting van loads of bicycles just being dropped off somewhere. And I know that both are kind of...from Ms. Patnode's testimony, both are undesirable. But I guess if either Mr. Whittaker, Mr. Kunkel, or Mr. Mayer could chime in on that. I did get contacted about van loads of bikers, like 20 bikers being dropped off on the road to Kahakuloa, and those residents not at all happy with that. I mean, some of the downside of unguided tours is people getting lost, people getting hurt, not knowing where they are, and, you know, those types of things. So I just was wondering, any comment on the possible unintended consequences in that direction?

MR. KUNKEL: Dan Kunkel here, I could chime in on that, Councilmember. Yes, good question. I would just note that as Councilmember Molina has drafted it right now, 5.22.020 would provide that it is unlawful for any business or person to conduct a commercial bicycle tour. And the new definition of bicycle tour would say, bicycle tour includes guided bicycle tours and unguided bicycle tours. So it...it would...as currently proposed by Councilmember Molina, would apply to unguided tours if they are commercial, if some commercial entity is bringing up the bunch of bicyclists to come down in an unguided tour.

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COUNCILMEMBER PALTIN: So...and...and then it was stated that this wasn't to affect South and West Maui. Could we have it affect Kahakuloa?

MR. KUNKEL: The...the law regarding regulation of bicycle tours, I...under that, I believe you could. It's HRS-46-16.3. This is different than the law, incidentally, that Mr. Patnode cited earlier. And this is permission by the State of Hawai'i for Counties, such as Maui County, to regulate commercial bicycle tours. And I don't see any geographic limitations on it. And they authorize you to regulate the bicycle tours on State highways, as well as County roads. Now, that being said, this...this law does not authorize counties to alter State highways. . . .*(timer sounds)*. . . So I would just note that Crater Road and Haleakalā Highway, are State highways. I don't know of any authority that would allow the County to alter those highways, you know, without the State's permission. But you are authorized to regulate the tours, and I see no geographic limit to that.

COUNCILMEMBER PALTIN: Okay, cool. Thanks.

CHAIR MOLINA: Thank you very much, Member Paltin. I don't know if everybody's had a chance at one turn to ask questions of our resource...resource personnel. If not, Chair's just got a quick question for Mr. Feliciano. One of my...my bigger concerns, at least from my district, seem to be related to the unguided tours, and as you've seen on my...the revised bill, I'm admittedly taking a very hard line stance on it. In lieu of banning unguided tours, at this point, do you have a suggestion as to how we can alleviate any of the concerns regarding unguided tours? And if not today, that's okay, because we're going to meet on this again. And maybe at some...when we do have that next meeting, you can have a proposed solution. But do you have anything in mind right now as it relates to the unguided tours and the concern that --

MR. FELICIANO: Well, not...not...not a formulated plan, but, you know, since this has been brought forward and, you know, you forced all the bike tour companies to start talking to one another again, we have gotten together and discussed how we can make the self-guideds [*sic*], you know, safer and what to do. And we are stressing, you know, ad nauseum to these people how to ride the bicycle on the roadway, how to be friendly to the community, you know, pull over when they get cars. I mean, they probably hear it until they're sick of it. And all the companies are doing this now. And I...I go up and down the mountain, you know, a couple times a week on tours. And I see the difference, so that's the start. It's not the finish, I know, but that's where we're headed.

CHAIR MOLINA: Well, good, I'm glad to hear that. At least everybody's coming together to find a solution. And one last...I would like to see comment from you. Well, first, I...I...I'm supportive of Kula Community Association's proposed 8:30 start time, you know, Mr. Mayer and the board knows the Kula community much better than I do, so I'm fine with the 8:30 start. With regards to the proposed end time that I have at 1 p.m., I'd like to just get the industry's take on that. Back in late December, I went up to Olinda, and I did see one of the bike tour companies coming down at around 2:30 p.m. Your thoughts on a proposed 1:00 p.m., I guess, shut off time, I guess, if you want to call it that?



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MR. FELICIANO: Yeah, that...that's...that's too early. You know, there...I don't think there should be an end time. So there...there's not much traffic on the road at 2:00, 3:00. Once school, you know, then there's starting to be traffic, but the end time does...doesn't really work, and/or the part where we can't ride in the...the Makawao and stuff at a certain time. That...that's not going to work. The...the start time, it would be more realistic to say you can't enter the communities at a certain time, rather than giving the industry the time to start, because it could make, like a road company, per se, start at what's called the tree line, which is a quarter mile above Kula, they start at 8:30, but now they're in Kula at 8:35. So, you know, start time would be a better policy.

CHAIR MOLINA: Okay. Well, thank you, Mr. Feliciano. All right, Members, we're getting close to our 12:00 preference time to...to end. So if any other Members have questions who have not asked, now's the time to ask. Otherwise, I'll go ahead and defer this item. Chair will recognize Hāna Councilmember Sinenci. Go ahead.

COUNCILMEMBER SINENCI: Oh, no, thank you, Chair. And yeah, you just answered my question, your intention to defer.

CHAIR MOLINA: Okay, I guess I gave you the answer to your question, then. You have no other questions for our resource personnel or Administration at this point? Okay, all right. With that said, all right, one minute for Member Paltin, and one minute for Member Sugimura before we defer. Member Paltin?

COUNCILMEMBER PALTIN: Thanks, Chair. I just had a question for the bicycle folks, and I'm not sure how to contact them. And it might be common sense, but I...I was wondering, I heard a lot about that North Shore Greenway, which is this bicycle path that's, like, separated from the traffic. Is there no desire from the bicycle tours or the tourists to ride the greenway, which has been, you know, created for bikes?

MR. FELICIANO: Well, there's no...if I may be allowed? There...there's no interest in it. The downhill aspect is...is world famous. You know, coming to Maui to ride on flat land probably has no appeal.

COUNCILMEMBER PALTIN: Oh, all right, got it. Thanks.

CHAIR MOLINA: All right. Thank you, Member Paltin. Interesting question, a good one to ask. All right. Member Sugimura --

UNIDENTIFIED SPEAKER: *(Audio interference)*

CHAIR MOLINA: -- you have *(audio interference)* Oh, go ahead, Mr. Mayer, you want to interject?

MR. MAYER: People love gravity. It's easy to go downhill.

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CHAIR MOLINA: Thrill seekers, right?

MR. FELICIANO: Every kid's dream.

CHAIR MOLINA: Yeah. Member Sugimura, go ahead. You have a minute.

COUNCILMEMBER SUGIMURA: Thank you. So I know that one of the things that KCA wanted was for the riders to sign a waiver not to sue the County. And I don't know if it's something that Mr. Feliciano might have a thought or Corp. Counsel. Is that...Corp. Counsel there?

CHAIR MOLINA: Yeah.

COUNCILMEMBER SUGIMURA: *(Audio interference)* Is that...is that legally binding?

CHAIR MOLINA: Mr. Kunkel? Can you respond to Member Sugimura's question?

MR. KUNKEL: I think as a condition for permits, I think you could ask that they sign a release that would be for the...for the permitted...the permitted bike tours. I...I think you could. It's just it's not currently there.

COUNCILMEMBER SUGIMURA: But is it binding?

MR. KUNKEL: It would be...it would be a contract, so it would be binding as a contract, and they would either agree to enter into it or not with that bicycle tour company. . . .*(timer sounds)*. . .

MR. FELICIANO: Member Sugimura, if...or Mike, if I may be allowed?

CHAIR MOLINA: Yeah, go ahead, Mr. Feliciano.

MR. FELICIANO: Every single bicycle tour company has an acknowledgment of risk/waiver form, and...and the guests are signing those.

COUNCILMEMBER SUGIMURA: Could he --

MR. FELICIANO: And...and --

COUNCILMEMBER SUGIMURA: -- provide that to our Committee, Chair? The waiver? Your bicycle waiver form that you just mentioned, could you provide it to our Committee to see?

MR. FELICIANO: Absolutely, I...I can provide mine, and...and if the Committee reaches out to the other companies, I'm sure they'd provide theirs.

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MR. KUNKEL: If I could interject also, if...if you were going to impose this requirement on members of the public, I think this would warrant further legal research because it would sort of be this blanket prevention of people seeking recourse for something. I...I'm not sure the County would have authority to do that. This would require further legal research.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR MOLINA: Does that answer your question, Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, I guess we have to do further legal research, because I think it was one of the requirements.

CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: Or requests. KCA.

CHAIR MOLINA: All right, I'd like to go to Member Kama. I know, Member Kama, this is your first go around, so I'll give you three minutes.

COUNCILMEMBER KAMA: Thank you, Chair. And I didn't have a question for any of our resource people, but I do have a question for you. So, you know, as I was reading some of the documents, and there were, I think, a list about maybe 10 or 15 bicycle tour companies, of which it said that some of those licenses had been expired, and some were due to expire this year. So bearing that in mind, I was trying to figure out, so how many companies are we actually talking about if some of the companies' permits have expired? And is there opportunity for them to reapply? And if so, then...then how many are we talking about? But if not, who are we really talking about? And so that's my question, Chair.

CHAIR MOLINA: Member Kama, that would be a good question maybe for Mr. Vila from the Department of Finance.

COUNCILMEMBER KAMA: Okay, thank you.

CHAIR MOLINA: He could provide us a status on the number of companies permitted, and any...any companies that have pending, you know, requests. Mr. Vila --

COUNCILMEMBER KAMA: Absolutely, yes. Thank you.

CHAIR MOLINA: -- can you respond to Member Kama's question?

MR. VILA: Thank you, Mr. Chair. Yes, we have. We just have a handful. The permits are set to expire one year from date of issuance, so some are coming up. From my recollection, I think there's one major company with over 200 bicycles, and there's some other ones. But I can certainly get you an updated list and submit it.

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COUNCILMEMBER KAMA: I think I'd appreciate that, Chair, for that updated list. Because I kind of like am trying to figure out what do we...and who, and how many are we talking about? So it's really hard to figure all of that out if I'm not sure about who this target group that we're talking about...and if we are talking to the right people too. So thank you, Chair. Thank you, Mr. Vila.

CHAIR MOLINA: Thank you, Member Kama. We'll make that request of the Department. Maybe Mr. Mayer or Mr. Feliciano, you have any insight on that? Mr. Mayer first.

MR. MAYER: You know, I was going to make a comment on something else that I hope that when you finish up today, that you ask our association to work with your County attorneys on...on...on working through the amendment process, that you'll be putting together the form and everything else. And we'd be pleased to do that, and...and stand ready to help out in any way, any way that we can. And I appreciate the...the interest of the industry itself in working with us on this.

CHAIR MOLINA: Yeah. Thank you very much, Mr. Mayer. Yeah, we'll certainly be as inclusive as we can be with getting your input and working...working with us on this. Mr. Feliciano, any comments regarding the question posed from Member Kama?

MR. FELICIANO: Yes. Ms. Kama, there are presently seven known bicycle tour companies, of which I don't know exactly how many are pending their permits or have current permits. But there are seven companies out there.

CHAIR MOLINA: Okay. Thank you very much, Mr. Feliciano. Mr. Vila, go ahead.

MR. VILA: Yes, if I could refer to our December 8 transmittal, I believe we had...at that time, we had one, two, three, four licensed bicycle companies, and two pending application.

CHAIR MOLINA: All right. Thank you for that information, Mr. Vila. Good. Okay, now we have a request from Vice-Chair Rawlins-Fernandez, who...who's requesting ten seconds. But I tell you what, I'll be generous, I'll give you 60. Go ahead, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair, for your generosity. Ten seconds was good. I...I just wanted to throw out this idea for consideration, requiring a clearly visible company name and logo on all bike riders for help with enforcement. And that way, we know when, you know, there's a rogue tour company. So just, I...if we can get feedback next time it's scheduled. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Vice-Chair. I think that's an excellent suggestion. And, you know, speaking of that, for example, like the folks on unguided bike tours, if there's some kind of decal that can be identifiable. For example, if you have a reckless...and I say reckless bike rider that's swerving in and out and causing concern for motorists, where they can at least make...call the police department just to report someone that's an unruly bike rider, so to speak. So if they have some form of identification, at least, I don't know, I'm

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hoping that it could possibly help. So again, help reinforce what the bike tour industry is trying to...how they're trying to educate their riders, and to maybe remind them too, that you could be...a complaint could be filed against you by a motorist to the police department. Hopefully it doesn't get to that point, but, yeah, any type of identification I think would be helpful. Very good suggestion, Vice-Chair. Okay. With that said, Members, I'm going to end this today. We will bring this matter back in the near future. I want to thank everyone involved, all of our resource personnel, the bike tour industry for reaching out and trying to work with the community to address these concerns, and also the Administration. Thank you all very much for your input. I thought this is a very, very productive discussion. So again, with that said, I will be deferring this matter if there are no objections. And please, Members, feel free to review the revised bill and have additional questions ready for us when we do take this matter up again. Any objections to deferral?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

CHAIR MOLINA: Okay, so ordered.

**GREAT-46 REMOVAL OF LEINAALA PERRY FROM THE BOARD OF WATER SUPPLY  
(CC 21-490)**

**GREAT-48 REMOVAL OF ERIC CUOMO FROM THE COST OF GOVERNMENT  
COMMISSION (CC 21-532)**

CHAIR MOLINA: All right, Members we'll quickly get to our last two items today, which is GREAT Item-46 and GREAT Item-48 respectively. 46 has to do with the removal of Leinaala Perry from the Board of Water Supply, and GREAT-48 deals with the removal of Eric Cuomo from the Cost of Government Commission. Members, I'd like to take up these two items simultaneously, if there are no objections?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: Okay, great. Very good. All right, Members, the purpose of the proposed resolution for both...resolutions for both 46 and 48 is to authorize first, the removal of Leinaala Perry from the Board of Water Supply, due to nonattendance at board meetings. And the resolution for Mr. Cuomo has to do with...due to nonattendance at board meetings related to the Cost of Government Commission. In accordance with Section 2.41.090(e) Maui County Code, in six-month period, once a board commission or committee record reflects a Member's nonattendance of 50 percent or more meetings, or absences of at least 25 percent of meetings within 30 days of the Member's last excused or unexcused absent [sic], the chairperson of the board, commission, or committee, must send a letter to the Mayor, with a copy to the Council, informing of the Member's attendance record. And then in accordance with Charter Section 13-25,

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Members of the board and commissions appointed by the Mayor, with the approval by the Council, may be removed for cause upon recommendation of such removal by the Mayor and the approval of two-thirds of the entire Membership of the Council. So with that stated, I'd like to recognize Mr. Mossman. He's online to provide us a quick overview related to Ms. Perry's proposed removal, as well as Mr. Cuomo's removal. Mr. Mossman, you're there?

MR. MOSSMAN: Yes.

CHAIR MOLINA: Go ahead.

MR. MOSSMAN: Hi, Chair Molina. Just as an overview, Ms. Leinaala Perry was...was brought on, I don't have the actual dates, but as a replacement way back. And we...she just didn't show up for meetings. We tried getting in touch with her, with no luck whatsoever. We eventually had to remove her from...just due to...to the attendance policy that was in place. From that point to now, we have...we were just waiting for this...this board to...or the Council to...to remove her so we can get in that vacant part...vacancy filled for the Hāna seat at that point. Mr. Eric Cuomo, and...is another one that went on the...he was another non...right during the COVID, never...didn't meet the attendance [sic]...the attendance policy, decided to have conversations with him, and the decision was made to remove him as well. So both parties were based on, you know, just attendance policies...discrepancies.

CHAIR MOLINA: Okay. Thank you very much for that overview, Mr. Mossman. All right, Members, I'll open the floor for--try to keep it at two minutes--for any questions for Mr. Mossman related to the proposed removal of Ms. Perry and Mr. Cuomo. Members, any questions? We'll go with Mr. Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair, and mahalo, Mr. Mossman. Yeah, I guess our understanding was Ms. Perry did contact the Mayor's office to decline the appointment. That's what we've been told. And only because we do understand that Ms. Perry was heavily involved with the project Ho'omana at the time, and still is. She's also part of the East MauiReady Emergency Preparedness organization. So I know that she...she has a lot on her plate. We did originally support Ms. Perry's appointment because we saw the value of having an East Maui resident on the...the board, but we do understand that there were other East Maui residents that did submit their application. So it's our hope that the Administration would consider another candidate from East Maui to fill this vacant position. Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you very much, Mr. Sinenci. Members, any other questions for Mr. Mossman related to the removals...proposed removals of Ms. Perry from the Board of Water Supply and Mr. Cuomo from the Cost of Government Commission? At this point, it seems somewhat pretty cut and dried, for not showing up, and I believe both individuals as well, they've not completed or filed their required board paperwork as well. Am I correct with that, Mr. Mossman? Financial disclosures and so forth, yeah?

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MR. MOSSMAN: Yes, we just had...you know, just to add to this, this is when COVID was pretty strong, as like...like Councilmember Sinenci had...had mentioned. We were running into a lot of different issues on some of the...some of our new people that...that decided that they wanted to serve, then they couldn't serve due to other problems. So yeah, we have an abundance of...we had, especially. And we have been on...in contact with them. The worst part was that we just couldn't make contact. And...and...and one thing led to another. So yes, definitely Chair.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. All right, Members, seeing no other questions for Mr. Mossman, then the Chair's going to make a recommendation first on the removal of Ms. Perry from the Board of Water Supply. Chair's recommendation is to support the proposed resolution, and to file County Communication 21-490 as to the removal of Ms. Perry from the Board of Water Supply. Chair will entertain a motion.

COUNCILMEMBER KAMA: So moved.

CHAIR MOLINA: Okay, moved by Member Kama, seconded by Member Sinenci. Member Kama, any discussion as we move on to --

COUNCILMEMBER KAMA: No discussion, Chair. Thank you.

CHAIR MOLINA: All right. Any other discussion? Okay, seeing none, Chair will call for the vote. All those in favor of the proposed resolution to remove Ms. Perry from the Board of Water Supply, as well as the filing of County Communication 21-490, signify by raising your hand and saying "aye".

**COUNCILMEMBERS VOICED AYE.**

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

*[Vote taken, later confirmed by roll call voting]*

CHAIR MOLINA: All right, Members, moving on to the next item related to Mr. Cuomo. Chair's recommendation is to adopt the proposed resolution.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR MOLINA: I'm sorry, is there any...oh, go ahead, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha. Mahalo, Chair. I...I hate to ask this question, but Mr. Raatz informed us of the new rule, the new State statute, about if we don't have full Members...all Members present when we take the vote, we have to do a roll call vote.

CHAIR MOLINA: Oh.

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VICE-CHAIR RAWLINS-FERNANDEZ: Is that...does that apply to Committees as well?

CHAIR MOLINA: Yeah, good point. Mr. Raatz? Do we have to do a redo, I guess, of the roll call [sic]? Oh yeah, go ahead, Mr. Raatz.

MR. RAATZ: Thank you, Chair.

CHAIR MOLINA: *(Audio interference)*

MR. RAATZ: Yeah --

CHAIR MOLINA: Sorry?

MR. RAATZ: Thank you, Chair. The...the new Sunshine Law that took effect on January 1st does say for a remote meeting such as this, all votes have to be done by roll call, unless unanimous. We don't have a definitive understanding of what unanimous means, but we would recommend, out of an abundance of caution, if you have less than your full complement of Voting Members voting aye or nay, then it may not be unanimous. Therefore, when you're missing someone, when you have an excused Voting Member, it would probably be prudent to do a roll call vote, consistent with the new law. Thank you, Chair.

CHAIR MOLINA: Okay. All right. Thank you. So, Mr. Raatz, should we just have the...I guess, should I...shall I restate the motion, withdraw everything, and start from the beginning, if you will, with the Chair's recommendation?

MR. RAATZ: However you want to handle it, Chair, just so that for transparency, each Member does get called on to vote aye or nay on the motion. Thank you.

CHAIR MOLINA: Oh, okay, will do. Members, I'll ask Member Kama to withdraw the...her original motion, as well as the second from...was it...I guess it was Vice-Chair Rawlins-Fernandez [sic]? Oh, go ahead, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Like we did at the Council meeting, we can just clarify our *(audio interference)*.

CHAIR MOLINA: Okay. All right. If...if there's no objections from the body. So we'll just go ahead and keep the original vote then, and then I'll just do a roll call.

COUNCILMEMBER KAMA: Yes. Thank you, Chair.

CHAIR MOLINA: All right. Okay, let's call upon Staff, I guess either Mr. Paredes or Ms. Espeleta to do a roll call vote.

MS. ESPELETA: Yes, Chair. Starting with Councilmember Sugimura.



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COUNCILMEMBER SUGIMURA: Aye.

MS. ESPELETA: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. ESPELETA: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. ESPELETA: Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. ESPELETA: Councilmember King, excused. Councilmember Kama.

COUNCILMEMBER KAMA: Yes.

MS. ESPELETA: Councilmember Johnson.

COUNCILMEMBER JOHNSON: Aye.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

CHAIR MOLINA: Chair Molina.

CHAIR MOLINA: Aye.

MS. ESPELETA: Chair, eight ayes, one excused, Member King.

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

**EXC.: Councilmember King.**

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COUNCILMEMBER PALTIN: Aye.

MS. ESPELETA: Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. ESPELETA: Councilmember King, excused. Councilmember Kama.

COUNCILMEMBER KAMA: Yes.

MS. ESPELETA: Councilmember Johnson.

COUNCILMEMBER JOHNSON: Aye.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

MS. ESPELETA: Chair Molina.

CHAIR MOLINA: Aye.

MS. ESPELETA: Chair, you have eight ayes...I'm sorry, is it...yeah, eight ayes, zero noes, Councilmember King excused.

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

**NOES:** None.

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember King.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTION TO REMOVE ERIC CUOMO FROM THE COST OF GOVERNMENT COMMISSION.**

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CHAIR MOLINA: Okay. Mahalo, Ms. Espeleta. Okay, so there you have it, Members. I believe this concludes business for our Committee meeting for today. Very good and productive one, and we're just about right on time. So with that said, Chair would like to thank everyone's involvement here today; Administration, Committee Staff, our resource personnel, and last, but not least, you, Members, for your hard work today. So Ms. Espeleta, is there anything the Chair needs to be made aware of before we adjourn?

MS. ESPELETA: There is nothing further, Chair.

CHAIR MOLINA: Okay, well, that's it. Time is 11:56. The GREAT Committee meeting for Tuesday, January 18th, 2022 is now adjourned. . . .*(gavel)*. . .

**ADJOURN: 11:56 a.m.**

APPROVED BY:



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

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Transcribed by: Kaliko Reed

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CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 61 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 2nd day of March 2022, in Wailuku, Hawai'i



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Kaliko Reed