

HUMAN CONCERNS AND PARKS COMMITTEE

Council of the County of Maui

MINUTES

Online Only via BlueJeans

November 4, 2021

CONVENE: 1:32 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tasha Kama, Chair
Councilmember Yuki Lei K. Sugimura, Vice-Chair (arrived at 1:33 p.m.)
Councilmember Alice L. Lee, Member
Councilmember Tamara Paltin, Member
Councilmember Shane M. Sinenci, Member

STAFF:

Wilton Leauanae, Legislative Analyst
Lesley Milner, Legislative Analyst
Richard Mitchell, Legislative Attorney
Jean Pokipala, Committee Secretary
Pauline Martins, Committee Secretary
Kristeena Locke, Council Services Assistant Clerk

Evan Dust, Executive Assistant to Councilmember Kama
Lois Whitney, Executive Assistant to Councilmember Kama
Davideane Sickels, Executive Assistant to Councilmember Kama
Ellen McKinley, Executive Assistant to Councilmember King
Jordan Helle, Executive Assistant to Councilmember Sugimura

ADMIN.:

Mimi DesJardins, Deputy Corporation Counsel, Department of the
Corporation Counsel
Karla Peters, Director, Department of Parks and Recreation
Marci Sato, Deputy Director, Department of Parks and Recreation
Lisa Almeida, Parks Permit Director, Department of Parks and
Recreation

OTHERS:

Junya Nakoa
Nelson Armitage

PRESS:

Akaku Maui Community Television, Inc.

CHAIR KAMA: . . . *(gavel)* . . . The Human Concerns and Parks Committee will now come to order. And as we've heard our Staff say, Member Sugimura will be here a little late, so we will excuse her for now. But thank you, everyone, for joining today's meeting. My name is Tasha Kama, and I am the Chair of the Human Concerns and Parks Committee. And the meeting of November 4th, 2021 will come to order at 1:32 p.m. So this online meeting is being conducted in accordance with the Governor's most recent emergency

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proclamation on COVID-19. So please see the last page of the agenda for information on meeting connectivity. In addition, when your name is called, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. So before we continue, I just want to make sure to let everyone know that I am in my room, in my office, by myself. And so I'd like to be able to continue with roll call of our Committee Voting Members. Aloha 'auinalā and jamba [sic] to our Council Chair Alice Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. You know, actually I have a confession to make. The word is actually jambo, jambo.

CHAIR KAMA: Jambo.

COUNCILMEMBER LEE: But I didn't have the heart to tell everybody differently earlier for the first meeting.

CHAIR KAMA: Okay.

COUNCILMEMBER LEE: But it is really jambo, and it comes from Kenya in East Africa, Swahili language. I am here alone in my office and looking forward to your meeting. Thank you.

CHAIR KAMA: Thank you, Chair. And now we're going to say aloha 'auinalā and jambo to our Committee Vice-Chair Yuki Lei Sugimura.

VICE-CHAIR SUGIMURA: Jambo, oh, okay. Good afternoon, everybody. I'm in the County building surrounded by the many, many floors; but in this particular office, I am by myself.

CHAIR KAMA: Thank you.

VICE-CHAIR SUGIMURA: Thank you.

CHAIR KAMA: Aloha 'auinalā and jambo to our Councilmember Tamara Paltin, who would really like to go surfing today when our meeting ends early. So aloha, Tamara.

COUNCILMEMBER PALTIN: Aloha 'auinalā and jambo, broadcasting live and direct from the West Maui District Office. And I'm here about...now, 15 feet apart with...from my aide Angela.

CHAIR KAMA: Thank you. And now we're going to continue on to our East Maui Councilmember, Mr. Shane Sinenci. Aloha 'auinalā and jambo.

COUNCILMEMBER SINENCI: Aloha 'auinalā, Chair. Jamba and jambo of aloha to everyone from our virtual hale in East Maui. Aloha.

CHAIR KAMA: Aloha to you. And we also have Non-Voting Committee Members that should they decide to join us, they're certainly more than welcome, which is Member Gabe

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Johnson; and of course, our illustrious climate change queen Kelly King is in Glasgow representing us; and also Councilmember Mike Molina; and our Vice-Chair Keani Rawlins-Fernandez. They are not Members, but they are always welcome to show up and give their input to us. We also have from the Department of Corp. Counsel Mimi DesJardins, our Deputy Corp. Counsel, who will be here for all of our items.

MS. DESJARDIN: Good afternoon, everybody.

CHAIR KAMA: Aloha.

MS. DESJARDIN: Aloha.

CHAIR KAMA: We also have from the Department of Parks and Recreation, who's going to be speaking to us on all the items, Ms. Karla Peters. Aloha, Karla.

MS. PETERS: Aloha.

CHAIR KAMA: We have also with her Marci Sato, the Deputy Director. Aloha, Marci.

MS. SATO: Hello.

CHAIR KAMA: And we also have Lisa Almeida with the Parks Permit Office. Aloha, Lisa.

MS. ALMEIDA: Aloha, good afternoon.

CHAIR KAMA: We also have our Staff...

MS. ALMEIDA: Aloha, good afternoon.

CHAIR KAMA: Aloha. We also have our Committee Staff, Mr. Wilton Leauanae, our Legislative Analyst; Laksmi Abraham, our...another Legislative Analyst; Jean Pokipala, our Committee Secretary; Pauline Martins, our Committee Secretary; Richard Mitchell, our Legislative Attorney; and Kristeena Locke, our OCS Assistant Clerk. Aloha to all of you, and jambo. And like Member Sinenci says, jamba [sic] jambo. So aloha to all of you this afternoon. So thank you, Members, for attending today's HCP Committee meeting, and we have three items on the agenda today. We have HCP-37, which is actually Commercial Ocean Recreational Activities Beach Study [sic]; we have HCP-44, which is also another Commercial Ocean Recreational Activity, or CORA, Permits and Commercial Activity at County Beach Parks; and HCP-45 Commercial Ocean Recreation Activities, what we'll call CORA after today, Permit Management and Administrative Rules. So the schedule for today's meeting, Members, is that we are going to talk about all three items which involve CORA, or Commercial Ocean Recreational Activities. We have the Director of Parks and Recreation, Karla Peters, and her Staff with us here today, who will be providing a presentation of the three items, which include the CORA Beach Park Study, Permits and Commercial Activities at the Beach Parks, and Permit Management and Administrative Rules. So Members, if there are no objections, the order for this meeting is going to be as follows. We'll first have the Department provide

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us with its presentation relating to each of the three agenda items. We will then have public testimony on the three agenda items and allow clarifying questions from the Members. And then after public testimony, we'll close public testimony, and then finally we'll have a discussion of each of the items on the agenda. And so if you'd also like to write down some of your questions you might have while the Department's doing their presentation, you can ask those after public testimony is closed. So Members, do we have any objections to today's session?

COUNCILMEMBERS VOICED NO OBJECTIONS

HCP-37 COMMERCIAL OCEAN RECREATIONAL ACTIVITIES BEACH PARK STUDY (MISC)

HCP-44 COMMERCIAL OCEAN RECREATION ACTIVITY (CORA) PERMITS AND COMMERCIAL ACTIVITY AT COUNTY BEACH PARKS CC 21-388

HCP-45 COMMERCIAL OCEAN RECREATION ACTIVITIES (CORA) PERMIT MANAGEMENT AND ADMINISTRATIVE RULES CC 21-389

CHAIR KAMA: Thank you. So right now we'll have our presentation from the Planning Department, and Director Peters and members of her Department will speak on all three items. So the Committee is in receipt of a Miscellaneous Communication dated...going back to June 21st, 2021, from the County Clerk, transmitting Contract C704 [sic], relating to the Commercial Ocean Recreational Activities Beach Park Study from the Department of Parks and Recreation, Permits and Enforcement Division. HCP-44 is-- let me see where we are at...okay, sorry about that--Commercial Ocean Recreational Activities, or CORA, Permits and Commercial Activity at County Beach Parks. The Committee is in receipt of the County Communication 21-388 from Councilmember Kelly King, relating to the Commercial Ocean Recreational Activity permits and other commercial activity at County beach. And then the final item on the agenda is HCP-45, Commercial Ocean Recreation Activities, or CORA, Permit Management and Administrative Rules. So the Committee is in receipt of a County Communication 21-389, from Councilmember Tasha Kama, relating to Commercial Ocean Recreational Activities permit management and administrative rules. So Members, I will now turn over the time to Director Peters for her remarks and presentation on all three items. So Director Peters, would you like to just provide us with an update and your presentation.

MS. PETERS: Aloha, Chair, and aloha, Committee Members. Thank you for having --

CHAIR KAMA: Aloha.

MS. PETERS: -- thank you for having us here today to discuss the Commercial Ocean Recreational Activities. Our presentation will cover all three agenda items. And if I may share my screen right now, we can start our presentation.

CHAIR KAMA: Please do.

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MS. PETERS: Thank you, Chair. As mentioned, we're going to be going over all three agenda items. Effective management of the County of Maui's beach parks is a necessary element in ensuring optimum and sustained recreational experiences by residents and visitors alike. With continued growth in resident and visitor populations of Maui, new demands are being placed on the carrying capacities of existing beach parks, and the overall sustainability of these valuable community resources is being threatened. Beach Park carrying capacities may be approached during peak user hours with limited facilities and infrastructure, and environmental constraints, generating competition for and conflict among existing park resources. These conditions have raised concern regarding the overall effectiveness of the current...of the County's current beach park management framework. Recognizing this challenge, the County of Maui, through its Council and Department of Parks and Recreation, reviewed pertinent sections of the Maui County Code relating to beach park management. A specific opportunity for better managing parks was identified through the Council's adoption of ordinance 3143, year 2003. This ordinance established a framework for managing commercial ocean recreation activities on County property, including both beach parks and beach parks access points. So the 2006 CORA study was to collect, organize, and analyze beach park data for a representative sample group of County-owned beach parks. To ensure that the study results were both useful and credible towards facilitating the rule-making process, the following study goal was established; ensure that the data collection and analysis process is appropriately integrated with a sound stakeholder and public input process. Limiting the scope of work to the 17 selected parks based on available funding allowed for the intensive analysis needed to develop a sound foundation for formulating the draft Administrative Rules, which included recommendations on capacities, permit procedures, prohibited areas and activities, and created the Park Enforcement Program. The 2021 Commercial Ocean Recreational Beach Park Study is underway and in the preliminary stages as we work on refining the scope of services and goals of the project. The study will focus on the 12 County parks not included in the 2006 study. As the Department recognizes that community outreach will be vital...will be a vital part of this study, it is identified in the scope of the consultant's services shown on this slide here. Here we have a brief overview of the CORA permits. Permits are issued annually for a period not to exceed 12 months. We process permits in accordance with the CORA Administrative Rules. This process is identified in the Administrative Rules 102-10. Currently, there are 11 parks identified on the Island of Maui which CORA activities are prohibited, and they're listed here on this slide, and all permits are subject to capacities and operating days and hours. In this listing here, parks were included within the Community Plan area if they have a license that were issued for CORA. The long-term goal was to reach the designated number of permits through attrition. The following five slides highlight the current list of permits also found on the County website. This slide is showing the surfing permits, we have here scuba permits, snorkeling and windsurfing permits, kitesurfing permits, and the kayaking permits. Department enforcement efforts in the field are conducted by the Parks security officers. The different beach parks for which CORA permits are issued are regularly patrolled as able during the week for CORA monitoring and also, when required for enforcement. The Department is currently working to develop possible legislative updates, and is awaiting the results of the 2021 CORA study to finalize any recommended changes to both the

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current ordinance and Administrative Rules. An Ocean Environmental Protection and Cultural Awareness, or OEPACA training program, is defined in the Administrative Rules as shown on this slide. This training program is reinstated in this current fiscal year, and highlights the reef and environmental concerns, as well as the cultural history of ocean activities in Hawai'i. The Department also incorporated ocean safety for the review of emergency resources and safety practices. This year's training was held on October 6, and included presentations by Battalion Chief Jeff Giesea, Ekolu Lindsey, and Hokuau Pellegrino. All CORA operators and instructors are required to attend one of the sessions this fiscal year. Thank you, Chair. This concludes our presentation.

CHAIR KAMA: Thank you, Ms. Peters. And so Members, as I've said, we've had our presentation, and now we are going to go into public testimony. So do we have anyone signed up, Staff, to testify?

MS. POKIPALA: No, Chair, we have no...

MR. LEAUANAE: Thank you, Chair. There are no...

COUNCILMEMBER PALTIN: But I see a telephone number. Is that a resource?

CHAIR KAMA: I don't...

COUNCILMEMBER PALTIN: There's a last four digits 0254.

MS. PETERS: Aloha, Chair.

CHAIR KAMA: Yes.

MS. PETERS: That is Lisa Almeida, our Parks *(audio interference)*

CHAIR KAMA: Thank you. Thank you, Karla.

MS. PETERS: Thank you.

CHAIR KAMA: Okay. So is there anyone there in our meeting world that would like to testify? I'll give you a minute or so. Last call for testifiers. Okay. I guess if we don't have any testimonies, we just going to continue on with our meeting. So if there's no testifiers, I'd like to be able to close...

MR. LEAUANAE: Excuse me, Chair?

CHAIR KAMA: Yes.

MR. LEAUANAE: May we request that testimony still be kept open? We may have some testifiers coming in...if that's okay with the Chair. Let me...get back to you. Can we call for a brief recess?

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CHAIR KAMA: Yes, of course. So we're going to take a five-minute recess. The HCP Committee is now in recess. . . .(gavel). . .

RECESS: 1:49 p.m.

RECONVENE: 1:56 p.m.

CHAIR KAMA: . . .(gavel). . . The HCP Committee will now reconvene. It is now 1:56 p.m. So at this time we're going to have public testimony. So how many testifiers do we have signed up, Staff?

MR. LEAUANAE: Thank you, Chair. There are currently three testifiers on the list.

CHAIR KAMA: Okay. Well, thank you. So let me continue to read the instructions for our testifiers. Thank you. So oral testimony via phone or video conference will be accepted. Testifiers wanting to provide video testimony should join the online meeting via BlueJeans meeting link bluejeans.com/221418021 as noted on today's agenda. Testifiers wanting to provide audio testimony should dial 408-915-6290 and enter meeting code 221418021, also noted on today's agenda. Written testimony is highly encouraged. Instructions on how to submit testimony can also be found at mauicounty.us/testify. Is somebody...

UNIDENTIFIED SPEAKER: Hello?

CHAIR KAMA: We are in our testimony instructions mode. So if you could just mute yourself until we are finished, and we'll have our testifiers. So oral testimony is limited to three minutes per item. At the end of your time, the alarm will sound and this is what the alarm sounds like. Staff, could you please sound the three-minute warning please? Thank you. Did you hear that? We didn't hear the...the alarm, Staff.

UNIDENTIFIED SPEAKER: Hello.

MR. MITCHELL: Chair Kama, Wilton's having connectivity issues.

CHAIR KAMA: Okay.

MR. MITCHELL: He's trying to reconnect.

CHAIR KAMA: Oh, okay.

UNIDENTIFIED SPEAKER: Hello.

CHAIR KAMA: Yes?

UNIDENTIFIED SPEAKER: Hello, hello?

CHAIR KAMA: Yes.

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UNIDENTIFIED SPEAKER: Yeah, so am I...am I just waiting for my turn?

CHAIR KAMA: Yes, you are, and we're still in the --

UNIDENTIFIED SPEAKER: Okay. Thank you.

CHAIR KAMA: -- testimony instruction phase. Thank you. So Staff, did you sound the alarm so people know what that sounds like? Okay. So hopefully when that issue comes up, we'll be able to hear Staff play that. So if you are still testifying (*audio interference*) I'm not sure where that's coming from. Is everybody's mic muted? Wow, aren't we having fun today. So if you're still testifying beyond your three minutes, I will kindly ask you to complete your testimony. When testifying, please state your name, and if you are testifying on behalf of an organization or are a paid lobbyist, please inform the Committee. Please be mindful of the use of chat during the meetings. Chat should not be used to provide testimony or chat with other testifiers. If you are here to provide testimony, please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you are done testifying, you'll be asked to please disconnect from the call. However, you are welcome to continue to view the remainder of the meeting on *Akakū* Channel 53, Facebook Live, or on mauicounty.us. Participants who wish to view the meeting only without providing testimony, please also disconnect at this time, and instead view the meeting on *Akakū* Channel 53, Facebook Live, or visit mauicounty.us/agendas. Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. I remind Committee Members, Administration, and the public to please be patient if we run into any technical issues. So Members, I'd like to proceed with oral testimony. And the Staff will be monitoring people joining today's meeting by phone and by video, and we'll do our best to take each person up in an orderly fashion. So Staff, would you please call our first testifier?

. . . BEGIN PUBLIC TESTIMONY . . .

MR. LEAUANAE: Anonymous, followed by Junya Nakoa.

CHAIR KAMA: Junya, you ready?

MR. LEAUANAE: Anonymous first, Madam Chair.

CHAIR KAMA: Okay. Anonymous is first. Is Anonymous...is Anonymous here? Okay. Why don't we just continue on with Junya. Junya, are you here? Okay.

MR. NAKOA: Yeah, howzit. According to the...the...what you guys just when...what you just when tell, we supposed to let you guys know on the chat if we going testify. So I never let you guys know. I just was listening. Sorry.

CHAIR KAMA: Okay.

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MR. NAKOA: Yeah, I stay Honolulu. Yeah. Maybe later on I going testify, but right now I not, you know what I mean. I just like listen. Okay. Okay, bye.

CHAIR KAMA: Okay. Thank you. Our next testifier.

MR. LEAUANAE: The next testifier is with the phone number ending in 0866.

MR. ARMITAGE: Is that me? Hello?

CHAIR KAMA: Is 0866 your number? Is that the last four digits?

MR. ARMITAGE: Yeah, 0866.

CHAIR KAMA: Okay.

MR. ARMITAGE: Yes.

CHAIR KAMA: Continue and proceed.

MR. ARMITAGE: Aloha, Councilmembers.

CHAIR KAMA: Aloha.

MR. ARMITAGE: My name is Nelson Armitage, and I am the Minister of Foreign Affairs of the lawful Hawaiian Government. I'm calling on my concerns about the rules that has been placed, which I believe needs some...at least a little more understanding towards understanding to U.S. public law 103-115, support of, in truth, recorrecting the...and in support of the Committee's legal understanding the depravations that's been placed on the rights of the Hawaiian people and the activities that's going on without consent from the President of the United States according to the rule and its laws based on Title 48 --

CHAIR KAMA: Mr. Armitage, what item number are you testifying on?

MR. ARMITAGE: Actually, I'm testifying on all items, please, if it's okay?

CHAIR KAMA: Okay. So we're talking about our CORA permits.

MR. ARMITAGE: Yes.

CHAIR KAMA: Okay.

MR. ARMITAGE: Your permits and shoreline management.

CHAIR KAMA: . . .*(inaudible)*. . .

MR. ARMITAGE: Yes, ma'am.

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CHAIR KAMA: Thank you. Yes, thank you, continue.

MR. ARMITAGE: With technology today being fascinating how we can communicate in this fashion, and I just wish that the modems would keep up in time. But I really want to say thank you very much for allowing me to speak and to support what you folks are trying to create. But I believe there's more to the legal understanding of the Council's interpretation of its rules and laws, and I am more willing to sit and communicate with you folks and appear in person if I have to and provide evidence of the rules that's coming out of Congress as well, the signed documents that's been absolutely surreptitiously been put into place without Congressional passage that is part of the U.S. Commissions...the Hawaiian Homes Commissions Act. So there's a lot of misinformation that's going on, and I really want to just support you folks, to get you folks in loop of understanding because there is the good things that you guys are doing, and then there's some good things that should be...with support of understanding the rules that can really make it fair and easy to the permit process and everything else that comes along with your folks' decisions. So if that's okay with you folks. I'm here to help and support. I know some of you very well. and I wish you guys would please reach out and touch bases so that we can communicate and get things done correctly if it's okay with all of you.

CHAIR KAMA: Mr. Armitage, if you would leave your contact information with our Staff, I'm sure that if any of our Members would like to reach out to you that they'd have some way of contacting you. So Members, do we have any questions for Mr. Armitage at this time? Yes, Ms. Lee.

COUNCILMEMBER LEE: Hey, Nelson.

MR. ARMITAGE: Aloha, Alice. Aloha.

COUNCILMEMBER LEE: Are you talking about whether or not it's lawful to issue permits for ocean activities on the shoreline, or are you talking about something else?

MR. ARMITAGE: In general, Alice, yes. There is...how do I put it besides western hypocrisy. Let me try and put it in the proper tone where what you folks are committed to and planning, there is some missing step and elements that needs to be at least, among you folks, look at and decide if what you're doing is within the framework of both tables; the domestic level and the international part that we are absolutely aware of. And that's...to me, that is the most important element of understanding the responsibility and obligation of all Members on the table because Hawai'i, as we all know, the history--and I don't want to ever repeat that history, but it ain't nice--but the history has a lot of dark shadows. And the way it's been today tinted is by using the Committee that is design today to shade around those dark sides. And that's...for me, that's not right, and that's wrong. And I'm not speaking on my...on what I think is right or wrong, I'm speaking along the lines of the law and the rules that's applicable and not applicable. Because HRS--if you don't believe me you guys can...I'd be more than happy to come share this with you folks--HRS has no merits. And that's one of the most important elements to

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realize because on the international spectrum, it's a doctrine that's been so well underscored it's not funny. And it's embarrassing, to be quite honest, among our people. So that's my...you know, that's not my interpretation, that's the law I'm speaking on. So I just want to help you folks understand it so that we can create a better environment and help our people to understand that these rights...is like Indians. You cannot go to South Dakota and go jump in the water and go start taking their salmon. You cannot go exercise their culture. You cannot do the things that is absolutely written in law for the people of that country, of the Indian countries. Our interpretation here in Hawai'i is kind of...it's not right, let's put it that way. I want to be nice about the issues, but it's not nice. So I just want to bring that shadow so that you understand that creating these rules, administratively or not, there is a process that can hold accountability that is not good when you don't know the rules. And that's western hypocrisy at its best. They give you this direction, and yet they didn't even tell you how this foundation was put together so that you can protect yourself if any repercussions would come back on all matters. So I just want to...I know this may sound Chinese to a lot of people but, you know, it's okay. Because we all need to understand there's only one thing that we all can do, and that's the right thing. And I'm here to help to do the right thing with all of you, okay.

COUNCILMEMBER LEE: Okay.

CHAIR KAMA: Thank you.

COUNCILMEMBER LEE: Thank you.

MR. ARMITAGE: Okay.

CHAIR KAMA: So Nelson, don't forget to leave us your contact information, okay?

MR. ARMITAGE: I will. So thank you for your folks' time, and I appreciate you guys' aloha. Thank you.

CHAIR KAMA: Thank you.

MR. ARMITAGE: Bye-bye.

CHAIR KAMA: Bye. Staff, our next testifier?

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

CHAIR KAMA: Okay. I thought Junya was going to testify. Is there anyone else wanting to testify at this time? I don't see anybody, I don't hear anybody. So Members, seeing that there are no more individuals wishing to testify, without objection, I will now close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS

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. . .END OF PUBLIC TESTIMONY. . .

CHAIR KAMA: Thank you. So also, if there are no objections to receiving written testimony into the record.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KAMA: Thank you. So at this time, Staff will ensure that the only required personnel, such as Councilmembers, Staff, Administration, and nominees invited to participate will remain on the call, everyone else will be disconnected at this time. So thank you to our testifiers, and thank you, Members, for your patience as we got off to a pretty rocky start today.

HCP-37 COMMERCIAL OCEAN RECREATIONAL ACTIVITIES BEACH PARK STUDY **(MISC)**

CHAIR KAMA: So we've heard the presentation from the Department of Parks and Recreation. So I would like to be able to entertain questions from our Members now that public testimony is closed. Does anyone have any questions for Director Peters or the Deputy Director Marci, or Lisa Almeida? Yes, Chair Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Karla, Director, I was --

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER LEE: -- looking at your schedule. I was looking at your schedule...or am I talking to Marci? Marci...anyway, who do I speak to regarding the schedule?

MS. PETERS: Chair, thank you. Thank you, Chair Lee, you can address it to all of us, and then we'll see who's --

COUNCILMEMBER LEE: Oh, okay.

MS. PETERS: -- appropriate. Thank you.

COUNCILMEMBER LEE: Okay. So I notice that there are dozens and dozens of activities. Do you find that they are conflicting with the residents wanting to recreate on these same beaches and parks?

MS. PETERS: Thank you, Chair. I'm going to turn that over to our Park Permits Officer, Lisa Almeida, who handles and fields a lot of the complaints that do come through to our Park Enforcement Section.

CHAIR KAMA: Lisa?

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MS. ALMEIDA: Can you put me on speaker?

MS. PETERS: Chair, I have her on speaker here. She got dropped from the call.

CHAIR KAMA: Oh, sorry, Lisa.

COUNCILMEMBER LEE: Did she hear my question? Lisa, are there a lot of complaints from residents who have to compete with these organized activities on the beaches?

MS. ALMEIDA: Yes, Chair. From time to time we have conflict. It's really...it's probably a little bit seasonal, so I'm not sure. Thank you, Councilmember Lee. A little bit seasonal, and also driven by wave conditions.

COUNCILMEMBER LEE: Oh, okay. But even though...I notice their times are confined to like the mornings and they...they don't get to use the beaches and parks in the afternoons, the late afternoon, and on Saturday afternoons and all day Sunday and holidays, right? So the organized...the CORA people are restricted to certain times of the day, and still there's a conflict with residents, is that it?

MS. ALMEIDA: Yes, Councilmember Lee. We have had some feedback where there's...it depends probably on the park and on the activity in question. So Kanaha Beach Park, for example, they cannot...CORA operators are not able to utilize that park until after 11:00 a.m. But yes, you're right, there are hours of restriction as well as Sundays and holidays. But still we seem to have...and again, it depends on the season and the surf, but we do appear to have conflicts in some particular park areas.

COUNCILMEMBER LEE: So are you making adjustments to the schedule, or how are you handling all this?

MS. ALMEIDA: We're doing a lot of monitoring and patrolling to ensure that everyone that is out there is an actual permitted operator. So we do have some instances where we're finding that people are out there at the beach parks accessing through County infrastructure that do not have County CORA permits.

COUNCILMEMBER LEE: So they get fined?

MS. ALMEIDA: Yes. If we're able to establish an adequate case, we take enforcement action against them, correct.

COUNCILMEMBER LEE: Okay. Thank you. Thank you, Madam Chair.

CHAIR KAMA: Yes, Mr. Sinenci.

COUNCILMEMBER SINENCI: Oh, mahalo, Chair. Yeah, I just had one question for Director Peters. You know...and of course, our County beach parks are a great place for our visitors to stop and have their lunches during their visit. My question was about those visitors that come as a tour group. Do tour vans require a CORA if they're just using

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the park for lunch?

MS. PETERS: Chair, thank you. Thank you, Member Sinenci. I'll let Lisa answer that question as well.

MS. ALMEIDA: Good afternoon, Member Sinenci. So right now, tour vans are not categorized under the Commercial Ocean Recreational Activities permit structure. So that is something that's under further review and discussion.

COUNCILMEMBER SINENCI: Oh, okay. Okay, great. Thank you. Thank you, Chair.

CHAIR KAMA: Member Sugimura, and then Member Paltin.

VICE-CHAIR SUGIMURA: Thank you, Chair. So I'm glad to see this subject item come up. Maybe it was my second year in office, and this came up as a discussion, and we had lots of testifiers. And at that time I heard from...there were people who were trying to get CORA license or a CORA permit, but were not able to, and there was a wait list. So one question is, is there still a wait list?

MS. PETERS: Thank you, Chair. Thank you, Member Sugimura. I'm going to defer that to Lisa again as well.

MS. ALMEIDA: Hi, good afternoon, Member Sugimura. Currently, we're not keeping a wait list. But we do have regular inquiries from people on how to obtain a County CORA permit, yes.

VICE-CHAIR SUGIMURA: And according to your presentation, that existing permittees have to apply every year? So do they ever lose their license, or is it just an automatic that they get their permit?

MS. ALMEIDA: Currently it is...they can decline to renew, and if they decline to renew, then they are not eligible to add that back. And also, they may lose their permit should they violate the conditions of the permit or the CORA Administrative Rules or ordinances.

VICE-CHAIR SUGIMURA: And have you...I guess this is another Lisa question. So the other thing I remember is that there was a big demand, I guess, to try to get on the list, but because there...you weren't taking any more, there was kind of an adversarial thing going on. Did all of that get resolved?

MS. ALMEIDA: I think that to...as Director Peters had mentioned, we have a little bit of a situation where we're working through to reach those capacities that were identified in the Administrative Rules through the 2006 study and the community feedback. So the attrition process is helping us to reach those goals. When we do look at the capacities for different parks, we take a holistic approach to ensure that there's enough infrastructure available. And that was one of the questions that have been posed to the Department is, what happens when all the permit holders come at the same time for all the activities. And so that's where we try to take a holistic approach when we look at

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the carrying capacity of the different beach parks for these types of uses.

VICE-CHAIR SUGIMURA: Okay. One last question. And at that time, the CORA permit holders were trying to sell their spot. And I remember seeing an ad--and I hope you will check with all the...it's much more organized, by the way, than what we saw years ago, so congratulations for that--but people were trying to sell their permit, CORA permit, for like \$700,000, or it was a huge amount of money, and nobody would own up to it. But there were ads that we had seen online. So I hope that you will check to make sure that the permit holders that you have are definitely being responsible for it and not trying to sell their spot. Because they are, after all, selling our beach park for their use and the privilege, I think, which they shouldn't do, so...will you do that?

MS. ALMEIDA: Member Sugimura, yes --

VICE-CHAIR SUGIMURA: Can you check with every single...

MS. ALMEIDA: -- we're...oh, sorry.

VICE-CHAIR SUGIMURA: No, go ahead.

MS. ALMEIDA: Oh, yes. Thank you, Vice-Chair Sugimura. We are very cautious about our renewal process and the CORA...current CORA permit holders go to great lengths to keep their renewals in place, and it's the original permit holders.

VICE-CHAIR SUGIMURA: Thank you.

CHAIR KAMA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Director Peters, Deputy Director Sato, and Ms. Almeida. And thank you for your help with Hanakao'o Beach Park and giving it back to the peoples. I just had a question, you know, some folks had complained to me--this wasn't recently, I think it was probably before the pandemic--because Mr. Victorino...or Mayor Victorino had stopped the CORA activities on Sundays, I guess, and that was in the news. And some folks were at Papalaua Wayside Park, and there was some sort of company conducting...I'm not sure what it was that they were conducting, but this family had set up a pop-up tent, and then they saw the activities going down. And in fact, they said some of the patrons of the activity even like went under their tent for shade and stuff, and they're like hey, I didn't think you guys are even supposed to be operating on a Sunday. And so that would be probably a non-permitted person? Are the permitted folks required to display their permit in any way while they're conducting the activity so folks know if people are permitted or not?

MS. PETERS: Thank you, Chair. Thank you, Member Paltin. I'll defer that to Lisa again.

MS. ALMEIDA: Hi, good afternoon, Member Paltin. Yes, they are required to display their permit in their vehicles that they use for their commercial operation, as well as adorn rash guards and equipment that is labeled with their company.

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COUNCILMEMBER PALTIN: Okay. So if anybody is watching the show, and there's no permit being displayed in the vehicle or something like that, then they're not CORA permitted. And is there like a way that they could follow up if like they have a license plate number or a...you know, a brand name of a company?

MS. ALMEIDA: Oh yes, absolutely. So we have our enforcement number, which is the 808-270-8070 phone number. And that number, if we're not able to respond at that time, then we will make sure to observe and monitor to follow up on the complaint, sometimes for up to a week or more, to establish.

COUNCILMEMBER PALTIN: Okay. And then if somebody is cited for doing the activity without a permit, I was wondering if you could walk us through the process of what occurs.

MS. ALMEIDA: Okay. Thank you, Councilmember Paltin. So what occurs is we typically have to observe and monitor for multiple days to gather evidence to establish that there is an illegal activity occurring, at which time a complaints and summons is issued for a District Court. The District Court date is scheduled in accordance with the court calendar, and the complainant will need to report to court at the scheduled date and time. If its West Maui, it will be at Lāhainā District Court; and if it is in any other district, similar to the Police Department, it will be at Wailuku District Court. And then we will work with the Prosecuting Attorney's office and represent the County of Maui, and the plaintiff will present their case.

COUNCILMEMBER PALTIN: Okay, great. And this is, I guess, a little bit on a separate track because I mean, I like what you're...you guys are doing and things. But say somebody is repeatedly cited, and the court repeatedly lets them...doesn't pursue charges, are we going to continue to cite these folks, or would that just be a waste of time?

MS. ALMEIDA: What we're currently working...oh, sorry. Thank you, Councilmember Paltin. What we're currently working to do is to develop a process with the Prosecuting Attorney's office to establish a pattern of behavior to show that there have been repeat offenses, regardless of the disposition of that particular case, to show that over a period of time there are repeat offenses from the same plaintiff.

COUNCILMEMBER PALTIN: Okay. I mean, I guess maybe I should be a little bit more specific. Like if the case is repeatedly thrown out because they're under the jurisdiction of the lawful Hawaiian Government and the court deems they don't have jurisdiction over that, would we continue to pursue that?

MS. ALMEIDA: This particular case, Member Paltin, I don't have the information on that. I'll probably defer to Karla and Corporation Counsel.

MS. PETERS: Thank you. I was wondering if we could defer that to Mimi. Maybe she could provide some insight on that question.

MS. DESJARDIN: Chair? So all I can say about that is that in my many, many years of

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courtroom experience, I've never seen a court say I don't have jurisdiction over the Hawaiian Kingdom...in any case. And the reason why is because the Appellate Courts have established case law which makes it very clear that that, at least in its current form, is not recognized as a sovereign state. So if a case goes to court and it's thrown out, it's generally thrown out on a technicality, or the prosecutors failed to meet their burden under the law, or the party has a defense, a specific defense that the court feels satisfies an excuse or justification for conduct. But it would not be on a jurisdictional basis.

COUNCILMEMBER PALTIN: Okay. And if the whatever the basis is that it keeps getting thrown out on, we're going to keep citing those folks or...just wondering.

MS. DESJARDIN: So my suggestion would be yes, to keep citing them. Because every case is very fact specific. You may go to court and somebody doesn't show up, one of the officers that's required as a witness isn't there, the case gets thrown out...I mean, there's lots of reasons why cases get thrown out of court. But to just simply say well, we're just not going to cite that person any longer doesn't really...it doesn't jive with the mission, both of the Prosecuting Attorney's office, the Judiciary, or I think the Parks Department.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR KAMA: Anybody else have any questions? I just have a couple of questions I wanted asked. I'm not sure who is this going to be to, but what is the cost of a CORA permit, and does it...is it dependent upon anything, or how do you...how do you figure out how much you're going to charge for these permits?

MS. PETERS: Thank you, Chair. I'll let Lisa explain that process.

MS. ALMEIDA: Thank you, Chair. So we (*audio interference*) rates and fees with the budget process, and the current rate and fee for a CORA permit is \$1,000 for the first two permits issued to a single company, and \$500 for each additional permit thereafter.

CHAIR KAMA: So a company could have more than one permit? What are we permitting...just for them to do business in our parks, for them to use certain recreational...to...I mean, what are we...

MS. ALMEIDA: (*audio interference*)

CHAIR KAMA: Okay.

MS. ALMEIDA: Okay. Thank you, Chair. How we issue the permits is site specific and activity specific. So if you are going to do surfing, but you're going to do it at four beach parks, then you would need four permits.

CHAIR KAMA: Okay. So that means that we know what vendor is...should be at...at what park on any given day, or week, or weekend?

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MS. ALMEIDA: Yes, that's correct. And it's the same as the list that we have now published at the County of Maui website.

CHAIR KAMA: So how do we know when enough is too much? Do we need to have our people complain about that before we decide that oh, we shouldn't be issuing any more permits?

MS. ALMEIDA: I think, Chair, that's in large part, and I'll also defer to Director Peters if she wanted to add. But I think that's a big part of the CORA study, both the original study and the study that's underway to involve the community input and assess the different environmental factors and infrastructure factors that play a role in what that beach park can sustain.

CHAIR KAMA: So at this time, do we have a vendor to beach park ratio of any kind?

MS. ALMEIDA: Just the capacities that were established in the 2006 CORA study. So there are currently beach capacities, and there may be a recommendation to make amendments to those capacities as a result of the 2021 study. But the 2021 study is focusing on apportionment of those beach parks.

CHAIR KAMA: So as it now stands, according to your presentation, you will be doing a study over the next 12 months, and you're going to be doing community outreach and have public hearings too?

MS. ALMEIDA: There is a component, yes, Chair, in the beach study for community input through various...we're refining right now the details of how to best go about obtaining the community input to make sure that we have gathered the true feeling of the community for those different geographic areas.

CHAIR KAMA: Okay. Thank you. Members, any other questions for our Parks Department and their Staff? Yes, Ms. Sugimura.

VICE-CHAIR SUGIMURA: I just want to...I want to thank the Parks Department because this meeting is way different than the first one I heard years ago, and it was really chaos at that time. And I do hope there's not abuse from the...that's what I was...that's what I remembered. So I look forward to your community outreach meetings so we can hear from what --

CHAIR KAMA: I do too.

VICE-CHAIR SUGIMURA: -- the users are saying, which is our residents, and I hope that there is a professionalism from the permit holders as they utilize our County taxpayer facilities and parks, and are sensitive...I hope they're sensitive to not only their business, but the residents that are trying to share the same space. So thank you very much. I look forward to your announcement for when you're going to have your community outreach, and I would like to attend. Thank you.

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CHAIR KAMA: Member Sinenci?

COUNCILMEMBER SINENCI: No further questions, Chair. Mahalo to the Department for their presentation.

CHAIR KAMA: Yes, thank you. So I don't see anyone else having questions. So at this time I think...I want to thank Director Peters and Lisa for answering most of our questions. And we are looking forward to your community outreach because I think we all want to be there and hear how much you're progressing and what's on the hearts and the minds of our people. So Members, if there are no objections, I would like to be able to defer HCP-37, which is Commercial...

COUNCILMEMBERS VOICED NO OBJECTIONS

ACTION: DEFER pending further discussion (HCP-37).

HCP-44 COMMERCIAL OCEAN RECREATION ACTIVITY (CORA) PERMITS AND COMMERCIAL ACTIVITY AT COUNTY BEACH PARKS (CC 21-388)

HCP-45 COMMERCIAL OCEAN RECREATION ACTIVITIES (CORA) PERMIT MANAGEMENT AND ADMINISTRATIVE RULES (CC 21-389)

CHAIR KAMA: Okay. Thank you very much. And I would like to be able to file HCP-44 and -45, which is a Permit and Commercial Activity at County Beaches and the Management and Administrative Rules. Because my sense is that when that study is done, it will probably incorporate HCP-44 and -45 also. I think...do I need a --

COUNCILMEMBER LEE: So moved.

CHAIR KAMA: -- motion to file?

COUNCILMEMBER LEE: So moved.

CHAIR KAMA: Oh, thank you. Thank you.

VICE-CHAIR SUGIMURA: Second.

CHAIR KAMA: Thank you. It's been moved by Member Lee and seconded by Member Sugimura to file HCP-44 and -45. Any discussion? Seeing none, we'll call for the vote. All those in favor of filing HCP-44 and -45, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR KAMA: All those opposed. Hearing and seeing none, the motion is carried.

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

EXC.: None.

ACTION: Recommending FILING of communications (HCP-44, HCP-45).

ADJOURN: 2:35 p.m.

Lake Kona

hcp:min:211104:mt

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CERTIFICATION

I, Marie Tesoro, hereby certify that pages 1 through 21 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 8th day of December 2021, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read "Marie Tesoro", is written over a horizontal line.

Marie Tesoro