

# GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

## MINUTES

Online Only via BlueJeans Link

June 14, 2022

**CONVENE:** 9:00 a.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair (arrived  
at 9:35 a.m.)  
Councilmember Tasha Kama, Member  
Councilmember Kelly T. King, Member  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**EXCUSED:** Councilmember Gabe Johnson, Member

**STAFF:** Kasie Apo Takayama, Legislative Analyst  
James Forrest, Legislative Attorney  
Brittney Sunderland, Legislative Analyst  
Pauline Martins, Committee Secretary  
Jean Pokipala, Council Services Assistant Clerk  
Lenora Dinneen, Council Services Assistant Clerk

Denise Fernandez, Council Aide, Lanai Council Office  
Mavis Oliveira-Medeiros, Council Aide, Hana Council Office

Anabelle Hernandez, Executive Assistant to Councilmember Molina  
Axel Beers, Executive Assistant to Councilmember King  
Daniel Kanahele, Executive Assistant to Councilmember King  
Davideane Sickels, Executive Assistant to Councilmember Kama  
Ellen McKinley, Executive Assistant to Councilmember King  
Evan Dust, Executive Assistant to Councilmember Kama  
Jordan Helle, Executive Assistant to Councilmember Sugimura  
Kainoa Kaumeheiwa-Rego, Executive Assistant to Councilmember  
Rawlins-Fernandez  
Laura McDowell, Executive Assistant to Councilmember Molina  
Evan Dust, Executive Assistant to Councilmember Kama  
Lois Whitney, Executive Assistant to Councilmember Kama  
Sarah Pajimola, Executive Assistant to Councilmember  
Rawlins-Fernandez  
Dawn Lono, Executive Assistant to Councilmember Sinenci

**ADMIN.:** Keola Whittaker, Deputy Corporation Counsel, Department of the

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Corporation Counsel

Richelle Thomson, First Deputy Corporation Counsel, Department  
of the Corporation Counsel

Michele Yoshimura, Budget Director, Office of the Mayor (GREAT-55)

Guy Hironaka, Real Property Management Specialist, Department  
of Finance (GREAT-55)

Reid Pursley, Assistant Chief, Department of Police (GREAT-44)

Carmelito Vila, Motor Vehicle and Licensing Administrator,  
Department of Finance (GREAT-44)

Andrew Martin, Prosecuting Attorney, Department of the  
Prosecuting Attorney (GREAT-44)

Jordan Hart, Deputy Director, Department of Planning (GREAT-44)

Jordan Molina, Director, Department of Public Works (GREAT-44)

Karla Peters, Director, Department of Parks and Recreation  
(GREAT-44)

Lisa Almeida, Parks Permit Officer, Department of Parks and  
Recreation (GREAT-44)

**OTHERS:** Phil Feliciano, Director of Operations, Bike Maui (GREAT-44)  
Lewis Upfold, Haleakala Bike Company (GREAT-44)  
Albert Perez (GREAT-44)  
Pane Meatoga  
Kai Nishiki  
Dick Mayer (GREAT-44)  
Deborah Lynch (GREAT-44)  
Plus (2) other people

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

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CHAIR MOLINA: . . .*(gavel)*. . . The Government Relations, Ethics, and Transparency Committee meeting for Tuesday, June 14, 2022, will now come to order. The time is 9:00 a.m. I'm Mike Molina, Committee Chair, and for the record, I'm transmitting out of the Pā'ia District office. And I'm accompanied by District Specialist Anabelle Hernandez. And we have no testifiers for our agenda items this morning. Let's right now go down and do our Committee roll call, and check in with our Council Chair Alice Lee, who is also going to give us the greeting for the day. Aloha and good morning, Chair Lee.

COUNCILMEMBER LEE: Aloha Mr. Chair, the morning greeting is from South Africa...actually, West Africa, ób'ówie. Ób'ówie means good morning. So, I'm here alone in my work space. I'll be going to the building little later on. And there's no one here, except me. Looking forward to your meeting. Thank you.

CHAIR MOLINA: Okay. Mahalo, Chair, and ób'ówie to you as well. Okay, let's check in

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on...let's go Upcountry, check in on Councilmember, Yuki Lei Sugimura. Good morning and ób'ówie.

COUNCILMEMBER SUGIMURA: Ób'ówie to you. And I...this is going to be a very important meeting for my community because you're taking up the bike tour. So, thank you very much, Chair, for doing that. And I will report that last night, I saw a deer in my yard. I saw...they are back, I tell you. I am fiercely still trying to get rid of these guys, man. Anyway, go back, when they are in my yard, they are pretty desperate. So, I just wanted to report that. Thank you.

CHAIR MOLINA: Oh, dear, you have my sympathy. Oh, my goodness. So...all right. Well --

COUNCILMEMBER SUGIMURA: They should be in the mountain.

CHAIR MOLINA: Yeah. All right. Well, on that note, let's go out to East Maui and check in on Councilmember Sinenci. Good morning and ób'ówie.

COUNCILMEMBER SINENCI: Ób'ówie, Chair, and fellow Members. Aloha kakahiaka mai Maui Hikina. For the record, we're broadcasting this morning from the Hāna Cultural Center with my EAs Dawn Lono and...yeah. Currently, there are no testifiers here. Aloha, everybody.

CHAIR MOLINA: Okay. Mahalo, Mr. Sinenci. Let's go to South Maui and check in on Councilmember King. Good morning, and ób'ówie.

COUNCILMEMBER KING: Aloha kakahiaka, and ób'ówie to Maui. Thank you very much for that greeting. I'm here in the chambers today and...with Member Paltin. I'm glad I'm not the only one. And we have no testifiers at the South Maui District office this morning.

CHAIR MOLINA: Okay. Mahalo, Member King. I tell you what, we're all on the roll with word plays and so forth and --

COUNCILMEMBER KING: It's too irresistible to not say that.

CHAIR MOLINA: That's why we're all having a great time in this Committee, you know. Okay, let's go find out how the neighborhood is doing. Good morning and ób'ówie, Member Kama, from Kahului.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair, and ób'ówie to all my wonderful wowie Maui peoples out there. I'm in my workspace in my home, and I just have my two granddaughters with me this morning. So, thank you.

CHAIR MOLINA: Okay. Mahalo, Member Kama. We've been informed that Committee Vice-Chair Rawlins-Fernandez will be running a bit late, but she will be joining us soon.

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Excused from our proceedings today, of course, is Member Johnson, who is overseas. And we haven't officially heard yet from Member Paltin, where she is at, but I believe she will be joining us at some point this morning. Joining us for our meeting --

COUNCILMEMBER PALTIN: Good morning, Chair.

CHAIR MOLINA: Oh, thank you to Member Paltin --

COUNCILMEMBER PALTIN: I'm having trouble with my audio, or my camera. It's not working, but I'm logged into the meeting in the Council Chambers. And we have no testifiers at the West Maui District office.

CHAIR MOLINA: Okay. Thank you for that, Member Paltin. Ób'ówie to you. And at some point, we hope to see your face on video. But thank you for joining us, and making aware of your situation. Okay. Continuing with others in attendance for our meeting today. From Corporation Counsel, we will be joined by Deputy Corporation Counsel Keola Whittaker. And on call will be First Deputy Corporation Counsel Richelle Thomson. From the Department of Finance, Guy Hironaka from the Real Property Management Division; Lito Vila from the Motor Vehicle and Licensing Division; and also, from the Office of the Mayor, Michele Yoshimura, Budget Director, will be on call for one of our items. From the Department of Police, Assistant Chief, Reid Pursley, will be joining us for the bike tour matter. And from the Prosecuting Attorney's Office, either Mr. Martin or your representative will be joining us. And from the Department of Planning, we are informed that Director McLean is unable to join us, but we will have a representative, possibly Mr. Hart. And also, from the Department of Public Works, we will have Jordan Molina, the Director. And Director of Parks and Recreations, Karla Peters, will be joining us, as well as Parks Permit Officer Lisa Almeida. And of course, our hardworking Committee Staff who's always here and making things possible for us: Kasie Apo Takayama, Legislative Analyst; Brittney Sunderland, Legislative Analyst; James Forrest, Legislative Attorney; Pauline Martins, Committee Secretary; Jocelyn Moniz, Committee Secretary; and Lei Dinneen, Council Services Assistant Clerk. Members, we have two items on our agenda today. The GREAT-55, which is an Intergovernmental Agreement with the State DLNR, regarding issuance of a management right of entry; and of course GREAT Item 44, the Bike-Tour Public Safety and Related Litigation Concerns. So right now, let's...we're going to start with going over the ground rules for public testimony. Oral testimony via phone or video conference will be accepted. Please know that if you are signed in, you are on the list to testify, even if you did not request to testify. So please inform the Staff via chat if you are signed on and do not intend to testify. And testifiers wanting to provide video testimony can join via the BlueJeans meeting link, which is [bluejeans.com/175115369](https://bluejeans.com/175115369), as noted on the agenda. And if you would like to provide audio testimony, you can dial in at 1-408-915-6290, with the meeting code that I just mentioned. The Committee intends to keep the same meeting link and phone number for future GREAT meetings this term of the ease and convenience of the Members and the public. Written testimony as well is highly encouraged too, and instructions on how to submit testimony via eComment

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can be found at [mauicounty.us/ecomment](http://mauicounty.us/ecomment). Oral testimony today, you will be given three minutes per item. You will hear a bell, when you reach that three-minute time limit. And if you're still testifying, we'll kindly ask you to complete your testimony in as brief...as brief as possible. Okay. And when testifying, please state your first and last name. And if you are testifying on behalf of an organization, or if you're a paid lobbyist, please inform the Committee of that. And please don't use chat during the meeting, okay. 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 for those of you who just like to watch the meeting, put on your television and watch *Akakū* Channel 53. So with that said, Ms. Sunderland, please go ahead and call up our first testifier.

MS. SUNDERLAND: Chair, we currently have four testifiers signed up to testify. The first is Phil Feliciano, to be followed by Lewis.

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

CHAIR MOLINA: Okay. Good morning, Mr. Feliciano. Phil Feliciano, if you're there? Oh, there you are. Good morning, Phil.

MR. FELICIANO: Okay. You got me?

CHAIR MOLINA: Got you loud and clear.

MR. FELICIANO: All right, thanks. Got me by surprise, number one. Okay. Since the last meeting...well, my name is Phil Feliciano. I'm the Director at Bike Maui, Director of Operations. And since our last meeting, I just want to touch bases on some of the safety improvements that our company has made. One of the issues has always been the Hanamu Road. You know, narrow road, speed bumps, et cetera. So what we've done is, we've taken our guided bike tours off of that road. We load them up in what we called triangles, that's right at the beginning of Hanamu Road, and Kealaloa. And we put them in the vans, load up the bikes, drive them down into Makawao Town, that lower parking lot. Let them go shopping in Makawao Town, go eat breakfast or lunch, depending on the time of day. And then back in the vehicle, and we drive through Makawao Avenue, up onto Kokomo Road. So no bikers...no guided bike tours are now going through the Maliko Gulch area, where it has been problematic, you know, with numerous accidents, including vehicles against vehicles. You know, it's a rough stretch. What we've also implemented on a daily basis is we placed a safety officer in front of St. Joseph's Church. Now, the first person we hired was a female, so she called herself the church lady. We now have a church lady there seven days a week. And what they do is, when the self-guided bikers come up the hill there, they're generally walking. So we stop and talk to them, make sure that their family group is together. Get their names, check them off our manifest, and then instruct them on the proper procedures going through the Gulch area, so they know where to ride, how to ride through that area. And we found that has

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made a big improvement. We've also had local traffic stopping, and asking these church ladies, safety officers, what are we doing? How come are you here? And when we explain to them what we're doing, you know, we're getting the...you know, the aloha thumbs up. So, we think we're...we're addressing some of those safety issues to make things better for the traveling public, as well as the cyclist. Now, we don't want to see bike groups, like, eliminated from going to Makawao Town. Because we get positive feedback from the shopkeepers in Makawao. Jerry Reeves absolutely . . . *(timer sounds)*. . . love...so the shopkeepers love us. We don't want to see that eliminated because we get positive feedback from them and their employees. So, that's what I got for today.

CHAIR MOLINA: Okay. Thank you, Mr. Feliciano. Members, I wanted to ask Mr. Feliciano if he could stay on as a resource person, like he has in the prior meetings. Mr. Feliciano, any problems with staying on as a resource person when we get to the item?

MR. FELICIANO: No. I'd love to be here.

CHAIR MOLINA: Okay. Are there any objections?

COUNCILMEMBER KING: No objections, Chair.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: Okay, thank you. Thank you, Member King. So, Members, if you have any questions for Mr. Feliciano, if you could, you know, ask him when we do get the item, that would be much appreciated. Okay. Thank you, Phil. All right. Ms. Sunderland, please announce our next testifier.

MS. SUNDERLAND: Chair, the next testifier we have listed is Lewis, to be followed by Albert Perez.

CHAIR MOLINA: Okay. Good morning, Lewis.

MR. UPFOLD: Good morning, Committee Members. I want to thank you guys again for inviting us here to discuss this issue. I was just tuning in to watch, but as always, as we're tuning in on BlueJeans, we're asked to testify. So, thank you for the opportunity again. I just wanted to just really briefly give out that invite again that I have sent out prior to. I feel that we can't have a full understanding of this issue and these concerns without actually coming in and seeing what we're doing, or at least asking some good questions about how we operate. I feel that Phil did a great job explaining some of our operational updates and such as. We've been striving to do what's right, and to make better with the community. We've been reaching out to the community, discussing with them, both the community members and the local merchants that rely on our business as well. But I did just want to, again, extend an invitation to all the Committee Members to come...please visit. Come check out our operations, specifically our pre-trip briefings and such like that, and get involved in seeing exactly what we do, and the efforts we

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make to promote the safe operation of this activity, as well as what we do to ensure that the community is acknowledged in their concerns. I did also want to request...I had sent an email out some time ago, but wanted to request, if possible, if we can have a panel regarding this issue so that we can have more than the three-minute testimony. It would be really nice to be able to get in a deep discussion regarding these things. We've done it briefly with Mr. Molina, and Committee Member Kama, which was very productive, I felt. But we'd like to have a pound discussion with the entire Committee, if possible. And to invite those community leaders as well to participate in the discussion. But again, I want thank you all for bringing this up, and allowing us to speak. So, thank you, and mahalo.

CHAIR MOLINA: Mahalo, Lewis. Lewis, just for the record, your last name...is it Upfold?

MR. UPFOLD: Upfold, correct. Sorry about that. Lewis Upfold.

CHAIR MOLINA: Okay. Okay, great. Thank you. And also thank for the invite. Members, do you have questions? We have a question for you from Member Paltin. Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Upfold. I just was wondering on the panel that you were saying, is it only folks in the Upcountry, Makawao area, or do you, as a bike operator organization or something, reach out Countywide, or say to the West Side, or the South Side? Or are you guys only one...one area talking amongst yourself, or do you know bike operators in other areas, so that any legislation can be, you know, for...either for the whole island, or for the whole County...or are you guys just focusing on yourselves?

MR. UPFOLD: I think at this moment, we are focusing on ourselves. Obviously, a lot of the regulations or restrictions recommended in that ordinance is pertaining to the Upcountry Haleakala Downhill, and not as much as other, like tour operations. Although some things do bleed over into other operations, I think we're all aware that it is the Haleakala Downhill tours that are the most concern to the community members.

COUNCILMEMBER PALTIN: Okay. I'm guessing --

MR. UPFOLD: Everybody is invited, but I think the local communities would be most interested in what, you know, there is to say. Of course, all of the Committee Members, we'd like you to be there.

COUNCILMEMBER PALTIN: Yeah. I'm just saying it's getting concerning, the level of electric bikes riding on walkways in West Maui. And just, you know, it looks pretty dangerous. They have like little kids strapped on, and no helmets. And so it's bleeding over into other communities as well, and it would be good to have everyone on the same page as...in regards to safety.

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MR. UPFOLD: Yeah. I mean, I think that would be good. I don't know, it would be up to you if you feel that that would deserve a different discussion, or if it does fit into this GREAT-44 discussion. But I do...I can see the concern that other communities are having with bikes in their own respective communities.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Members, any other need to clarify Mr. Upfold's testimony? Okay. Thank you very much, Lewis, for your testimony.

MR. UPFOLD: Mahalo.

CHAIR MOLINA: Mahalo. Okay, Ms. Sunderland, please go ahead and announce our next testifiers.

MS. SUNDERLAND: Chair, the next testifier we have listed is, Albert Perez, to be followed by Pane Meatoga.

CHAIR MOLINA: Good morning, Mr. Perez.

MR. PEREZ: Good morning, Chair Molina. Albert Perez, I'm testifying on my own behalf today. So just before the last time I testified on this GREAT-44 bill, I narrowly avoided a head-on collision with a septic pumping truck that was overtaking a bike tour on the way down. Just yesterday, I had to swerve into the oncoming lane to avoid an unguided bike tourist who was on the uphill side of the road, taking pictures, leaning out into the travel lane, not watching for cars. This would not happen with a guided tour. The unguided tours need to be banned completely. They're not supervised, they need just to go away. They are too dangerous. They have young kids swerving all over the road, just shaking. It's just really frightening even to watch. Anyway, this is another near accident that I and others have experienced. Bike tours are a dangerous activity, and the County needs to use its authority to put a stop to them. The roads they are using are too narrow, and both tourists and residents are put at risk on a daily basis. Sometimes they end up dead, or they have life-changing injuries, like Jessica Harris, who is now a paraplegic. So, looking at it strictly from a liability standpoint, the County stands to lose a lot of money. But more importantly, it's a moral issue. You have the power to stop people from being hurt, permanently injured, or killed by this dangerous business, that's taking advantage of our public roadways. And I ask you to use that power. Please ban the tours completely. If you're not willing to do that, I would ask that you restrict them to the area from the current tour staging area, at mile marker 9.2, down to mile marker 3, where there's a nice large area for them to pull over, as shared with the Committee. And as I recall, at least one of the bike tour representatives last time said that this would be an acceptable compromise. It would be much safer, and much easier to enforce. There are 62 driveways along Crater Road, even before you come to the upper Kula Highway. Each has the potential for an accident. So if you choose this option though, you'll still be allowing this dangerous activity to continue on



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a steep road, with tight hairpin turns. Accidents, injuries, and lawsuits will continue. We need to provide protected bikeways for recreational riders, and we need to stop these bike companies from taking advantage of public roadway facilities while endangering the public. So, I urge you to take action to either limit or ban this dangerous activity as soon as possible. Please don't wait. Every day that it continues, people are likely to get hurt or killed. Mahalo.

CHAIR MOLINA: Okay. Thank you very much, Mr. Perez. We have a question for you from Member Sugimura. Go ahead.

COUNCILMEMBER SUGIMURA: Good morning, Albert. Thank you very much for...really, your diligence and in counting the driveways, I think you've been at this a lot longer than most. And I get reports from him about near-miss accidents, or different situations. So, thank you very much for keeping me informed. I'm just curious, how do you know an unguided biker versus a recreational? I think that came up on our previous but, unguided --

MR. PEREZ: Well...I'm sorry. The way that you know an unguided tour is that they are not with a van. So usually --

COUNCILMEMBER SUGIMURA: No, the biker themselves.

MR. PEREZ: I'm sorry?

COUNCILMEMBER SUGIMURA: The biker themselves. How can you tell an unguided --

MR. PEREZ: Well, if it's a recreational biker, like the professional bikers, the ones who actually earn their way up the mountain, they have good helmets, they don't have the motorcycle-type helmets. They're not wearing the heavy clothing because they are working so hard to go up and down the mountain. You can tell, they wear all the specially branded European tour gear, and all that stuff. So...they have different kind of bikes. It's pretty easy to tell.

COUNCILMEMBER SUGIMURA: I guess the reason why I asked is if we were to ban unguided tours...you can tell the guided tours, right? Because they're...of what we see. But the unguided ones, how would we...or how would the enforcers, which would be police, know whether they're allowed to be there for recreational versus, you know, an unguided tour rider.

MR. PEREZ: Yeah, it would be more difficult. There are certain signs though, you can see if they're stopping and taking pictures, which you know, anybody can do. You don't have to be on a tour to do that. But...I don't know. That's --

COUNCILMEMBER SUGIMURA: Yeah.

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MR. PEREZ: -- a little difficult, so I have to put some thought into that. But you could still ban it. You know, the enforcement is a separate issue, but you could ban it.

COUNCILMEMBER SUGIMURA: Okay, I hear you. Thank you.

MR. PEREZ: Thank you.

CHAIR MOLINA: Thank you, Madam Sugimura. Members, any other requests for clarification of Mr. Perez's testimony? Thank you very much, Albert, for your testimony.

MR. PEREZ: Okay. Thank you. Aloha.

CHAIR MOLINA: Aloha. Okay, Ms. Sunderland, please go ahead and announce our next testifiers.

MS. SUNDERLAND: Chair, the next testifier we have listed is Pane Meatoga, to be followed by Roxanne.

CHAIR MOLINA: Okay. Good morning.

MR. MEATOOGA: Hi, good morning. Aloha, Chair. I'm sorry I'm, this is new to me, but I wanted to know, is this the public portion of the...where I can testify in regards to Resolution 22-144; is that correct?

CHAIR MOLINA: This is the...which agenda item is this? We have two agenda items, which is a...having to do with the bike tours today, and then also with the Intergovernmental Agreement with the Department of Land and Natural Resources.

MR. MEATOOGA: Okay. Nothing in regards to trying Amendment 22-144; is that correct?

CHAIR MOLINA: Oh, no, that's going to be for tomorrow. Tomorrow's meeting at 9:00 a.m., yeah.

MR. MEATOOGA: Oh, okay. Thank you, I appreciate it. I have no comments. Thank you.

CHAIR MOLINA: No problem. Good to see you, Mr. Meatoga. Aloha. Okay, Ms. Sunderland, please continue with announcing our next testifiers.

MS. SUNDERLAND: Chair, the next testifier we have listed is Roxanne, to be followed by Kai Nishiki.

CHAIR MOLINA: Good morning, Roxanne. Good morning, testifier Roxanne. If you are there on the call, this is your chance to testify. Okay, maybe they are having some technical difficulties here. Ms. Sunderland, go head and announce our next testifier, and we can come back to Roxanne at a later point.

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MS. SUNDERLAND: Chair, the next testifier we have listed is Kai Nishiki, to be followed by Dick Mayer.

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

MS. NISHIKI: Good morning, Chair Molina, Councilmembers. Let's see, testifying on two items. GREAT-44; I recently went on a trip to America, to San Francisco. And I met a gentleman at the hotel, checking us in. And he said, oh, you know, you're from Maui, I have a story to tell you, you know. And he proceeds to tell me that he was on one of these bike tours, and had...didn't know what to expect. And that he actually almost died on these bike tours. And he said, you know, he is so thankful that there is proposed regulations regarding that because, you know...you know, people come here and they don't know what to expect. And that...that it changed his life. So anyway, I'm glad that you folks are looking at this, important issue. And thank you to Councilmember Paltin for bringing up the issue that it is not just about Upcountry. You know, right now, I'm participating with the MPO on discussions on the West Maui greenway. And, you know, we're having lots of discussion about safety issues regarding electric bikes and just overcommercialization, and the proliferation of these in our community, and how we can make it safe for all pedestrians, and bike users, and skateboarders, and everybody. So...and also, you know, the North Shore Greenway just kind of let our bike path...just expanded as well. So, you know, perhaps it is a good idea to look at this Countywide. I don't know in relation to what the item is in, specifically for this Committee, but definitely a good idea to have those discussions. GREAT-55, Bill 65...or GREAT-55, Bill 65; I've been working with the Administration in expanding public parking at...in South Maui at Keawakapu. And I'm very thankful, that we are, you know, at the first phase. And it will lead to greater public access and public parking at Keawakapu. And this is just to clear the brush and some trees in a kind of wooded area on parcel 001 at Keawakapu. And eventually the plan is to have that entire parcel for public parking. So, thank you very much. I hope that the Committee Members will support this, and we look forward to providing . . . *(timer sounds)* . . . more access for the public, at Keawakapu. So, thank you very much for your support, and really happy to be working on this with Mayor Victorino and the Administration. Mahalo.

CHAIR MOLINA: Okay. Thank you very much, Ms. Nishiki, for your testimony. Members, any need to clarify Ms. Nishiki's testimony on either of our agenda items? Seeing none. Thank you very much for your testimony, Kai.

MS. NISHIKI: Thank you.

CHAIR MOLINA: Thank you.

MS. NISHIKI: Have a great day.

CHAIR MOLINA: You too. Okay, Ms. Sunderland, let's go back to I think, Roxanne, our

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previous announced testifier. Is Roxanne on the call? Roxanne. Okay, I guess not. Still having some potential technical difficulties out there. Go ahead and announce our next testifiers, Ms. Sunderland.

MS. SUNDERLAND: Chair, the next testifier we have listed is Dick Mayer, to be followed by Ben Hall.

CHAIR MOLINA: Good morning, Mr. Mayer.

MR. MAYER: Good morning. Very happy that you're finally taking this one up again. We thought we were going to be...finish it off last March. In fact, many years ago, we thought we'd finish this off. This is an item that's been going since, probably around 2006, '07. The County did a big study on this issue on 2010, paid a lot of money for it, nothing got done. And we're glad that you're finally getting to this. And we hope, without any further delays, that this gets handled quickly. And it's absolutely necessary. The County has liability issues that they should be concerned about. Upcountry residents have been tortured, and they are driving very often by the practices of the bicyclist. So, we urge quick action. With regard to the issues that Kai Nishiki just raised, and others has raised, is it Countywide, or is it just on the mountain? You have within this proposal in Section 5.22.025, which deals just with the Haleakala portion. So I think the bill as you're drafting it, as both the provision to do things Countywide and a special section that addresses the very special issues on the slopes of Haleakala, and I would urge you to consider that aspect of it. We were very pleased that Chair Molina, and Councilmember Sugimura, and others--Robin Shishido from the Department of Transportation, and members of the community--made a site visit to Crater Road to see the possible route that was suggested by the bike industry. To go from just outside the exit...outside the entrance to Haleakala National Park at around the 9.5 mile marker, down to the 3.0 marker on the road. There are turnouts and areas off the highway there where vans can be stored, where people can get on and off the bikes. And that would be appropriate area to do it. And we urge you to limit the tours to that. And that's the tours. We hope that you will ban completely unguided bicyclists...bicycle tours. And I think asking...in answer to the question Mr. Perez was asked, there are professional bike riders, people who ride in the Tour de France who come to Maui to practice. They ride up the hill, and then down. They are professionals. They know the rules of the road, they know how to ride, they are careful. And since they rode up the hill, they know what the route is coming down. The unguided tours are people who are driven up to the top, and then allowed to drive down on their own. Those are people who do not know the road, and those are the ones that we need to ban. And I hope you will do that in the legislation. We also urged that there be included in the legislation a memo, or an element, that says, this is a dangerous road. And all riders who go on this route should sign a waiver that exempts the County from liability, that they recognize that they are entering into a dangerous thing on narrow roads, winding roads, fog, clouds, et cetera, and they should acknowledge that in a statement, otherwise they should not be allowed to drive down the mountain on that thing. We hope that you will incorporate . . . *(timer sounds)*. . . statement made by the bike company, a statement

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of best practices, that in the ordinances...either by reference or by inclusion actually the wording in the ordinance. And finally, one other thing, annual permits. Right now, it talks about permits. I think these should be renewable annually, and that should be mentioned in the ordinance. And lastly, again, I just want to emphasize, this is an urgent issue. We been waiting 15 years, the residents are tired of having to come over and over again. Councilmembers, I'm sure you're tired of having to listen to us talk about this issue. So please do not delay. Get this done, and get it done as quickly as possible. And we're more than willing to sit down with you and go through the wording to finalize a good document. Thank you. And I'm available later, if you wanted me as a reference.

CHAIR MOLINA: Okay. Thank you, Mr. Mayer. Yeah. Members, any objections to having Mr. Mayer as a resource when we get to that item?

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR MOLINA: Okay. At this point, if you have any pressing need to ask Mr. Mayer with regards to his testimony just now? Okay. All right, Member King.

COUNCILMEMBER KING: Thank you, Chair. Just...you don't have to answer me, Mr. Mayer, but if you could just think about this, so when we bring you back as a resource person, you might have an answer. But, you know, the comment you made about folks need to sign a waiver in recognition that are people...not just people who come here to practice on that ride up to Haleakala and down, but people who live here, who do that frequently as recreation even. So, you know, what I was going to ask you, and maybe you can think about this for when we get to that issue is, are you suggesting a permit process for anybody who rides that route, or just signing a waiver? And how do we differentiate between people who have the skills to actually do that safely, and people who don't? So those were my concerns. Because, you know, in the long run, we want to encourage bicycling. Of course that's part of our multimodal transportation focus. So we don't want...I wouldn't want to ban people from being able to rent bicycles if they want to. But I do recognize that...the danger of that route. So anyway, just wanted to maybe have you address that when we get to the item.

MR. MAYER: I will address it then, but basically, within that Section .025, it makes it specific to that particular route. That's where...in that, if you look at the ordinance, you will see that .025. I think we can do it there, that would not stop anything in West Maui, South Maui, or any other part of the island. Okay . . .*(inaudible)*. . .

COUNCILMEMBER KING: We're just addressing what you recognize as, you know, people who are able to do that route and --

MR. MAYER: Anyone who is able to ride up that...anybody who is able to ride up that mountain--steep hill, long route--I would have no problem them using it recreationally or even if they want to consider it just transportation. But it's the people who don't

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know, who get ridden up to the top, they're different. They do not know the route. They're sitting in the van, going up, they are not looking at the dangers or the concerns. And they come down the mountain, very often with a family tour where daddy and mommy are looking behind at their child coming behind them or in front of them, and it's just not safe without being on a guided tour.

COUNCILMEMBER KING: Yeah. No, I get that, just trying to figure out how we would discern the difference. Thank you. Thank you, Chair.

CHAIR MOLINA: All right. Thank you, Member King. Okay, Member Sugimura, you have a need to clarify Mr. Mayer's testimony? Please go ahead.

COUNCILMEMBER SUGIMURA: Yes. I know Mr. Mayer will stay on. Thank you very much for staying on as a resource. But I just want to be clear, Kula Community Association--because we've talked about this at many meetings--is supportive of banning unguided tours. And what you're saying is for the guided tours, it would be okay from mile markers 9.5 to 6 point...I mean 3.0.

MR. MAYER: Three.

COUNCILMEMBER SUGIMURA: Is that correct?

MR. MAYER: Yes. I...we took votes on this on many occasions, and I know that they...and let me just add one other thing. And that is, if that section of the road was used for the tours, we would have no problems with them starting very early in the morning because they would not be coming through our community. So if they want to start at sunrise coming down the mountain, that would not impact our community, and we would have no problems with that.

COUNCILMEMBER SUGIMURA: Okay. I just want to be sure about what the KCA wanted, to be clear because it's --

MR. MAYER: Yes.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. All right. So we'll have Mr. Mayer as a resource. And Members, if you have any more questions, you...feel free to ask Mr. Mayer once we get to that item. Before we announce our next testifier, Chair would like to recognize Committee Vice-Chair Rawlins-Fernandez for attending our meeting this morning. Aloha and good morning.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, mai Moloka'i nui Ahina. I'm at the Moloka'i District Office, and I'm alone here at the office. Mahalo.

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CHAIR MOLINA: Okay. Mahalo, Vice-Chair. All right. Ms. Sunderland, please go ahead and announce our next testifiers.

MS. SUNDERLAND: Chair, my apologies to Ben Hall, who is here just as a spectator and will not be testifying. However, the next person on our list is Deborah Lynch, who is also our last listed testifier at this time.

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

MS. LYNCH: Good morning, good morning. Let me make sure...yes, I just...thank you all for the hard work you're doing on this. I live on Baldwin Avenue, and see the Downhill Tours. And personally, I don't have any problems with the guided tours. The unguided tours are, as everyone else has testified, they meander around the road, they go out, and they cause no end of frustration. But it *(audio interference)*

CHAIR MOLINA: Ms. Lynch, we are having a problem with your video.

MS. LYNCH: *(Audio interference)* the people --

CHAIR MOLINA: If you could turn off your video, and then I think your audio will come out clear. So if you can turn your video off--and you can go ahead restart your testimony.

MS. LYNCH: Oh, I was just going to elaborate a little bit more on being able to identify a professional cyclist and people who are cycling recreationally, but who are experienced cyclists. They do have...as Dick Mayer said they are going up the Haleakala a lot of the time before they come back down. They also have a different equipment and gear, which is very easily recognizable. The other thing that most of them carry are safety equipment, such as lights that flash. I personally have one, a rear light that has radar connected to my...a little computer on my handle bars that will *(audio interference)* me. Most of them will also...you see immediately pull over and use any shoulders, if they're possible, or as we say, ride the white line. Their helmets are different, their bikes are different, and their shoes are different. It's very easy from the exterior to visibly see the difference between a professional cyclist, an experienced cyclist. And there are people that use, for example, Baldwin Avenue, who go to work on bicycles, up and down. And all of them are experienced with navigating and being courteous with the vehicle drivers. Thank you.

CHAIR MOLINA: Okay. Thank you very much for your testimony, Ms. Lynch. Members, any need to clarify Ms. Lynch's testimony? Seeing none. Thank you very much for your testimony, Deborah. Okay, Ms. Sunderland, please go ahead and announce our next testifiers if we have any.

MS. SUNDERLAND: Chair, we have no further testifiers.

CHAIR MOLINA: Okay. Thank you very much, Ms. Sunderland. Let's just wait a few seconds,

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see if anyone else might jump in, give testimony. Okay. Ms. Sunderland, has anyone else logged on to give testimony at this point?

MS. SUNDERLAND: No one else has signed up to testify.

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

CHAIR MOLINA: Okay. Thank you very much. Members, if there are no objections, Chair will close public testimony on our agenda item today, as well as accept any written testimony that's been submitted. Any objections?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: All right, so ordered.

**GREAT-55      BILL 65 (2022), AUTHORIZING THE MAYOR TO ENTER INTO AN  
INTERGOVERNMENTAL AGREEMENT WITH THE STATE DEPARTMENT  
OF LAND AND NATURAL RESOURCES, REGARDING ISSUANCE OF A  
MANAGEMENT RIGHT-OF-ENTRY (Bill 65 (2022))**

CHAIR MOLINA: Okay, Members, let's get right into business here. We'll start off with Bill 65. GREAT Item 55, which is Bill 65, which authorizes the Mayor to enter into an Intergovernmental Agreement with the State Department of Land and Natural Resources regarding issuance of a management right of entry. And so with that being said, I like to call upon, I guess, Mr. Hironaka, from the Real Property Tax Division, as well as I believe we'll have Budget Director Yoshimura standing by to give additional information and comment on this matter. So anyway, the bill...before I recognize Mr. Hironaka, the purpose of this bill is to authorize Mayor to enter into this agreement for a parcel identified as tax map key (2)3-9-004:001, located in Keawakapu, Maui, Hawai'i. The agreement would allow for public parking and clearing of overgrown brush from an unencumbered portion of State of Hawai'i land. So, okay, Mr. Hironaka, you have the floor. Good morning.

MR. HIRONAKA: Good morning, Chair. We,...Finance, you know, we have no opening comments. We just are here for any questions that the Committee might have.

CHAIR MOLINA: Okay. Thank you, Mr. Hironaka. Director Yoshimura, you have anything you would like to add?

MS. YOSHIMURA: Good morning, Chair. Thank you for taking up this item this morning. This request is for authorization for Mayor Victorino to sign an intergovernmental agreement for the right of entry for a portion of Parcel 1 at Keawakapu. So the Administration has been working with the Board of Land and Natural Resources to get



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access to, or an executive order for the entire parcel. And we are continuing...we...working with them to do that, as well as to get access to Lot 49. So on page 6 of the transmittal, Exhibit A, you will see a colored map. The red portion...or the square is the area that the ROE will cover. In the Fiscal Year '23 budget, we did put \$100,000 into the budget to clear the area and to create the temporary parking. So this right of entry will allow us to get in there and start creating additional parking for beachgoers at Keawakapu. So Guy Hironaka, myself, and I believe Keola Whittaker from the Corporation Counsel's Office is available for any questions that you may have this morning. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Madam Director. Before I recognize Corporation Counsel, how much...have you folks already done a study or an analysis of how much additional parking this would provide the public?

MS. YOSHIMURA: I'm going to have to defer to Guy Hironaka. I think...I'm not sure what the actual number of parking stalls it would end up with.

CHAIR MOLINA: Okay. I see Mr. Hironaka. Mr. Hironaka, you have that information for us?

MR. HIRONAKA: No, we have not. You know, we are waiting for this so we can work out and plan and figure out what we are...you know, how many stalls we need to get if we were...because we're still working with DLNR to see if we could get more area. And so it's just been planned out exactly how we were going to do it.

CHAIR MOLINA: Okay. Thank you, Mr. Hironaka. Okay, I would like to recognize Corporation Counsel for comments before I open up the floor for questions. Mr. Whittaker...or whoever is the designee.

MR. WHITTAKER: I see Richelle there.

CHAIR MOLINA: Ms. Thomson? Yeah, either one of you is fine. You could give us additional details on this agreement.

MS. THOMSON: We are just going to comment, and that we don't have any comments. But we're available if you have questions. It's pretty straightforward. It's...Phase I, as I understand it, you know, and then we'll be looking at something more permanent, working with the State and the Department of Finance.

CHAIR MOLINA: Okay. Thank you very much. All right, Members, you have...I'll open up the floor for questions. I'm going to put everyone on timer today, so you'll have up to three minutes for questions for any of our resource personnel. Okay, we'll start with area representative Member King

COUNCILMEMBER KING: Thank you, Chair. I appreciate that. I've been working on this issue for few years now, when the issue of public parking at Keawakapu first came up.

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And this actually goes back about...let's see, when I came on it was like 12 years, so it's probably about 14, 15 years now, that the community has been waiting for an...the agreement, the consent agreement. But my recollection, I wanted to just verify this with maybe Mr. Hironaka is, this is a parcel that would be all public parking? There would be no private parking, which is what the issue was with the adjoining lot that's been going on for...this issue has been going on several...over a decade. But my recollection of the adjoining lot is there's somewhere around 80 to 100 parking spaces. And it depends on how much is taken up by trees, and by the layout of the parking lot whether we get, you know, a few more or a few less. So I guess my main question is, I'm assuming there will still be some trees, because trees in parking lot...in parking lots, I think, is very important for shading, especially in that sunny area. But just to verify, these will be 100 percent for the public?

MR. HIRONAKA: Member King, yes, you are correct. This right of entry is for one year, and it's strictly for public beach access.

COUNCILMEMBER KING: And so we will have the signs --

MR. HIRONAKA: Until we have more permanent...until we can work on a more permanent deal. Because we are trying to see if we can acquire more area from the State for beach parking.

COUNCILMEMBER KING: Right. Okay. And then there'll be signs up that say beach parking, beach access parking only. So, it won't be used by vendors or business people.

MR. HIRONAKA: I assume that the County will put up our standard signage that indicate that it is for public parking.

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

CHAIR MOLINA: Okay. Thank you, Member King. Members, any other need to clarify or get information from the...our resource personnel related to this matter? Okay, Member Sugimura, go ahead.

COUNCILMEMBER SUGIMURA: I just want to congratulate the Administration. This has been one of the topics that has been hanging out there. It's good that you've been able to pull it together, and work with DNLR. This is great progress. I'm very familiar with this because our family would often go to 5 Palms, at that restaurant in Keawakapu, that was the landmark. But we would park here. And I know the struggles of the residents versus, you know, the hotel that has parking in that same parking lot, and I've seen how this has been worked on. So the hotel still has their designated stalls, I think that was resolved last year. But this is going to be huge for the residents to be able to park. And I'm glad to hear that you're actually working on having...possibly growing it further. So I fully support this. Thank you, Chair. Thank you very much, Administration, for all that you have done. Oh, and I guess Kai Nishiki, she also testified. So thank you,

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Kai.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Okay, we have Member Sinenci, followed by Member Paltin.

COUNCILMEMBER SINENCI: Thank you, Chair. Just follow up on Member King's question. So Mr. Hironaka, this agreement is just for one year, until we can come up with another agreement for longer? Is that what you mentioned?

CHAIR MOLINA: Is that for Mr. Hironaka, Mr. Sinenci?

COUNCILMEMBER SINENCI: Or Budget Director, if she wants to answer.

CHAIR MOLINA: Okay. Budget Director Yoshimura or Mr. Hironaka?

MR. HIRONAKA: Yes. Oh, go ahead.

MS. YOSHIMURA: Chair, thank you. Yeah. So the Administration...and I would also like to thank Kai Nishiki for all of her assistance with this project. She has been very instrumental in helping us work through the details. So we are working on getting Area 1, but in the interim, we are trying to create parking that can be used immediately through this ROE. In that red square area, we should be able to get about 50 parking stalls. We are also working with Days Inn, to get access to the other parking stall, where there is some public access as well. So this is just step one of multiple steps that we'll go through to get the Administration...to get access to the entire two parcel. Thank you.

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

CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Member Paltin.

COUNCILMEMBER PALTIN: Oh, I almost hit the wrong button there. I echo the sentiment of thank you to everyone who's been involved in this. And I think it is a great first step. I just was wondering if either Director Yoshimura or Mr. Hironaka or Corporation Counsel can clarify, what is meant by public parking? If this is public beach access parking, can folks that are going to the restaurant park there? Can folks...like, say they have a stand-up paddle surf lesson going, can they park there? Like what are we...can we clarify what we mean by public beach access parking.

CHAIR MOLINA: Okay. Director Yoshimura, or Mr. Hironaka...or Corporation Counsel.

MS. THOMSON: So as Mr. Hironaka said, we would put up the...our standard beach access parking signage, which isn't meant for commercial purposes. And you know, also for accessing other, other than the beach. It's really meant for beach access purposes. But I don't know that this is going to have a...you know, a guard shack or anything like that. So, you know, we all know that there's issues with it. . . .(timer sounds). . .

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COUNCILMEMBER PALTIN: So it's intended for people that are just going to the beach, not going to a restaurant, not going to a hotel, not going to a surf lesson, or something where money is involved.

MS. THOMSON: Exactly. And the adjacent parcels do have a requirement for beach access parking on the parcel as well. So in addition to their commercial uses, they are required to have...I think it's 51 percent, it's a significant number of beach access parking.

COUNCILMEMBER PALTIN: And the allowed commercial uses are required to have their own parking; is that correct?

MS. THOMSON: Right.

COUNCILMEMBER PALTIN: Okay, great. Thank you for the clarification.

CHAIR MOLINA: Okay. Thank you, Member Paltin. And you know, that's a good point to bring up. If I could further expound on that, maybe Ms. Thomson again, or Administration. How do we ensure that the folks that are supposed to be using the public parking stall are the ones we're, you know, trying to cater to, which is people who are not there to be involved in any commercial transactions. I mean, are we going to have like our park rangers every now and then do an inspection? Or is there a number the public can call to say...to make a complaint? That hey, you know, some of these stalls are being used by commercial operators or their clients. Have we...has there been a plan of a...I guess to monitor any, you know, folks who are using these stalls for commercial purposes? Have you reached that point yet?

MS. THOMSON: Thanks for the question. I don't know that we've reached that point yet, but in terms of long-term management, you know, I think that it would be a wise thing to do to consider, you know, either a parking attendant or, you know, regular either police or park rangers patrolling the area.

CHAIR MOLINA: Okay. Yeah, I'm glad, hope we're looking into that direction. Anyway, yeah, we certainly need to acknowledge folks like Kai Nishiki, who been long-time shoreline advocates. And I'm sure Kai and some other folks, I'm sure, will make sure they'll keep an eye on things out there. Anyone else that has not asked a question yet of Administration? Oh, I recognize Member King. Okay, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And I'll echo your sentiments as well. Mahalo, Kai, for all of your hard work and commitments, and you know, working with the Administration and Finance Department, Budget Office. And of course, the Mayor for making this happen for our community. So my question is regarding Park Maui. I know it's still kind of early, but is this a lot that they'll likely be working on in their comprehensive planning for consideration by the Council as well? Whoever, I'm not sure who can answer that question.

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CHAIR MOLINA: Okay. Either Mr. Hironaka or Director Yoshimura.

VICE-CHAIR RAWLINS-FERNANDEZ: It's a Department of Management question, but I don't think we requested them.

CHAIR MOLINA: Director?

MS. YOSHIMURA: Thank you. Thank you, Vice-Chair Rawlins-Fernandez. Yes, Park Maui will fall under the Department of Transportation. And yes, this will be part of their oversight, I guess, when they do their planning. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Budget Director. So Erin Wade, after working on the consultant with the plan, that program will go under Department of Transportation?

MS. YOSHIMURA: Correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo . . . *(inaudible)* . . .

MS. YOSHIMURA: Yes. So the budget and everything has been transferred over to Department of Transportation, and they will be implementing the program starting Fiscal '23. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Awesome, awesome. Yeah. And so some of the considerations for that lot could be charging nonresidents, tourists, et cetera using the beach, and not charging residents, like that concept that we had talked about for Park Maui, with the bill I proposed as well.

MS. YOSHIMURA: Yes, definitely.

VICE-CHAIR RAWLINS-FERNANDEZ: Awesome.

MS. YOSHIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Budget Director. And mahalo, Mayor and Kai for making this happen. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair Rawlins-Fernandez. Any other Member would like to ask questions of the Administration before I go back and recognize Member King? I see none. Go ahead, Member King.

COUNCILMEMBER KING: Thank you, Chair. You know, this is pretty much a no-brainer, I think we'll all going to be able to hopefully pass this on voice vote. But it's a great conversation because the issue of people parking for...either to attend or to operate

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commercial, you know, operations is not just limited to this park, of course. We have a lot of beach parks where we have that kind of parking going on. So I think that's a bigger discussion for...probably for the Park Maui bill, and just the idea of what kind of park...beach parking we have at all of our beach parks. But I do want to say that I've been working on this issue since my first term with the previous Administration. And DNLR had come out then being willing to do this, you know waiting...we were waiting for the EO to be promulgated from the Administration. But they...I want Members to know that one of the things that they had come to me with was a expanded map of the area they'd like the County to take over, to create a master plan for the whole area of Keawakapu Beach. So they've been thinking about this for several years. And I appreciate the Mayor coming out with the executive order, and I appreciate the involvement of Kai and other citizens. And I wanted the Council to be prepared to think about this in terms of not just that parking lot, but the greater area. Both parking lots, the area fronting the--what used to be a restaurant, the restaurant is closed now--but that whole strip, the DLNR, I think, is willing to hand over to the management of the County. So I hope we have that in mind, the greater picture and the vision for how we're going to manage this entire area. So that's all, Chair. And ready to make the motion, if you want to entertain it.

CHAIR MOLINA: Okay. Thank you very much, Member King. Okay, Members, any last requests for questions from the Administration, prior to the Chair's recommendation? Okay, seeing none. Chair recommends passage of Bill 65 (2022) on first reading, and that would include any nonsubstantive revisions. Chair will entertain a motion.

COUNCILMEMBER KING: So moved.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR MOLINA: Moved by Member King, seconded by Committee Vice-Chair Rawlins-Fernandez. Discussion? Okay. All right, seeing none, Chair is just going to call for a voice vote. All those in favor, signify by raising your hand and saying "aye."

**COUNCILMEMBERS VOICED AYE.**

CHAIR MOLINA: Okay. Any opposed? Okay, I see one, two, three, four...eight "ayes" with one excusal, Member Johnson.

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

**NOES:**   **None.**

**ABSTAIN:**   **None.**

**ABSENT:**    **None.**

**EXC.:**    **Councilmember Johnson.**

**MOTION CARRIED.**

**ACTION:**    **Recommending FIRST READING of Bill 65 (2022) by C.R.**

CHAIR MOLINA: Thank you very much, Members, for your work on this, and Administration.

COUNCILMEMBER KING: Mahalo, Members.

CHAIR MOLINA: Okay, Members. You know what, Members? The Chair would like to just take a quick five-minute break to deal with a nontechnical matter. So, Members, we'll take a recess until 10:05. Meeting in recess. . . .*(gavel)*. . .

**RECESS:**       **10:00 a.m.**

**RECONVENE:**   **10:08 a.m.**

CHAIR MOLINA: . . .*(gavel)*. . . The GREAT Committee meeting for Tuesday, June 14, 2022, will now come back to order. Thank you for that very short break, Members, it went a little bit above five minutes, 10:08.

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**GREAT-44      BICYCLE-TOUR PUBLIC SAFETY AND RELATED LITIGATION**  
**CONCERNS (CC 21-453)**

CHAIR MOLINA: But we're on our second and last item for today, which is GREAT Item 44, which is the Bicycle-Tour Public Safety and Related Litigation Concerns matter. Since our last meeting on this item back in March, I transmitted the revised proposed bill to Robin Shishido, the Maui District Engineer for the Highways Division of the State DOT. And in response, Mr. Shishido provided the following comments. And this is, of course, in relation to the proposed, I guess, area where the bike tours would end on Crater Road. Members, you should have a copy of that letter. But the following comments from Mr. Shishido says, in accordance with HRS Chapter 46-16.3, the proposed revisions will also be applicable to State highways. And in Section 5.22.005 of the ordinance, it says, can you cite HRS Chapter 46-16.3, the regulation of commercial bicycle tours, and they have the applicability and scope of the ordinance applied to State highways. And in our meeting, which was held on May 18 at the...I guess Member Sugimura--and I thank you for organizing that quick look through of that proposed site, along with Mr. Mayer and Mr. Perez. This was at mile post 3.0 on Haleakala Crater Road. It was discussed that the commercial bike tours could limited to allowing tours on Haleakala Crater Road, approximately between that mile post 3.0 and 9.5, and use the existing pullouts for staging. Now, in Section 5.22.070 of the ordinance, the applicant will be responsible for complying with State laws, and therefore, would be required to obtain a State permit if the pullouts are used for staging areas. Let's see, do we have...Staff, do we have a representative from the State available for comment or further clarification?

MS. APO TAKAYAMA: Chair, a representative was not available to attend today's meeting.

CHAIR MOLINA: Okay, all right. So...but we do have the letter, and Members, you do have a copy of it in the Granicus. So what I would like to do is maybe we'll start with comments in relation to the letter from the Police Department. I believe Assistant Chief Pursley, if you're on the call, if you would like to provide additional thoughts on this proposed route now for the bike tours coming on Crater Road. Comment, Mr. Pursley...or Chief Pursley.

MR. PURSLEY: Good morning. Thank you. I didn't actually get a copy of that letter in the packet that I received, so I haven't had a chance to review it. So I don't have a comment on that.

CHAIR MOLINA: Okay. We're sorry you weren't able to get that placed in your packet, so...okay. And what we'll do next, we'll go to Public Works Director Molina, if he's on the call. Provide comments on what DOT had mentioned. Basically, they're saying that the bike tours will now have to apply for permit to use that road as a pullout. Any thoughts from Director Molina?



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MR. MOLINA: Thank you, Chair. Jordan Molina, Director with Public Works. As it relates to the State highway operations, we have no comment.

CHAIR MOLINA: Okay. Thank you. And we did ask for Director McLean from Planning to give her thoughts, but she's unavailable at this time. Staff, do we have any representative from the Planning Department with us right now? I know we're told 10:30 might be the earliest we could get a representative. Anybody has come on early this morning?

MS. APO TAKAYAMA: Yes. Deputy Director --

CHAIR MOLINA: Oh, there is Deputy Director. Yes. Aloha, Deputy Director. Do you have any thoughts on the suggestion from the State, or comments from the State, with regards to using Haleakala Crater Road?

MR. HART: No, no. Not at this time.

CHAIR MOLINA: All right. Thank you. And I guess we have from the Department of Finance, Mr. Vila, if he is on board. Any thoughts?

MR. VILA: Good morning, Mr. Chair. Lito Vila here, no thoughts at this point. Thank you.

CHAIR MOLINA: Okay, good. And finally, from the Parks Department, Director Peters or Ms. Almeida. Any comments on the...I guess the shortened route for the bike tours now, Haleakala Crater Road.

MS. PETERS: Aloha, Chair. We have no comments at this time.

CHAIR MOLINA: Okay, so noted. All right. Well, let's go to the industry representative, Mr. Feliciano. Your comments?

MR. FELICIANO: Well, I'm surprised that you all went up there and checked it out, and we didn't get an invite to come along to show you where we pull out, where we can pull out, that would have been helpful to help educate you as to what is possible and what isn't. As far as us having to be regulated just to that area, it's not desired. Although, you know, we talked about it in the past that we could live with that, but it's not desirable to have to do that. You're talking maybe a six mile bike ride. Who wants to sign up for a six mile bike ride? So, I guess, right at the moment, I'm a little surprised, and so that's my thoughts for now about that.

CHAIR MOLINA: Okay. Thank you, Mr. Feliciano. So basically you're saying it's not--from a marketability standpoint for the industry, you don't think it would be attractive enough for people to participate on a bike ride if we go with that route, shortening your route?

MR. FELICIANO: Well, probably not because, you know, you're talking about the logistics. It takes, from Lāhainā, maybe two hours to get to the top of the mountain. Kihei, Wailea,

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an hour and a half or so. So, there's a lot of travel time. And then to have all that travel time...now granted, the sunrise is what sells things, right? They're going to spend a lot of time up on the top of the mountain watching the sunrise, then get on a bicycle and six and a half miles later, you know, it's over. So, we'll have to see. I mean, we still may be able to do that. And I guess one of the thoughts that jumped into my head is, if we're unsafe to be on other roads, how come it's okay to be up there? It's just kind of not making sense. You know, we're going to ban...we want to ban self-guided, but maybe it's okay if they ride that section only. So, which is it?

CHAIR MOLINA: Okay. Well, again, we're just responding to concerns from the community as far as, I guess, using the highway, and some of our other County roads, yeah. So, okay, let's maybe get...you know, Mr. Mayer was there on that site visit to...I guess actually, Mr. Mayer and also Mr. Perez had suggested that we come up and just take a look, as the area representatives for this matter, so...I'll open up the floor for questions now from the Members, for either our County resource personnel or Mr. Feliciano with regards to this, I guess, route proposal. Let me ask, Mr. Mayer, do you have a quick comment to make before I open up the floor for questions on this proposal? Mr. Mayer, I think you're muted.

MR. MAYER: Sorry about that. No, I'm awaiting questions. I did give some thought to differentiating between bike tours and local residential riders, let's say. We could require some designation on all bicycles which are used by the company to have either the whole bike to be a certain color, or at least on the back of the bike a painting of a yellow strip or something that would identify bikes being rented from the bike companies. That would allow us to know who is who. So I think there are mechanical ways to handle that issue, about experienced riders who are going up the hill, and then...as opposed to tourists coming down the hill.

CHAIR MOLINA: Okay. Thank you, Mr. Mayer. All right, Members, the floor is now open for questions. I believe it's on Member Sugimura, or either Mr. Feliciano, Mr. Mayer, or any of our County resource personnel. Proceed, Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you --

CHAIR MOLINA: . . .*(inaudible)*. . . three-minute clock, Members, FYI. And we'll come back for a follow-up round if you need one.

COUNCILMEMBER SUGIMURA: Okay. I just want to kind of speak in behalf of my community, if I could. And this has been discussed for as long as I've been in office. But the tug that we're experiencing from the community members who live on Crater Road, of which Albert Perez--I've never spoken to Albert Perez so often that I think this has...he's become one of my constant, you know, weekly...maybe not weekly, but, you know, phone calls I get about different situations. So the bike companies, whether you know it or not, there are residents who are living on Crater Road who are experiencing hazardous situations, as Mr. Perez--I don't know if he documented it, but...and I'm sorry

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if you think that it's unfair, but I don't know how you would be able to justify how would it be for a resident that's living on Crater Road, or living in these areas that are experiencing unsafe situations, trying to deal with and live with, you know, the bike tours that are going on. The Kula Community Association--that's why I asked Dick Mayer that question--because the Kula Community Association has met with the bike tour companies, and has tried to come up with some suggestions. But it's come...become clear to me that what Kula Community Association has come to, because of the lawsuit that we just saw, as well as hearing from the members of the community and the board, that they are now saying to ban unguided bike tours, which was new, they never said that before. And then this . . .*(inaudible)*. . . --

CHAIR MOLINA: Member Sugimura, sorry for me interrupting. We're in the question and answer phase. Do you have a question for any of our resource personnel?

COUNCILMEMBER SUGIMURA: Oh, okay.

CHAIR MOLINA: In a little while, we can deliberate and discuss your thoughts on this. Do you have any questions?

COUNCILMEMBER SUGIMURA: I think my questions have been answered. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. All right, Members, any questions right now for Mr. Feliciano, Mr. Mayer, or our County resource personnel with regards to the route proposal that has been suggested? Member Paltin.

COUNCILMEMBER PALTIN: Wrong button. I had a question. I think it's for Mr. Mayer. It a little bit relates to Mr. Perez's testimony about the unguided tours, and the guided tours, and the regular riders of bicycles Upcountry. And I guess the whole legislation...and I guess my question is where does...from the rental situation that we're seeing on West Maui, where does electric bikes fall into this? Because Mr. Perez's testimony was like folks that can ride up the hill are...you know, they are familiar, they know it. But then if you add e-bikes into the equation, anybody can ride up the hill without any kind of skill, or anything like that. And that's a lot of the tours that we're seeing in West Maui, is e-bikes with little kids strapped to the back of them, like weaving in and out of pedestrians and traffic and things like that. So is e-bikes at all a part of this legislation or this conversation? Because new technology is here, whether we legislate it or not.

MR. MAYER: I really am less familiar with that as a thing. And I don't know how many of the bikes, the electric bikes, that are going up the mountain. Obviously, you are correct that a tourist could come and get an electric bike, ride up the mountain, and turn around and come back down again. And that would...and if they don't know the mountain, it's a danger. And I think collectively, we in the community, and you as Councilmembers, have an obligation to make sure everything that we...we're authorizing, we're permitting, is safe.

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COUNCILMEMBER PALTIN: I mean, like, as we see at Costco, people purchasing softtops, and then returning them at the end of their vacation. What's to stop them from just purchasing a 350 E-Bike and returning that at the end of their vacation, riding that up to Haleakala and coming back down, and going back to the Continent and saying, hey, this didn't work out for me, it didn't go fast enough uphill, or something along those lines.

MR. MAYER: Yeah, I really don't have a good answer. And you're right, new technology has come along. And I'll have to go back to our association to see how they feel about it. I can't speak for all the members of the board on that issue. But it is a problem, and I don't know if we have an easy answer. Unless you were somehow wanting to just ban electric bikes in Maui. You know, that kind of thing, for all...which you don't want to do. So, you know, be...barring that, I just don't know. Or we could say--let me just add--or we could say that companies which have commercial bike tours are not allowed to also have electric bikes, period.

CHAIR MOLINA: Mr. Mayer, if I could just interrupt for a second. I saw Corporation Counsel and Mr. Vila wanted to kind of lend their thoughts, providing a response to Member Paltin's question. Ms. Thomson.

MS. THOMSON: Thank you, Chair. Just quickly, so e-bikes are included in the State law definition of bicycle, and also in the proposed legislation that you're considering. So they would be included.

CHAIR MOLINA: Thank you, Ms. Thomson. Mr. Vila, any thoughts? . . .*(timer sounds)*. . .

MR. VILA: I was going to point that out too, Mr. Chair. It's currently in the proposed ordinance. And from our perspective, electric bikes are becoming more prolific, as far as licensing. And a comment to Mr. Mayer's, I guess, idea of marking the rental bicycles. There's no mechanisms in place to regulate the rental bicycle companies as far as their marking. Once a bicycle is registered, it's...it's registered.

CHAIR MOLINA: Okay, thank you. And Mr. Feliciano--Member Paltin, if you don't mind--wanted to add his thoughts on it. Go ahead, Mr. Feliciano. Mr. Feliciano, you're muted. If you could unmute. Go ahead.

MR. FELICIANO: I believe it's State law that a bicycle is not allowed to ride on a sidewalk. So that would pertain to e-bikes also. If...a bicyclist has to stay on the road, or on the shoulder, and follow the direction of traffic. So perhaps enforcement is necessary if the enforcers see e-bikes or bicycles on the sidewalk. So I don't know that you need to create a new law.

CHAIR MOLINA: Okay. Thank you, Mr. Feliciano.

COUNCILMEMBER PALTIN: Do you know if that pertains to walking paths as well? Like

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there's a walking path through our County park that has bikes on it all day long.

MR. FELICIANO: It depends on the signage. Some of them, I do see, bicycles are not allowed, and that would then mean e-bikes. But it just depends on the signage that the County or the State has up.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Let's see, Member King.

COUNCILMEMBER KING: Thank you, Chair. You know, it's a really interesting discussion. I wanted to ask Mr. Feliciano that...and I...you know, I empathize with you about, you know, the change in your business. But just in your heart of hearts, do you believe that this will make the overall industry safer, this revised bill? Because that's kind of our number one thing...number one thing. And I also wanted to mention that--and maybe you can comment on this--you know, I've been to a lot of...and I think all of us have been to a lot of attractions at places like amusement parks, where we've waited in line for two hours for a ride that lasted less than five minutes. So that's what kind of came to mind when you were talking about taking a two-hour, you know, bus trip up the mountain, to only go six miles. I think the...for me, when I first...I was around when these...the downhill bicycle tours started back in the '80s. And the thrill that they were advertising was bike down a volcano, which you would still be doing. You know, it wouldn't be going all the way to the beach. But, you know, just...I think the main issue here is safety. And so I just wanted to...if you could set aside all the...you know, the business and the marketing stuff, which I think you can still do, you know, do you believe this will make it safer?

MR. FELICIANO: You said my heart of hearts...no, no. Because you're still having the same set of people getting on bikes, riding, you know, for six miles. It doesn't enhance safety at all. What it does is, perhaps the fact that they're not riding in an area where there is more cars, you know, in that regard, yes, maybe. But you're still riding six and a half miles. Somebody mentioned a name of the lady who's paraplegic, right? That accident happened in this six mile area that we're now talking about. So, you know, there are things that enhance safety, and things that are just going to stay the same. This will not enhance safety for the people that are there. In fact, you know, one questions...there are now going to be more riders in the area all at the same time, instead of . . . *(inaudible)*.  
. . . --

COUNCILMEMBER KING: Right, but the timing of it would be different. So, you know, the idea of starting after...you know, or around the times when people are dropping the kids off to school, or starting down the hill for work. I mean, that was part of the issue that is in...now in this bill. . . . *(timer sounds)*. . .

MR. FELICIANO: The issue...if we're going to be regulated to that area at all, then there shouldn't be any time constraints because we're not going into the residential areas. So

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it wouldn't impact the residents.

COUNCILMEMBER KING: Okay. So you feel like that would make it safer being in that area then?

MR. FELICIANO: Well, it would ease the congestion, or the nuisance, in Kula.

COUNCILMEMBER KING: Okay, all right. Thank you. I think my time's up. Thank you, Chair.

CHAIR MOLINA: Okay. All right. Thank you, Member King. Members, any other questions for Mr. Feliciano as it relates to the proposed route on Crater Road? Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. My question is not for Mr. Feliciano, it's for Mr. Vila.

CHAIR MOLINA: Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. It's regarding...so the issuance of a permit, at the same time, would it be feasible for the Department to also issue safety colored vests, like Hi-Vis vests?

MR. FELICIANO: Who are you asking?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Vila.

CHAIR MOLINA: Mr. Vila. Go ahead.

MR. VILA: I don't believe...thank you, Mr. Chair. I don't believe that would be feasible to issue the vest. You mean individual vests?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah. Like at the expense of the permit applicant.

MR. VILA: I would not have the staffing or the resources to, I guess, administer that at this point. I would have to look into it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Vila.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair. Members, any other questions? Okay, Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I just saw Mr. Mayer's hand up also, he want to --

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MR. MAYER: Yeah. I'm getting text messages as we speak. As far as riding on the six mile route there that we indicated, when that concludes at around the three mile marker, there are other activities that could be combined in a package tour. Certainly before the tour begins, the sunrise would be one. They're not allowed to take their bikes there, but they could go up to the sunrise. The other part of it would be Kula Botanical Gardens down in Kula. There is a zipline very close by there. There is a tea plantation in that area as well. They could go for lunch at the Kula Lodge. There are many, many...there is a lavender farm. There are many of these activities that can be combined into the tours, if they take the bike ride, and then have a interesting, enjoyable experience elsewhere. Even one or two of those activities would make those tours very viable, I think.

CHAIR MOLINA: Okay. Thank you, Mr. Mayer. All right...oh, go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah. So I wanted to just say that...or ask Mr. Vila about...Robin Shishido was saying that the bike company would have to get a State permit. So is that something that Mr. Vila is familiar with? I know people get their bike permits from you, DMV. Is that something you administer?

MR. VILA: We issue, for example, parking placards, State IDs, but the State has not given us any type of authority to issue that permit. I think in HRS, it authorizes the County to issue a bicycle permit on State roadways, if I'm not mistaken. However, on the proposed ordinance, the bicycle tours are limited, right, at...as it's written, only on County-owned property. So that would have to be amended. So I guess again, we'd have to work through that, yeah.

COUNCILMEMBER SUGIMURA: So that would be a legislative change to HRS then?

MR. VILA: I believe HRS authorizes the County to issue the permit...to issue bicycle to a permit on State-owned property, like highways. However, the definition...on the proposed ordinance, it's limited to County-owned property.

COUNCILMEMBER SUGIMURA: Okay. Chair, could we . . .*(inaudible)*. . . --

MR. VILA: So that portion of the highway would not be part of the permitting process at this point, unless it's included within the context of this proposed ordinance.

COUNCILMEMBER SUGIMURA: You think Corp. Counsel could comment on that, Chair?

CHAIR MOLINA: Go ahead.

COUNCILMEMBER SUGIMURA: Corp. Counsel, or Richelle, or --

CHAIR MOLINA: Okay, Ms. Thomson.

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MS. THOMSON: Thank you, Chair. And thank you, Member Sugimura. So currently, as Mr. Vila said, the bike bill is...specifies that it applies to County-owned property. HRS does allow the County to regulate commercial bike activities on County and State highways. If the Committee wishes to modify where this applies, it can.

COUNCILMEMBER SUGIMURA: To...for Robin Shishido's letter, we hear he's saying that then bike tour companies has to...have to get a State permit.

MS. THOMSON: Um-hum.

COUNCILMEMBER SUGIMURA: Can you just clarify...so do we have to change legislation to allow that also, or are you saying the current legislation allows for it, so no change is needed.

MS. THOMSON: No change. Yeah, they would...they may need both the State permit to allow the use of . . . *(timer sounds)*. . . State highway pull outs, and then they may also need a County operating permit.

COUNCILMEMBER SUGIMURA: Oh, for the State pull outs, that's where we get...has to be separate permit?

MS. THOMSON: That's how I understand it.

COUNCILMEMBER SUGIMURA: Would that...would that then, do we have to change legislation for that?

MS. THOMSON: Not this particular bill, no.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Just dovetailing off of that, it's interesting. So now if it's the decision of this Committee to now just to restrict the bike tours to operate on Haleakala Highway, now where does the County fit in, yeah? Because they wouldn't be operating on any of our County roads. So I guess we could just maybe charge a fee, even though it's technically not a County road? I don't know, just something to make us think. I don't know. Ms. Thomson, do you have any thoughts on that?

MS. THOMSON: Just...I can...if you're interested, I can just read that section of the HRS that allows us to regulate on the State highways, in addition to County highways. So it allows the counties to adopt ordinances to regulate commercial bicycle tours, including number of tours, number of bikes within a tour, scheduling, physical spacing, rules of the road, health and safety requirements, including any--vests were mentioned by Councilmember Rawlins-Fernandez--equipment maintenance, driver and guide qualifications, driver and guide drug testing, accident procedures and reporting, and



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financial responsibility requirements, such as insurance, which is included in the bill...it's included in the current legislation and also amendments in the proposed bill. So we have fairly broad authority to regulate both on State and County highways. I think we discussed in the past that the reason...one of the reasons that we haven't chosen previously to regulate on State highways is that does potentially draw us into lawsuits for accidents that happen on those roads.

CHAIR MOLINA: Okay. Thank you for that clarification. All right, Members, if you have any more...no more questions at this point, I would like to ask Staff to put the current bill up for consideration. You know, just...we'll just kind of scroll through it, see if you have any questions with any of the proposed changes. Now of course, with the...if the Committee decides to just limit the route for the bike tours, then some of the, I guess, proposed changes in the bill may not apply. Because if I recall, if the bike tour companies were agreeable to just end things at Crater Road, Kula Community Association mentioned that there would be no need for the start times and the amount of tours. So I guess those were some thoughts that were thrown out at the last meeting. So anyway, let's do a walkthrough of the bill. And at the end of...you know, I'd like to get you guys out of here by 12, and at the end of the day, we'll see where we're at. We want to move forward with a decision today. So, anyway. Let's go ahead and start here. Chapter 5.22, any questions on the underscored information? Comments? Okay, maybe scroll up, continue to scroll, Ms. Takayama? 5.22.005, Applicability and Scope. This chapter applies to bicycle tour business operated on County property. If any provision of this chapter conflicts with any other ordinance or statutes, stricter provision will govern.

MR. MAYER: I would urge you to consider whether you want to change that County property reference. Because you're really talking about the State and County. And this would automatically limit the whole ordinance to only County property. So you might want to say operating on roads and highways in Maui County, or in Maui, or whatever you would want to say it. But not just County property.

CHAIR MOLINA: Okay. Let me get a comment from Corporation Counsel. Ms. Thomson, you heard Mr. Mayer's suggestion. Any thoughts?

MS. THOMSON: Well, this is, you know, for the Committee's consideration, whether he wants you...take on additional regulation of State highway activities. But it's really up to the Committee.

CHAIR MOLINA: Okay, Members?

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Okay. Sorry, I can't see you on this, is that Member King? Go ahead.

COUNCILMEMBER KING: Yes, sorry. Yeah, I know we can't see each other. So, you know, I

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guess there's a little bit of confusion because, you know, it says the chapter applies to bicycle tour businesses operating on County property. And if you go into definition, County property means any highways, right-of-way, easement, or other real estate owned or controlled by the County. So I guess my question to Corp. Counsel would be, does that automatically include that highway in County property, since that's the definition...you know, do we...do we technically control that highway as a County?

MS. THOMSON: Thank you for the question. No, we would not consider that we control that section of the State highway. But it would be --

COUNCILMEMBER KING: Okay, so...

MS. THOMSON: -- more a property that's, you know, under an executive order, or things like that where we have some type of official ownership or control of the road.

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

CHAIR MOLINA: Okay. Thank you, Member King. Okay Members. Continuing on, we're on definitions, 5.22.010. Okay, let's slow it down a little bit, okay? Application, and we...bracketed out for the purpose of, as used in this chapter. Bracketed out, it is plainly evident from. Then bracketed out, that a different meaning is intended, certain terms and words are defined as follows. Bracketed out, with otherwise requires. Application means a form provided by the Department that must be submitted to initiate a new permit request, amendment, or renewal of an unexpired permit. Authorized agent means an executive director or officer of a corporation, or a general partner of a general or limited partnership, or an active member of an unincorporated group or organization who provides the director with notarized written authority in order to represent a corporation, partnership group, or organization. Any comments, Members, questions on that? By the way, I can only see Mr. Mayer, Chair Lee, and Mr. Sinenci. The rest of you I cannot see. So if you have something to say, just notify me by voice. Okay. All right, continuing on.

COUNCILMEMBER SUGIMURA: Can you ask who's doing the screen share to make the font a little bit smaller, so we can actually read all across the page. It's --

CHAIR MOLINA: I'm...what was that, Member Sugimura...again?

COUNCILMEMBER SUGIMURA: Whoever is doing screen share, if they could...the font is very large, which is good, but it also doesn't allow us to see the whole sentence. Unless if you want to read us every single line that you're going to be addressing. It's just what I see --

CHAIR MOLINA: So you can't see everything?

COUNCILMEMBER SUGIMURA: It's broken. I mean...there, that's better. Okay, that's better.

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CHAIR MOLINA: Like that? All right.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Okay. Moving on to the paragraph that starts with the word bicycle and means...being inches in diameter or greater. As number 2, which is a low speed electric bicycle as defined under title 15 United States Code section 2085. I know we had a discussion on electric bicycles, any thoughts to that...on that . . .*(inaudible)*. . .

MR. VILA: Chair?

CHAIR MOLINA: Okay, whose voice is that?

MR. VILA: Lito Vila.

CHAIR MOLINA: Okay, Mr. Vila. Go ahead.

MR. VILA: Yes. By adding the lows, the electric bicycles in here and on County property, this maybe opening up every County-owned roadways for bicycle tours. I just want to bring that up. We did get a request for electric bicycle tours that would be traveling on County-owned roadways, which is within, you know, the different towns, yeah. Just food for thought for the Committee.

CHAIR MOLINA: That's a lot of food for thought, Mr. Vila, yeah. I know the intent for this bill did not include electric bicycles. I...my preference would be to kind of...that could be considered as a separate matter in the future. If we include this in this ordinance now, we might be here for a while, you know. That's just my thoughts. Okay. We'll just continue on. Thank you for sharing that, Mr. Vila. Okay, where were we...where were we...tours, that business means any commercial enterprise or--commercial is bracketed out--enterprise or establishment and including, underscored, sole proprietorships, joint ventures, partnerships, fraternal organizations, clubs, and corporations, whether for-profit or nonprofits. Members, any thoughts on that before I move on to the next paragraph? Okay. Can you scroll up a little bit, Staff? Or a business location means a permanent fixed place of business, not including a place that consists solely of a post office box that is identifiable by tax map key number and street address in the County. And then moving on to commercial, for definition, means an act in which a person receives a benefit or a promise to receive a benefit by providing goods or services to another person. Questions? Okay. Then we go further down. Department means the Department of Finance. And guided bicycle tour, which is underscored, also includes...means a bicycle tour accompanied or led by an employee or agent of the bicycle tour business throughout the tour, usually in conjunction with a business vehicle. Okay, that concludes page 2. Okay, seeing no questions, let's continue. Okay. Let's go to word...the word, starting with the word notification, which is the second paragraph. Notification means actual notice to the applicant or permit holder. And

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then moving on down. If service by registered or certified mail is not made because of inability to deliver or refusal by the addressee to accept same, the Director may give notice by publishing once in a newspaper of general circulation in the County. Any questions there, Members? No? Okay. Let's go down to the last paragraph --

COUNCILMEMBER PALTIN: Is it --

CHAIR MOLINA: No, go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Oh, sorry.

CHAIR MOLINA: No, go ahead.

COUNCILMEMBER PALTIN: Is it the Director of Finance?

CHAIR MOLINA: Let's see. Maybe...Corporation Counsel, can you provide some clarity on that in the ordinance? Be very...I would guess it would be Finance, but I could be wrong.

MS. THOMSON: Right, Chair. It's the Director of Finance.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR MOLINA: All right. Thank you. Okay, the last paragraph, the underscored information. Unguided commercial bicycle tour means a bicycle tour that is not led or accompanied by a guide throughout the ride in which transportation to or from the route is provided or arranged by the bicycle tour business. Any comments, questions, Members, on that? That definition clarity not...clear enough? Okay. All right, moving on up down to 5.22.020, Unlicensed Bicycle Tour Business Prohibited Application for Permits.

COUNCILMEMBER SUGIMURA: Chair? Mr. Molina?

CHAIR MOLINA: Go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Oh, sorry. Before you leave that section of definitions, can you go back up to...and I highlighted it under bicycle, what Mr. Vila said regarding the addition of under bicycle means...it says, or (2) A low-speed electric bicycle, as defined under title 15 United States Code section 2.85 [sic]. And he expressed concern about including this in the bill. And I wonder if Corp. Counsel could make a statement or could, you know, explain that to me?

CHAIR MOLINA: Okay. Ms. Thomson?

MS. THOMSON: Sure. Thank you, Chair. And thank you, Member Sugimura. So, the reason

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that we made those changes to the definition of bicycle is to mirror the definition of bicycle in State law, it's HRS 291C. And so including electric bikes is...is in the definition in State law.

COUNCILMEMBER SUGIMURA: So...but Mr. Vila, I think he's saying that if we included that it opens us up for electric bikes to be used on all County roads. Did I get that correct? What is the --

MS. THOMSON: It allows...it allows the County to regulate that activity on...currently it's just limited to County-owned roadways. If it's left out, it doesn't mean that operators can't do it. So e-bikes are allowed, you know, on roadways, the same as regular bicycles are. They have to follow the rules of the road, but they are allowed. And the commercial business is likely allowed. This...having it included means that we can regulate it.

COUNCILMEMBER SUGIMURA: So it's actually...to...it's actually better then to leave it in there?

MS. THOMSON: That's...that was our thinking by including it, yes.

COUNCILMEMBER SUGIMURA: Because it's already covered with HRS. Okay. Thank you for that clarification.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Okay, Staff, please continue.

COUNCILMEMBER PALTIN: Chair, I have a question.

CHAIR MOLINA: Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Based on Member Sugimura's question. I just was wondering, if we take it out as suggested, would that open us up to the same sort of liability with the individual that got injured and then sued us for not regulating? If we choose to not regulate e-bikes at this time, would that put us in a similar situation where if we don't regulate the e-bike tour or rental, and somebody gets hurt, then they said, well, Maui County had that opportunity to regulate it, and chose not to, and that's why I got hurt.

CHAIR MOLINA: Okay, good question. Corporation Counsel, can you respond to Member Paltin's inquiry?

MS. THOMSON: Sure. Thank you, Chair. And thank you, Member Paltin. This is the...this gets into, you know, more of a discussion of liability, which we should do in executive session. But I think that you've...Member Paltin, I think that you've identified what a complaint might include, you know, is a basic allegation of by regulating the industry, we have taken on some type of liability. You know, which...you know, we definitely would oppose that stance. But we can get into it more in executive session.

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COUNCILMEMBER PALTIN: And so your recommendation is still to leave the e-bike portion inside?

MS. THOMSON: It's the Committee's choice. So if you...you know, if you wish to regulate e-bikes, I would leave it in. And if you don't want to regulate e-bikes--and right now, the changes to the ordinance are just for guided and unguided tours. So not, you know, rental of e-bikes that people are just renting from, you know, the bike shop, and then using on their own, not as part of a tour.

COUNCILMEMBER PALTIN: And it only applies to Pā'ia-Ha'ikū, Makawao, Kula, and Upcountry? Not Countrywide?

MS. THOMSON: It actually applies Countywide, there's just further restrictions on the timing and the number of tours, et cetera, for those two community plan areas Upcountry.

COUNCILMEMBER PALTIN: Oh, okay. Thank you for the clarification. Thank you, Chair.

CHAIR MOLINA: All right. Thank you, Member Paltin. Okay, Staff? If there are no other questions, Members, let's continue scrolling. All right. Let's go to unlicensed bicycle tours...yeah, if you scroll up there...yeah. Unlicensed bicycle tour business prohibited application for permits. It...basically, it just goes over the requirements for applicant's name, business location, address, email, and so forth. And down at number 3, description of the...to be utilized...okay. Areas...let's see what's been bracketed out. Of the proposed schedule, maximum number of participants per tour group, whether the tours are guided or unguided. Routes, including community plan areas, that's supposed to be provided, part of the application process, yeah. Any questions on that, Members? If not, continue scrolling up . . . *(inaudible)*. . . yeah. Thank you. Okay, and more requirements for the application process, for the applicant. Let me ask Mr. Feliciano, you have any questions with regards to the added language?

MR. FELICIANO: Thank you, Mr. Molina. I believe some of that is already in the application that we fill out now as far as routes, and...yeah, it's mostly in there already.

CHAIR MOLINA: Okay.

MR. FELICIANO: Yeah.

CHAIR MOLINA: Okay, good. Okay, Staff, just continue scrolling up. Get to...whoa, hang on. Yeah, let's go back down a little bit. Okay. Number 1, permit holder must procure and maintain during the term of the permit a commercial general liability policy with the following minimum limits and coverages, placed with an insurance carrier authorized to do business in the State of Hawai'i with a minimum AM Best rating of A...is it 5-7? Mr. Feliciano, you have any comments on this added language?

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MR. FELICIANO: No, no. The insurance has been there all along, and we've all complied. It's a little difficult, the times, for certain insurance companies to meet the requirements, but it's done.

CHAIR MOLINA: Okay. So it's pretty standard then, at least from your perspective?

MR. FELICIANO: Yes.

CHAIR MOLINA: Okay.

MR. FELICIANO: So far.

CHAIR MOLINA: All right.

MR. MAYER: Excuse me. I believe you got a letter from Corp. Counsel regarding insurance, with recommended limits. I don't know if you want to refer to that letter from them in this section.

CHAIR MOLINA: Ms. Thomson, any comments with regards to this section?

MS. THOMSON: Thank you, Chair. Thank you, Mr. Mayer. Yes, there was a correspondence from our office. The Risk Manager, Lydia Toda, reviewed the insurance provision here, and basically it's a change to the limits to make them lower than it's currently in the bill.

CHAIR MOLINA: Okay. Thank you, Ms. Thomson.

MR. MAYER: Given the rising costs of medical care and other damages, I'm surprised that you want to go lower. It would seem that the County would want to protect itself by increasing the limits, rather than decreasing them.

CHAIR MOLINA: Ms. Thomson, are you able to respond to that? Yeah, what is the...I guess, the reason why, you know, the recommendation is to go lower?

MS. THOMSON: My understanding was that Ms. Toda reached out to our broker to ask about the limits, and that was their consensus. In terms of which limits, though, it is Council's choice whether to, you know...you know, adopt that suggestion, or to just have the limits as they're currently set out in the bill.

CHAIR MOLINA: Okay. Thank you, Ms. Thomson. All right, let's continue going down the bill. All right. Can you go back up a little again, Ms. Apo Takayama? There's couple of things I wanted to look at we missed here.

COUNCILMEMBER SINENCI: Chair?

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CHAIR MOLINA: I heard a voice. Oh, is that Mr. Sinenci? Go ahead.

COUNCILMEMBER SINENCI: Yeah. Thank you. Just looking at Item d. at the bottom of page 5. The County and its officers and employees must be named as *(audio interference)*. Bicycle tour business with a duty to defend the County from any claims arising from bicycle tour operations. So just a question for Corporation Counsel. The County...on all of the insurance, County will also be named...toward, I guess, against any litigation?

MS. THOMSON: Yes. So that is a requirement currently. And would also continue to --

CHAIR MOLINA: Mr. Sinenci?

COUNCILMEMBER SINENCI: It sounded like the County was named in a lawsuit prior. Or was that on...not on County property?

MS. THOMSON: I believe that the County in the past has been named in lawsuits that occurred both, you know, on or near a County roadway, and then also on roadways that were not owned or maintained by the County...you know, for various grounds, you know, failure to properly maintain the roadway and, you know, et cetera.

COUNCILMEMBER SINENCI: So this added protection would be just on County property?

MS. THOMSON: This would be for anyone obtaining a license to operate tours.

COUNCILMEMBER SINENCI: Okay. Thank you, Deputy Director [sic]. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. All right. Continue on, I was looking at e., the permit effective date may be nonconcurrent with the bicycle tour business insurance policy's effective date. Could you comment on that, Ms. Thomson?

MS. THOMSON: Yes.

CHAIR MOLINA: And it goes on . . . *(inaudible)*. . .

MS. THOMSON: . . . *(inaudible)*. . . Oh, for the insurance certificate?

CHAIR MOLINA: Yeah.

MS. THOMSON: So that simply means that sometimes the insurance certificate effective dates don't immediately line up with the one-year permit duration deadlines. So we're saying that that's okay, but that they must let us, you know, know. And they have to keep their certificates up to date, and provide a copy to the Department of Finance.

CHAIR MOLINA: Okay. Yeah that's incumbent on the applicant to do, follow through, yeah. Okay. All right, Members --



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MR. FELICIANO: Mike?

CHAIR MOLINA: Go ahead. Is that Phil? Go ahead.

MR. FELICIANO: Yeah. Presently, the certificate of insurance does provide that coverage for the County. You know, you are additionally insured. And also, the part where it expires, that is...that happens regularly. And the insurance company sends the certificate holders, like yourselves, a copy also...upon the renewal.

CHAIR MOLINA: Okay. Thanks for that clarification. I saw Member Sugimura, you had a question? Go ahead.

COUNCILMEMBER SUGIMURA: Yeah. For Corporation Counsel then, the...Lydia Toda's...Toda's recommendation for the insurance coverage. So the recommendations are now primary commercial liability policy with 1 million per occurrence, and 1 million annual aggregate; is that correct? If you go back up to . . . *(inaudible)*. . . 1 of this section.

CHAIR MOLINA: Question for Corp. Counsel.

MS. THOMSON: Yes. That's correct, Chair. Ms. Toda's recommending that we lower certain of the limits.

COUNCILMEMBER SUGIMURA: Okay. So that would be 1 million per occurrence and 1 million annual aggregate. And then if you go to section 2 under that, or under Roman numeral ii., it says an umbrella policy written on a following...on a "following form" basis with 2 million per occurrence and lowered from 3 to 2 annual aggregate. Is that the recommendation?

MS. THOMSON: Yes, it is.

COUNCILMEMBER SUGIMURA: Okay. We can look at that. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Okay, let's continue scrolling down, page 6 now. Okay, any questions on page 6? Again, it's, I guess, requirements for the permit holder, their responsibilities on what they must execute. Looking at number 2 as it relates to indemnifying, indemnification agreement with the County. And added language was, and all damages, claims, actions, demands, and proceedings for property damage, personal injury, or wrongful death arising...that's been added...or specified.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR MOLINA: Go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: . . . *(inaudible)*. . .

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CHAIR MOLINA: Member Sugimura, you sound muted. If you could unmute.

COUNCILMEMBER SUGIMURA: Sorry. The paragraph before that, which you just read, so in paragraph 1, the last sentence was added. The bicycle tour business is prohibited from conducting bicycle tours on County property during any period in which the required insurance is not in effect. So if we're looking at the State road, which we're talking about, to be the compromised route, how does this then affect that?

CHAIR MOLINA: Maybe Ms. Thomson can answer the question.

MS. THOMSON: Thank you, Chair. Thank you, Member Sugimura, for the question. So this...the current draft of the revisions to this ordinance are limited to County owned or controlled roadways. So if a bicycle tour business was only being conducted on a State highway, this ordinance would not apply.

COUNCILMEMBER SUGIMURA: Okay. So...what, the disconnect is that proposed alternate. Mile marker--was it 9.1 to 3.0--or 9.2, I think, to 3.0. There's a disconnect, right? What we're saying is the compromise within this whole policy doesn't impact that. But it would impact Tamara Paltin's questions regarding, you know, bike tours that are happening in West Maui...or South Maui, where Member King...so we are right now developing a policy that doesn't...is not taking us to where we want to go, I think.

MS. THOMSON: Right. It sounds like there may be an amendment to...or consideration of an amendment to the County controlled property or roadways, and making that broader to State highways. And it would also be, you know, under...under the Committee's consideration whether to include all State highways or just Crater Road.

COUNCILMEMBER SUGIMURA: Okay. You would have to change the definition then. Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Okay, Staff, continuing. D. Review of Applications. Okay. Hang on, Staff. Can you go back a little bit to...back to D.? Okay, right there, yeah. Okay. Within five business days upon...I guess, a complete application, the Director must submit a copy of the application to the Department of Police. Mr. Vila, any comments on this section D.?

MR. VILA: We're fine with that, Mr. Chair.

CHAIR MOLINA: Okay. Thank you.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Okay, yeah. Go ahead, Member King.

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COUNCILMEMBER KING: Thank you, Chair. Yeah, I'm a little...I just wanted to check on the process because I thought we were looking at the March 8th version of the bill...I'm going through that. And so...and then there's this Corp. Counsel version of the bill that has those changes in the insurance numbers. And so are we...are we working off this March 8th document and then going...going to go back and change those numbers, or are we working off the Corp. Counsel version of the bill?

CHAIR MOLINA: Well, I'm looking at both. And by the way, you know, if you have any questions on either one, we can consider that and --

COUNCILMEMBER KING: Okay. I just want...I wanted to make sure that when we get to the approval that we know what we're approving, and are we...do we need a --

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: -- like a separate motion to get those other numbers into this bill when we get there?

CHAIR MOLINA: Well, for right now, it's just...you know...you know, we're looking at all the information, the added language, and then at some point we can, you know, decide how we want to approach this, if we do --

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: -- want to make a decision today.

COUNCILMEMBER KING: Okay. I agree.

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: I want to make a decision today.

CHAIR MOLINA: I think with some of the changes that were made prior at the last...or suggestions as far as the route, it does impact the original bill. And we may have to delete certain...depending which way we go, we could...we may have to make some changes to what was originally proposed. I'm looking at a mesh of the bill that I proposed as well as the bill...okay, components from the Kula Community Association bill, find something that can...we can all reach common ground on. So...but --

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: -- at the moment, I just want to take a look at what's been proposed and then we'll come back to it.

COUNCILMEMBER KING: Okay.

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CHAIR MOLINA: Okay. All right.

COUNCILMEMBER KING: Thank you.

CHAIR MOLINA: Thank you. All right. Continuing on, Staff. Scrolling on down, so we'll look at letter E. And the Director...Mr. Vila, any comments on letter E., with the underscored language that's been added? May issue the permit upon payment of any required fee. Go forward.

MR. VILA: None at this time, Mr. Chair.

CHAIR MOLINA: Okay. And let's...again, let's move down to letter F. An applicant...notify the Director within five business change of a change to any information. Mr. Feliciano, any comments on that?

MR. FELICIANO: No. Not at this time.

CHAIR MOLINA: Okay, very good.

MR. MAYER: I have...I have one comment. Nowhere is it mentioned that these are annual fee permits. And so I think you may want to go back to E., and put in there that they're applying for essentially--or somewhere else--applying that these are annual permits. Otherwise, somebody gets a permit, they may say we don't have to go back here ever again.

CHAIR MOLINA: Okay. I guess for more specificity, yeah. Corp. Counsel, Ms. Thomson, your thoughts on that suggestion from Mr. Mayer?

Ms. THOMSON: I'm sorry, Chair. I missed part of that comment. Mr. Mayer, do you mind repeating that?

MR. MAYER: Yes, certainly. Shouldn't it say the annual permit, rather than just permit? Otherwise, a permit could be given out, and then nobody checks after that again.

MR. VILA: Mr. Chair? I think the answer to that is in .030, it's for one year.

CHAIR MOLINA: It's already included in the bill, yeah, as one year?

MR. VILA: Yes, 0-3-0.

MR. MAYER: Very good.

CHAIR MOLINA: Mr. Mayer, did you find that? Okay. Okay, let's continue on to the next section. I think this is the one that, I guess, we'll have a lot of discussion on, 5.22.025.

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Commercial bike tours operating in the Makawao, Pukalani, Kula, and Pā'ia-Ha'ikū community plan areas. Now, A., it is unlawful for any business to conduct unguided commercial bike tours in the Makawao, Pukalani, Kula, and Pā'ia-Ha'ikū community plan areas. Comments on that A., letter A.? All right. B., no more than six guided commercial bike tours are allowed to operate each day in each community plan area now. As I mentioned earlier, if we decide to go with ending the route on Haleakala Crater road, then there may not...we may not need to have that letter piece. Sorry, is that...Mr. Mayer?

MR. MAYER: Correct. That would be...we could get rid of that.

CHAIR MOLINA: Okay. Yeah, and also, what about letter...and then letter C. as well? No more than ten bicycles...so that would be not necessary if we end it on Crater Road. . . .  
*(inaudible)*. . .

MR. MAYER: I think...I think...that's a...that's generally a safety...even on the upper part if the tours come down...and the tourists are coming down from a sunrise, other tourists in their cars are coming down. You don't want these bike tour groups to be so long that nobody can ever pass one. So, you know, ten might be a good...there's no exact...it could be 9, it could be 11. There's no magic number. But you don't want to just leave it open ended.

CHAIR MOLINA: Mr. Feliciano, can I ask for comments from you on that?

MR. FELICIANO: Yeah. The number should be 12 because that's what sits in a van. It should be 12. And if we're talking just at that Crater Road area, there's pullouts anyway. So how long are we're going to be in front of somebody in a six mile area there...with the pullouts? One minute, two minutes? People should be able to give us that space and time.

CHAIR MOLINA: Okay. So you're talking about maybe establishing like a time interval between rides as they approach the pullout areas?

MR. FELICIANO: Well, again, isn't this all a moot point? If we're up in that area, the only people we may impede are the people coming off of sunrise. And generally, those cars have already departed before we get on bicycles. So there's very little traffic at all once we get on the bicycles. And if we're stopping at tree line, then we're not going to interfere with anybody else. So I think, you know, to require the spacing, the amount of people, it's all kind of a moot point.

MR. MAYER: I think 12 would be fine.

CHAIR MOLINA: Okay.

MR. MAYER: I don't object.

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CHAIR MOLINA: Okay. So 12 is a number that everybody can live with? Okay. All right, moving down to D. Employee guides must ride at the front and back of tour groups. Comments?

MR. FELICIANO: Again, this is something that's already done. If it's a guided tour, you got the guy in the front and the guy in the back. So --

CHAIR MOLINA: Okay. Let me ask Corp. Counsel, should we still specify that? I mean, I know the industry are...they're doing it. But in the event there is some mishap or so, and that language is not in there, are we...you know, could we --

MS. THOMSON: Thank you, Chair, for the question.

CHAIR MOLINA: -- be subjected to more legal action if we don't include that language in there?

MS. THOMSON: I don't think so. This...I mean, this falls under the general safety requirement for tours operating in these community plan areas. But if you don't mind, just while I have...while I'm...while I'm speaking on this...this section. If you are going to adjust all the tours on that section of Crater Road, I think that you'll want to keep A., and...but maybe take...you'd need to modify it, right? So unlawful for any business to conduct...and just take out unguided because it sounds like you're regulating. You don't want any of these tours operating in those community plan areas. And then a new B. that would specify which area of Crater Road it is allowable. And then the rest of the conditions would apply to that section of Crater Road only.

CHAIR MOLINA: Okay. Thank you. All right. Okay, let's continue on --

COUNCILMEMBER SUGIMURA: I have a question, Chair.

CHAIR MOLINA: You have a question...is that Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR MOLINA: Go ahead.

COUNCILMEMBER SUGIMURA: I do have a question. So I know that number B...well, I guess the alphabets will change. But B., no more than six guided tour...commercial bike tours are allowed to operate each day, on each community plan...in each community plan area. So by specifying six guided tours, I...how do you regulate that? You know, I think that by putting that in...well, what is the problem or liability, you know, we bear if we say oh, it's supposed to be only six, but maybe there are more guided tours that actually happen. And who's going to know that it's more than six? Is that a problem, or is that, you know, like minor?

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CHAIR MOLINA: Who would you like to direct that question to?

COUNCILMEMBER SUGIMURA: I guess Legal. Is there anything that --

CHAIR MOLINA: Ms. Thomson?

COUNCILMEMBER SUGIMURA: -- you know, problem if we specify something so finite?

MS. THOMSON: I can answer that, and then Mister...maybe...maybe Mr. Vila has something to add. It would be basically an additional requirement that Finance would have to deal with in terms of allowing or licensing the tours in that area. You know, they would have to basically, you know, dole them out, or figure out a system of...any of the operators would have a certain slot, and it would be limited.

MR. VILA: Mr. Chair, that would be a great challenge to administer. If you put a limit, will that be by lottery? And how...you know, what...how's that going to get enforced? That would be...that would be impossible. We could just say six, but again, if you have a large company, a large company will take that up every day. So you're going to allow only one company to operate at this location.

CHAIR MOLINA: So basically, you're saying just leave it open ended then?

MR. VILA: No, what I'm saying is if you put a limit in there, our Department will not have a way to regulate that, or implement that, at this point. I don't have additional staffing, I don't have, you know, something. It's for the body's consideration. It will be very difficult to enforce. And I believe Mr. Feliciano's company will...if they make a go at it, will use up all of the slots.

CHAIR MOLINA: Okay. Thank you for that point.

MR. FELICIANO: Mr. Vila is absolutely correct. With Mr. Mayer's marketing skills, we would be able to dominate those six slots. But it seems like that's all...that's all...didn't apply, you know. Maybe you have a cap on how many guided tours, or how many bicycle tours you want to have operating in this State, or in the County. But as far as when they come down, how many come down, from 9.5 mile marker to 3.0, it really shouldn't matter. You know, there's agreements with the companies, different time slots that we've already worked out. So for the County to try and regulate...takes only these time slots, it would be really difficult, like Mr. Vila said, to enforce. So it's almost not necessary...if we're not going into Kula, then it's almost not necessary. Because who are we impacting? We're impacting the visitor that went up to Haleakala, which is probably 98 percent off-island people.

CHAIR MOLINA: Okay. Thank you for those points, Mr. Feliciano. All right, moving on. Guided commercial bike tours may only be conducted between 9:00 a.m. and 1:00 p.m. We can remove that, I believe, based on the last meeting, if we go with just Crater Road.

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Letter F., again, each commercial bike tour business is limited to one guided bike tour for two hours in each community plan area. Remove --

MR. FELICIANO: Again, Mike, we're not going to be in the community areas. So that should not apply.

CHAIR MOLINA: Okay. All right, remove F. Letter G., permit holders must require riders to sign the bike pono pledge, and so forth. I believe, Mr. Mayer, you recommended we leave that in? All right. Let's go to letter H. Guided commercial bike tours may only be conducted on Haleakala Crater Road between Haleakala Highway and Kekaulike Interaction and the Haleakala National Park boundary (Route 378). Now, this one may be subject to some change, yeah. Members, any questions on that? Questions?

COUNCILMEMBER SUGIMURA: Can I see H.?

CHAIR MOLINA: Yeah. Letter H. Guided commercial bicycle tours may only be conducted on Haleakala Crater Road between the Haleakala Highway, and Kekaulike Avenue Interaction, and the Haleakala National Park boundary (Route 378).

COUNCILMEMBER SUGIMURA: Okay. Can I see it on the screen?

CHAIR MOLINA: Okay. I have it on my screen. You guys can't see it?

COUNCILMEMBER SUGIMURA: Oh, you do? I can't see it on my screen.

CHAIR MOLINA: Share screen.

COUNCILMEMBER SUGIMURA: Okay, proceed. Sorry, I'll...

CHAIR MOLINA: All right. Members, you want to leave that in as is, letter H., for now?

MR. MAYER: I would recommend a change

CHAIR MOLINA: Okay. Mr. Mayer, what's your suggestion?

MR. MAYER: My suggestion is rather than those locations, it will say guided commercial bike tours may only be conducted between the 9.5 mile marker --

CHAIR MOLINA: Okay.

MR. MAYER: -- and the 3.0 marker on Crater...Haleakala Crater Road. And then if you want to then add route 378, you could add that. But stop there at the 3.0 marker.

CHAIR MOLINA: All right. Mr. Feliciano, I saw you went on, any thoughts?



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MR. FELICIANO: Yeah. I guess since I'm the industry rep., we will be going on record and say that we don't agree with this. We feel like we're being forced to accept something that we shouldn't have to live with, rather than being banned completely. So the option is, bike tours get banned completely, and you guys figure out how to enforce all that. Or we're regulated just to this six mile area. So for the record, we're against this. We'll cooperate and make it work the best that we can, but we have to say that we don't want to be regulated just to six miles.

CHAIR MOLINA: Okay. Thank you, Feliciano. All right, Members, it's...I didn't give you guys your normal break. Let's go take a break. Looking at all the fine print there has kind of given me an eye sore. But it has been very productive as we go through this bill. Let's take a break. Members, let's come back around 11:30, okay. The GREAT Committee meeting for June 14, 2022, is now in recess until 11:30 a.m. . . .(gavel). . .

**RECESS: 11:21 a.m.**

**RECONVENE: 11:34 a.m.**

CHAIR MOLINA: . . .(gavel). . . The GREAT Committee meeting for Tuesday, June 14, 2022, will now come back to order. We are still discussing GREAT Item 44 related to the bike tours. Staff, again, could you put the bill up on the screen? Just doing a final walkthrough. Members, Chair's intent...I believe there's a lot to consider here. So...well, unless you guys are ready, I don't...I'm not quite ready yet to move forward just yet. We're close, but as we're finding out, this is quite a complex matter, not as easy as it looks. So, anyway. All right, let's go down to Section 5.22.030. Any comments? I guess where it says, any permit issued in accordance with this chapter will, unless suspended or revoked, continue for one year from the date of issuance. Then underscored, and expires automatically without notice to the permit holder on the date specified on the permit. And then letter B., the Director may suspend or revoke any permit issued in accordance with this chapter if the permit holder has violated any rule, ordinance, or statute related to commercial bicycle tours. Mr. Vila, any comments on that?

MR. VILA: Yes, just one comment, Mr. Chair. Thank you. That's if the ordinance will be effective upon approval. And may I ask the Council to consider some sort of transition or grandfather, what happens to the existing permit if the...their existing permit does not expire until so many months later? Are they required to get a new permit, or do they start from scratch? And, you know, I'd like that to...recommend that that be addressed.

CHAIR MOLINA: Okay. You know, Mr. Vila, could you submit that in writing to the Committee too? I think if it comes from the Department, that's some questions that, you know, maybe Corp. Counsel can provide some guidance for us as to how we structure the bill. I think that's a good point you make there.

MR. VILA: Okay, will do. Thank you.

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CHAIR MOLINA: Okay.

MR. FELICIANO: Mike...Mike, if I may?

CHAIR MOLINA: Go ahead, Mr. Feliciano.

MR. FELICIANO: Thank you. That was something I wanted to address, that if and when some form of bill gets drafted, and...it cannot be applied immediately. It...we have to have some kind of lag time, six months, or whatever, simply because there's hundreds and thousands of dollars' worth of equipment involved, marketing issues involved, people that have purchased tours expecting, you know, the full thing. And now we have to downsize them to something else. So there has to be some time built in. You know, . . .  
*.(inaudible).* . . . --

CHAIR MOLINA: I'm agreeable to that, Mr. Feliciano, yeah. To be fair, we got to give you guys, when and if a bill is approved, I guess, a delayed implementation time of the ordinance to allow you guys to redo your marketing, and so forth, and everything else. Yeah, I'm fine with that.

MR. FELICIANO: Thank you.

CHAIR MOLINA: All right. Members, moving on down 5.22.040, nontransferable. No permit issued under this chapter is transferrable. And each permit...permit authorizes only the named permittee, and no other person or business. Any comments? No? Okay. Move on to 5.22.050, inspection of permits. Added the word...I guess the third line, while engaging in...I guess, adds the word commercial bicycle tour activities. Then the underscored language, all permit numbers must be legibly displayed on a bicycle tour business' electronic and print advertising. Okay, that seems pretty straightforward. Okay. Staff, let's scroll up a little bit. 5.22.060, unlawful bicycle tour operations penalty. Okay. Language added letter A., any person who violates Section 5.22.020 will be fined not less than \$1,000. Letter B., any person who violates Section 5.22.0250 *[sic]* will be fined not less than \$500 for a first offense, and not less than \$1,000 for any subsequent offense within 12 months. And then letter C., any person who violates Section 5.22.050 will be fined not less than \$20 nor more than \$100. Comments, Members? Feliciano, Mr. Mayer?

MR. FELICIANO: Yes, Mike. Sorry, Dick. We're talking about the business, correct, would...would be fined?

CHAIR MOLINA: Yeah. Um-hum.

MR. FELICIANO: Not the employee that just did what they were told and was out there.

CHAIR MOLINA: Yeah. Yeah, it says any...we did bracket out any business or person. Let me

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ask for clarification from Corp. Counsel, but I believe this would apply to the business that would get fined.

MR. FELICIANO: Right.

CHAIR MOLINA: Ms. Thomson, am I correct?

MS. THOMSON: So the citations would be for a violation of the chapter, but there are some requirements of employees...let's see, in another section there. You know, such as displaying the permit and all of that, so it is possible that an employee may be cited for some of the types of violations or requirements of this chapter.

CHAIR MOLINA: Um-hum. Okay. Mr. Feliciano, does that provide clarity for you now?

MR. FELICIANO: Well, not really. You know, if an operator is out there, operating illegally, but an employee doesn't know that the business is illegal, and they get stopped out there, and...say a placard isn't displayed properly, you know, the fines should go to the companies, and not the employees. You know, this isn't a moving violation per se. So I just wanted to make sure that...that, you know, no employee is being fined, but the companies are being fined.

CHAIR MOLINA: Okay. Yeah. But I would think that could be worked out between the employee and the business owner, so...

MR. MAYER: You may want to say person and business. There may be some situations where --

CHAIR MOLINA: And/or...person and/or business.

MR. MAYER: -- . . . *(inaudible)*. . . person and...because there may be situations where, let's say, the tour ride...tour guide does...is derelict in leading the group, you know, and so just sits in the back of the group and lets the group go down and he's following them. That would be a dereliction. The person should be cited for that, whereas most of the cases will be the company.

CHAIR MOLINA: Yeah. Well, I think any employee that does that kind of conduct or action, that's grounds for automatic termination, I would think.

MR. FELICIANO: Yes. They would be cited by the company.

CHAIR MOLINA: Yeah. Okay. All right, moving down...on down. Prima facie evidence--I hope I said that right--advertising that offers a commercial bicycle tour business 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 under Section 5.22.020. Ms. Thomson, can you provide clarification on this for me?

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MS. THOMSON: Sure. What that allows is for enforcement for advertising by unpermitted bike tour operators.

CHAIR MOLINA: Okay. So if you're unpermitted, and you offer advertising that you are doing these bike tours, then you're subject to fine...penalty?

MS. THOMSON: Correct.

CHAIR MOLINA: Okay. Okay, Members, let's move on down to the next Section 5.22.0620 [sic], citations --

COUNCILMEMBER PALTIN: I had a question about that section that Ms. --

CHAIR MOLINA: That just spoke up.

COUNCILMEMBER PALTIN: -- Thomson was talking about.

CHAIR MOLINA: Okay. Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Unpermitted tours and advertising, I know that this only applies to bicycles, but the definition of bicycles were wheels with 16 inches in diameter. And so I was wondering...this is totally separate than scooters...electric scooters, or mopeds, because of the wheel diameter? Or because mopeds and scooters are defined differently? And is there regulation of commercial moped or scooter tours? This wouldn't...this bill would not apply to that, right?

CHAIR MOLINA: Maybe that would be a question for Mr. Vila or Ms. Thomson?

COUNCILMEMBER PALTIN: Ms. Thomson.

CHAIR MOLINA: Okay.

MS. THOMSON: Thank you, Chair. Thank you and Member Paltin. Yes, you're correct. This would apply just to bicycles, inclusive of electric bikes right now. And mopeds and...like motorized scooters and things are defined differently in State law.

COUNCILMEMBER PALTIN: And so if we were to just add the definitions of mopeds and motorized scooters, could they be included in this?

MS. THOMSON: So is...you mean like Segway tours and things like that?

COUNCILMEMBER PALTIN: No. I mean like, you know, the scooter tours that are taking people around Kahakuloa and things like that.

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MS. THOMSON: I didn't even know about that. We could...we could look at modifying this to incorporate those kinds of motorized equipment as well. Mopeds might need to be handled a little bit differently, because they are a different vehicle under State law.

COUNCILMEMBER PALTIN: So motorized scooters could, kind of, because the wheels are in tandem. But the...I forget what the other one that you were talking about, those wheels are...wouldn't be considered in tandem. They're side by side, regardless if they're 16 inches diameter or not, right?

MS. THOMSON: Right. Exactly. I think we would just need to identify them in the ordinance, and then probably modify the language a little bit here and there.

COUNCILMEMBER PALTIN: And then the main reason for scooters not being included is because their wheels are generally less than 16 inch diameter?

MS. THOMSON: You mean mopeds? I think that the reason that that's not included is that they're allowed to go...they're both allowed and prohibited differently than bicycles are. I would need to actually just review that State law, though, to be able to really answer your question on mopeds...or moped . . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: Okay. And then...I mean, I guess scooters, in terms of mopeds, and then there's, you know, new technology. Again, I guess we get all the new technology in West Maui, because of the...the income disparity or something. But they have electric...like you know how the razor scooters used to be? And then they have some just one wheel, with the kick stands on the side where you stand on the wheel. And all sorts...I mean, but we're not talking about any of those because of diameter or mechanism of power?

MS. THOMSON: Right. At this point, this ordinance is just limited to basically your kind of standard bike or an e-bike.

COUNCILMEMBER PALTIN: And the electric like razor scooters could not be included as well?

MS. THOMSON: I think they could be included, but, you know, we would have to modify the language here.

CHAIR MOLINA: Yeah. We could consider that, Member Paltin, because I'm going to bring this bill back revised with some of the suggestions made here today at a later point. So if that's something you would like the Committee to include in a revised bill, that's...certainly we could consider.

COUNCILMEMBER PALTIN: Okay, yeah. I mean, I don't think the electric razor scooters are an issue yet, but I didn't think e-bikes were an issue before when we first took up this matter. And it's just everything...new technology is proliferating...West Maui.

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CHAIR MOLINA: Yeah. Always seems West Maui gets the new technology first before everybody else, yeah? Okay.

COUNCILMEMBER PALTIN: You have some high income bracket folks moving in, I guess.

CHAIR MOLINA: Okay. All right, Members, let's move on. Member Sugimura, you have a question? Go ahead.

COUNCILMEMBER SUGIMURA: I actually wanted to go to the previous section that Mr. Feliciano was talking about, employees versus business. And I just...I mean, I agree with him that we shouldn't...like...it's not like a...like a underage drinking kind of thing, regulated by that kind of ordinance. But in this case, he was talking about that if there's a problem with their employee, that they would address it within their company, like you said, Chair. And so I wonder how to word this section. So either Corp. Counsel can...or Mr. Feliciano can talk about it. But I think that's...this section we should take out the employee, a person, and it should be more the company. So that was my general . . .*(inaudible)*. . .

CHAIR MOLINA: Okay. Let's ask Ms. Thomson. Ms. Thomson, can you comment on Member Sugimura's questions?

MS. THOMSON: My recommendation would be to leave it as is. Any person is basically the legal speak for, you know, an individual, like a human person, or it could be the company, corporation, et cetera. The reason from an enforcement standpoint that you want to have it broad is that, you know, if a...it's going to be a human is stopped by an officer, they're going to want to cite that person because that provides that person with immediate notice. If it's an employee and, you know, say they had no idea that they were working for an unlicensed company, or something like that, they could use that as their defense, you know, they would bring that up to try to say that they don't deserve to, you know, receive the citation, and that it should be, you know, removed. But in terms of, you know, lessening our ability to enforce, I wouldn't recommend changing it.

COUNCILMEMBER SUGIMURA: Mr. Feliciano...he still here?

CHAIR MOLINA: I think Mr. Feliciano gave comments on that already, if I'm correct.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

MR. FELICIANO: Yeah, pretty much have.

CHAIR MOLINA: Okay. All right, Members, let's continue moving forward. Comments on the citations, maybe from...we have a police representative here that can make comments on the citations portion. Chief Pursley? Chief, you still on the call?

MR. PURSLEY: Yeah. I'm here. I'm sorry, Chair. What was the question about the citations?

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CHAIR MOLINA: If you look at the language that's recommended under citations, do you have any comments on that?

MR. PURSLEY: No. No issues.

CHAIR MOLINA: No issues, okay. Good. All right, moving on to 5.22.065, on appeals. Any person aggrieved by a decision or...okay. Sorry, the screen kept moving on me...or order of the Director may file an appeal with the Director. Mr. Vila, any comments on the Appeal section?

MR. VILA: No comments, Chair.

CHAIR MOLINA: Okay. Thank you. All right, I believe that concludes the walkthrough of the bill as was proposed for today for comment. As I mentioned earlier, Members, I think with some of the suggestions made today, as well as the route...shortening of the route, I think I'm going to bring this back with the revisions. And my preference is to mesh some of the components of the Kula bill with this bill, and then we'll go forward once everything gets done. So...I saw some hands up. Vice-Chair, go ahead.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused GJ)

**ACTION: DEFER.**

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. For that last Section .070, other requirements, I'm going to put it in the chat...to add to the end of that section, regarding the safety vest, the permit holder must require all customers wear a commercial grade reflective safety vest that clearly display their company name and permit number on the back of the vest throughout the duration of the tour. So if...for the new draft of the bill.

CHAIR MOLINA: Okay. Committee Staff will make note of that. We'll add that to the revised bill. Members, any other suggestions? Well, if you do...you don't have anything today, then you certainly have some time before we bring the bill back for comment. I see Member Sugimura, and then also Mr. Feliciano, have something to add.

COUNCILMEMBER SUGIMURA: I just want to know what Mr. Feliciano, his comment is regarding that amendment from Keani.

CHAIR MOLINA: The vest? Okay, Mr. Feliciano.

MR. MAYER: You're muted.

CHAIR MOLINA: Feliciano? There you go. Go ahead.

MR. FELICIANO: What I wanted to comment on, it wasn't about the vest, was about the need

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for more information. We were a little taken aback that during the budget process, we...you know, we were kind of asked to leave you guys alone. And we did. But meanwhile, Kula Community Association, through Dick Mayer and Albert Perez, got ahold of Yuki Lei, and they went and did a site visit. And we've been asking for a site visit from the beginning, to give you guys all the information you need to do this...you know, to get our feedback. And that hasn't happened. So I feel like it's all one sided. The community that doesn't want us there is getting your ear, and we've asked for panel discussion so you can get all the information, and that hasn't happened. So it feels like that should happen. We've invited you to come to our facility to see the safety videos that we present, the route, and et cetera, but that hasn't happened. So I feel like something like that should happen before a vote takes place. And I know you're going to delay it, you know, because you want to clarify a lot of things. And I'd like to say that that should also happen. Thank you.

CHAIR MOLINA: Yeah. Thank you, Mr. Feliciano. I mean...but you folks have opportunities to get us information. And certainly, it's up to the Members if they want to go out, you now. But the primary focus is, you know, we're the ones that will have to dole out the permit. So, you know, this an open meeting for everybody, and the community has reached out, and, you know, we're certainly open. But again, I cannot control any of the Members' actions, if you may want them to come up. But, you know, I'm trying to make this process as fair as we can. So, you know....and you got to give us some credit, we're not rushing into this. We're trying to make sure we address all...whatever pukas there are to ensure that we have a bill, and based on it being as fully informed as possible, at least on our end. Because we do have to accept liability for allowing this type of activity. So which is why, you know, I'd rather, you know, not rush through this bill. And...because I'd hate to see something come before Council, and there's some issues pop up, then we got to send it back to Committee, and we've wasted Council time. So, you know, again, we're open to working with you. And again, the site visit, we've specified where it's at. You know, you're free to go and see the area on your own. So anyway...but I'm trying to make the process as fair as I can, so...all right. Any closing comments, Vice-Chair Rawlins-Fernandez

VICE-CHAIR RAWLINS-FERNANDEZ: All right, Chair. It's not closing comments, it's just a suggestion for you and, you know, your team drafting language. I'm going to put it in the chat for where we're talking about, whether the person or a business should be fined. Maybe any violation of Section 5.22.020 would result in a fine not less than \$1,000. And then, you know, the attorneys can help wordsmith that, but...to make it sufficiently flexible enough to fine the party in that moment in time, that is violating the...on that section.

CHAIR MOLINA: Okay. Thank you. We'll take that under consideration, yeah. All right. Okay, Mr. Mayer, followed by Ms. King.

MR. MAYER: Very short. I just want to thank you very much for having this open discussion with the industry and the community. I think it was an excellent way to do it, and I



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encourage you to work on it, and let's get this thing done.

CHAIR MOLINA: And thank you for...thank you for your patience, Mr. Mayer, as well as the members of the Kula Community --

MR. MAYER: Thank you.

CHAIR MOLINA: -- and Makawao Community.

MR. MAYER: Yeah. Chair Molina, I really...we really appreciate what you did today. Thank you.

CHAIR MOLINA: Thank you. Member King.

COUNCILMEMBER KING: Thank you, Chair. Great discussion today. I wanted to follow up on Mr. Feliciano's concerns about the start date, and maybe suggest that there be a grandfather clause for anyone who's holding a permit. I...I think...if this works for you, Mr. Feliciano...because if we...if we delay the start date, and a new...and new companies pop up and try to get permits under the old law, that would be an issue. We'd be trying to get our Department not to honor those applications. But if we...if we...if it started right away, but we gave a grandfather clause for anyone who's currently holding a permit, would that work for you, like for six months or so?

MR. FELICIANO: Yes, if we were grandfathered in. Absolutely.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Member King. That's a fair consideration. All right. Seeing no other questions, Members. We're right about at the noon hour. I want to thank everyone for their hard work today. Very good discussion. And one thing we're finding out with this issue, it's not quite as easy as it sounds. There's a lot of, you know, things to take into consideration. That's why I thank all of you for your patience. Kula Community, as well as the industry reps, and Staff, and members of the public...everyone else, and all of our County resource personnel. We'll get through this eventually. So hang in there. All right. Members, again, thank you all for your hard work, everyone else involved. It's 11:58 a.m., the GREAT Committee meeting for Tuesday June 14, 2022, is...before I say adjourned, we do have an ATP meeting at 1:30 p.m., just FYI. Okay. This meeting is adjourned. . . .*(gavel)*. . .

**ADJOURN: 11:58 p.m.**

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APPROVED BY:



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

GREAT:min:220614:jl

Transcribed by: Joon Lee

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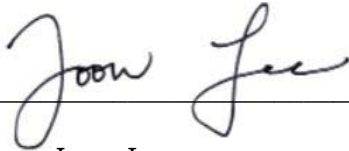
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CERTIFICATION

I, Joon Lee, hereby certify that pages 1 through 58 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 19th day of July 2022, in Wailuku, Hawai'i

A handwritten signature in cursive script, reading "Joon Lee", is written over a horizontal line.

Joon Lee