

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

M I N U T E S

August 2, 2022

Online Only via BlueJeans Link

CONVENE: 9:00 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair
Councilmember Gabe Johnson, Member (Out at 12:05 a.m.)
Councilmember Tasha Kama, Member (Out at 11:33 a.m.)
Councilmember Kelly T. King, Member
Councilmember Alice L. Lee, Member (Out at 11:57 a.m.)
Councilmember Tamara Paltin, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member

STAFF: Kasie Apo Takayama, Legislative Analyst
David Raatz, Deputy Director of Council Services
James Forrest, Legislative Attorney
Shelly Espeleta, Supervising Legislative Analyst
Brittney Sunderland, Legislative Analyst
Pauline Martins, Committee Secretary
Stacey Vinoray, Committee Secretary
Jean Pokipala, Council Services Assistant Clerk

Daniel Kanahele, Council Aide, South Maui District Office
Denise Fernandez, Council Aide, Lānaʻi District Office
Mavis Oliveira-Medeiros, Council Aide, East Maui District Office
Zhanter Lindo, Council Aide, Molokaʻi District Office

Davideane Sickels, Executive Assistant to Councilmember Kama
Ellen McKinley, Executive Assistant to Councilmember King
Jade Rojas-Letisi, Executive Assistant to Councilmember Molina
Jordan Helle, Executive Assistant to Councilmember Sugimura
Kate Griffiths, Executive Assistant to Councilmember Johnson
Laura McDowell, Executive Assistant to Councilmember Molina
Lois Whitney, Executive Assistant to Councilmember Kama
Sarah Pajimola, Executive Assistant to Councilmember
Rawlins-Fernandez

ADMIN.: Keola Whittaker, Deputy Corporation Counsel, Department of the
Corporation Counsel
Ipo Mossman, Executive Assistant, Office of the Mayor
Johann Lall, GIS Analyst, Department of Planning

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Moana M. Lutey, Corporation Counsel, Department of the
Corporation Counsel
Richelle Thomson, First Deputy Corporation Counsel, Department
of the Corporation Counsel
Mariana Lowy-Gerstmar, Deputy Corporation Counsel, Department
of the Corporation Counsel

OTHERS: Arragon Kekoawiwaole Mowat (Police Commission) (GREAT-2(36))
Mark Henry Deakos (Maui Planning Commission) (GREAT-2(36))
Leslee Matthews (GREAT-11(22))
Elle Cochran (GREAT-11(22))
Mike Moran (GREAT-2(36))
Kimberley Willenbrink (GREAT-11(22))
Rainey Dock Matthews (GREAT-11(22))
Junya Nakoa (GREAT-11(22))
Demi Miho-Elle Addison (GREAT-11(22))
Sam Small (GREAT-11(22))
Weston Yap
Collette Cardoza
Plus (4) other people

PRESS: Akaku Maui Community Television, Inc.

CHAIR MOLINA: . . . *(gavel)* . . . The Government Relations, Ethics, and Transparency Committee meeting for Tuesday, August 2nd, 2022, will now come to order. Time is 9:00 a.m. I'm Committee Chair Mike Molina, and welcome, everybody. Let's start off first with Committee roll call. Let's start off with our Council Chair Alice Lee, who will also give us the word for today. Good morning, Chair Lee.

COUNCILMEMBER LEE: Good morning. And the word for today from Africa is helele. Helele, Mr. Chair. I am here in my workspace alone, looking forward to working with all of my colleagues today, and especially with your GREAT agenda.

CHAIR MOLINA: All right. Thank you very much for the word of the day as well, Chair Lee. And...oh, yes, I forgot to mention, I am transmitting from the District Office out here in Pā'ia over at Heritage Hall. And I'm accompanied by District Office Specialist Jade Rojas-Letisi. Okay, let's go now to...all right. Let's take Mr. Sinenci out in East Maui. Helele and aloha.

COUNCILMEMBER SINENCI: Helele, Chair. Excuse me. I feel like I have to helele'i to everybody. Aloha kakahiaka mai Maui Hikina. And for the record, we're broadcasting this morning from our temporary District Office at the Hāna Cultural Center. I'm here with my District Staff, Mavis Medeiros. And currently there are no testifiers here. Aloha.

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CHAIR MOLINA: Okay. Mahalo, Mr. Sinenci. And hopefully you can get that frog out of your throat a little bit if you know what I mean, yeah? Have some...have plenty of water. The water's good out there in East Maui. Okay, let's go now to my Committee Vice-Chair, all the way from Moloka'i, helele and aloha, Committee Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, mai Moloka'i nui a Hina. I am here at the Moloka'i District Office alone on my side of the office, with our Community Outreach Specialist Zhantell Lindo on the other side of the office reporting no testifiers here. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Committee Vice-Chair. Let's go down to South Maui and check in on Councilmember Kelly King. Helele and aloha.

COUNCILMEMBER KING: Helele and aloha kakahiaka, Chair. I am broadcasting from my home office in South Maui, and no testifiers at the South Maui District Office at this time.

CHAIR MOLINA: Okay. Mahalo, Member King. Let's go out to West Maui and check in on Councilmember Tamara Paltin. Helele and aloha.

COUNCILMEMBER PALTIN: Helele and aloha kakahiaka kākou mai Malu 'Ulu o Lele. Broadcasting live and direct from my house with my pocket pit here. And we have no testifiers at the Lāhainā District Office. Thank you.

CHAIR MOLINA: Okay. Mahalo, Member Paltin. Let's go out to Lāna'i and check in on Councilmember Johnson. Helele and aloha.

COUNCILMEMBER JOHNSON: Aloha Chair, Councilmembers, community members. Helele to all of you. There are no testifiers at the Lāna'i District Office, and I am home alone and ready to work. Mahalo, Chair.

CHAIR MOLINA: All right. Sounds good. I like that attitude, Mr. Johnson, way to go. All right. Let's go find out how the neighborhood is doing and go out to Central Maui. Helele and aloha, Councilmember Tasha Kama.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair and helele to all my colleagues. I'm looking forward to a brief meeting this morning. I'm here in my workspace alone. Thank you, Chair.

CHAIR MOLINA: All right. Mahalo, Member Kama. And we shall do our best to accommodate you in terms of getting our meeting done as expeditiously as possible. All right. Finally, and last but not least, let's take a drive Upcountry to jacaranda country. Helele and aloha, Councilmember Yuki Lei Sugimura.

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COUNCILMEMBER SUGIMURA: Helele. Good morning, everybody. I am in Kula and home alone. So looking forward to a very productive meeting. Thank you, Chair.

CHAIR MOLINA: Mahalo, Member Sugimura. All right. Joining us as well for our proceedings today, at some point later this morning we'll have Mr. Ipo Mossman from the Mayor's Office. And also, from Corporation Counsel, joining us will be Keola Whittaker, Richelle Thomson, Moana Lutey, and Mariana Lowy-Gerstmar. Hopefully I pronounced that correctly. And then, of course, our very, very hardworking Committee Staff, Kasie Apo Takayama, Brittney Sunderland, James Forrest, Pauline Martins, and Jean Pokipala joining us this morning. Members, we have three items on our agenda; GREAT Item 11(22), GREAT Item 2(36), and GREAT Item 2(52). I anticipate some very good discussion, and hopefully we'll be able to take action on all of our agenda items. We're going to start first with public testimony. Oral testimony via phone or video conference will be accepted. Please note that if you are signed in, you are on the list to testify even if you did not request to testify. So please let Staff know in chat if you are signed on and do not intend to testify. So if you're just observing, please make them aware of that. Now, in accordance with the newly revised Sunshine Law, a person has the right to testify at the beginning of the meeting, or before an item is discussed by the Committee. The Chair will receive oral testimony for agenda items at the beginning of the meeting, and as the item is called up on the agenda. Now, when testifiers sign up to testify, they must let Staff know whether they wish to testify at the beginning of the meeting, or before an agenda item. Otherwise Staff will assume the testifier will testify at the beginning of the meeting. Testifiers wanting to provide video or audio testimony, join online via the BlueJeans link or phone number noted on today's agenda. Written testimony is encouraged, and can be submitted via the eComment link at mauicounty.us/agendas. And oral testimony will be limited to three minutes, and if you're still testifying beyond that time, we will kindly ask you to complete your testimony. As a matter of fact, I'm going to ask Staff if they can ring a little bell to remind us all that the three minutes are up. And when you testify, please state your first and last name. And if you're testifying on behalf of an organization or are a paid lobbyist, please inform the Committee of that. And please clarify or clearly identify your name, organization, and items you would like to testify on in the chat. And you may indicate in the chat if you do not wish to testify, like I said earlier. However, chat...be sure not to use it for discussions or making comments. And please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. And once you're done testifying or if you do not wish to testify, you can tune into the meeting on *Akakū* Channel 53 or Facebook Live. And also, we've been informed that our live video stream for Maui County is currently down right now, so just wanted to pass that information on to you. So anyway, Members, please be patient in case we do experience any technical difficulties. Every now and then stuff like this happens, and so please be patient...and also members of the public, so please be aware of that. Okay. Let's go ahead and start with public testimony. Staff, we have our first agenda item, which is item...GREAT Item 11(22), which relates to the Settlement Authorization: Donald S. Guzman v. County of Maui, et al. Staff, please go ahead and announce our testifiers for this particular item.

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MS. SUNDERLAND: Chair, the first testifier we have signed up is Leslee Matthews, to be followed by Elle Cochran.

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

. . . BEGIN PUBLIC TESTIMONY . . .

MS. MATTHEWS: Good morning, Chair. Good morning, Councilmembers. My name is Leslee Matthews. I'm really upset that this is on the agenda. I found out that this was on the agenda not from anybody from the Council, but from former Councilmember Elle Cochran because, I guess, Corporation Counsel or anybody from the Administration didn't have the decency to reach out to me to let me know that this would be on the agenda. Myself, along with a number of other women, shared our very personal stories about how the former Prosecutor harmed us, and this Council heard us and took action. Another attorney posted a comment, I just want to read part of it. Considerable testimony before the Council revealed that Don Guzman was serially abusive to women he worked with during his time as Prosecutor, and even in previous Government roles as others have testified to, even Members of this Council. Any proposed settlement with him is a matter of great public importance, and the public deserves to know the Council's reasoning if it makes a decision to approve settlement of this lawsuit. The Resolution is vague, lacks details supporting any reason for settlement. Notably, while his complaint is attached to the Resolution, the court's order on the motion for summary judgment that the County filed is not included. The public should be able to read that order, and should not have to find it on PACER. She asked that the Council please approach the discussion with the Resolution with as much transparency as possible so that the public benefits from the understanding, legal reasoning that supports any settlement with him. Any executive session meetings on this topic should be strictly limited to the purpose of discussing the County's attorney...with the County's Attorney only questions and issues pertaining to the board's powers, duties, privileges, and liabilities, as is stated in Hawai'i Revised Statutes 92-5(a)(4). It's important to note that a 2019 Hawai'i Supreme Court decision, Civil Beat Law Center for Public Interest v. the City and County of Honolulu, which involves similar discussions with a high-ranking public official. This case discusses the permissible scope of attorney-client privilege to the Sunshine Law...exception to the Sunshine Law. The County is willing to go to bat all the way to the Supreme Court to fight polluting our water. The County of Maui is willing to fight displacing our houseless residents as they are currently fighting that right now. My question to the County is, why will they not fight for us? Why will they not fight for us? On countless occasions, the Mayor contacted myself and other women who had been abused by Don Guzman, begging us to testify. And we rose to the occasion, even though it nearly cost me my life. As I share very openly and candidly, I almost succumbed to suicide because I thought this is too hard to live with. And now here we are again, offering a settlement to the person who harmed so many women. When this Council took the brave decision to vote unanimously to remove the former

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Prosecutor, I can't tell you the number of women in my former office who came up to me crying saying, thank you, Leslee, I could never share my story. They'd never shared their story with their husbands because the rage that would ensue when they knew what this man had done to them. I'm displeased that the County didn't have the common decency to call us to let us know. We had to find out through the coconut wireless. But here we are again, risking our dignity, our time to say no. No more. What . . . *(timer sounds)*. . . does this say to victims of violence if we settle with somebody who is an abuser? I know my time is up, but I say, please know, the County knows how to fight for things that they want. What they're saying is that women don't matter, and abuse of women don't matter, and we will settle with your abuser. To other women in my situation, there's a number, 988, you can call if you're dealing with mental health concerns. Your life is worth living. Don't give up. I didn't. Don't give up.

CHAIR MOLINA: Thank you very much for your testimony, Ms. Matthews. Members, any need to clarify Ms. Matthews' testimony? Member Sugimura?

COUNCILMEMBER SUGIMURA: I just want to apologize to you, Leslee. Thank you very much for coming forward again, and sharing again with us your anguish. I'm sorry we didn't call you. Thank you.

CHAIR MOLINA: All right. Members, any other need to clarify Ms. Matthews' testimony? Seeing none...Member King.

COUNCILMEMBER KING: Thank you, Chair. I also wish to apologize to you, Leslee. When this came up, it was a due process issue, and we were under the impression that this was a Corp. Counsel issue, not a...you know, not something to call out all the testifiers again. But for your...from your testimony, you said it wasn't clear what the reason was for the settlement, so the issue of due process is not clearly spelled out clearly enough. . . .*(inaudible)*. . .

MS. MATTHEWS: . . .*(inaudible)*. . . clearly enough in the Resolution. The Resolution is vague and doesn't have an amount...you know, the motion for summary judgment that was granted in part and denied in part is not there, so, you know, he sued on a number of different grounds. And the court has already granted in part the motion for summary judgment, and that's not in the document. Somebody would have to create an account on PACER, which is the Federal Government's way to track cases. They would have to pay to download it, and it's just not transparent. And, you know, we're asking for transparency. And I...you know, additionally, I would just say, you know, this is such an important year for election, and I hope that whoever guides us into the future makes wise decisions on who will be handling these matters because it's not being handled correctly. And I hope whoever our next Mayor is has the decency to appoint people that care about people, that don't...I feel used, personally. They called us to testify about these things...you know, the former Prosecutor said, have these hearings in open session to hear. And I think it was really just, like, a bullying tactic. Have it in open session, and now wants to complain because other women shared their stories. It's

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absurd. So, like, to people, you know, we got our ballots in the mail, make careful decisions because elections have consequences.

COUNCILMEMBER KING: Okay, Leslee, I just want...I wanted to focus on the part that says...you know, that first paragraph...whereas...I'm sorry, second whereas paragraph that it says, the court issued an order granting in part and denying in part County's motion for summary judgment, leaving only plaintiff's due process claim active. So is there a way that we could clarify that further?

MS. MATTHEWS: Yeah, like, what part of...what was substantiated in the due process? What was the opinion of the court as they ruled on that motion for summary judgment? I do see where it says...you know, it leaves just the due process claims active. So, you know, what about the due process claims are still active? But the point is, it hasn't even gone to the point of a jury trial, or a bench trial, or anything. They should fight this. You, better than anybody, know that they'll take...even if the County settles on...you know, the Council wants to settle on the issue like they did with the water issue, they will still fight. We're just asking them to have the same amount of passion that we had, and fight. And so it's not clear in there. I don't know. You know, the amount of settlement is a public...and it's not in this Resolution. We don't know how much he's being paid to be a bad actor. So we'd like to know that as well.

COUNCILMEMBER KING: Okay. Thank you for your testimony again, Leslee. Appreciate your being here.

CHAIR MOLINA: Okay. Thank you very much, Member King. All right, clarifying questions for the testifiers. Members, just a friendly reminder, questions and not just comments, okay? All right, Mr. Johnson, go ahead.

COUNCILMEMBER JOHNSON: Thank you, Chair. I do have a clarifying question, but first I'd like to thank Ms. Matthews for your bravery, as well as the other women that came here before. My clarifying question is...is you mentioned PACER. And is that a paid for service? You have to pay to get that, or is that a free service?

MS. MATTHEWS: No, you have to pay to...you have to create an account and you have to pay to download a specific document. So it's a...it's how you access the Federal Court records. So you would have to...so, you know, what I'm asking and what another attorney that posted on eComment is that the motion for summary judgment be uploaded as his complaint was uploaded, and the judge...the court's findings on the motion for summary judgment be uploaded as well. It's only telling half the story if we only get the complaint of the former Prosecutor, and we don't get what the County submitted, and how the Court ruled on what the County submitted.

COUNCILMEMBER JOHNSON: Okay. Thank you, once again, for your bravery. Thank you, Chair.

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CHAIR MOLINA: Okay. Thank you, Mr. Johnson. Members, any other need to clarify Ms. Matthews' testimony? Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Matthews. Mahalo again for making the time to be with us and testify. On the agenda, there are two item...two documents that come along with this item on the agenda. The first item is the Resolution, the second item is the correspondence from the County Clerk. Did you see that item on the agenda on page 23? It clarifies what that right to due process...how that claim was decided by the court, Item 114 and 115. Did you see that item on the agenda?

MS. MATTHEWS: Well, on that is...hang on, I want to go to the top. So I believe that what was uploaded is...yeah, what's uploaded is the nature of action and jurisdiction. So this is the complaint that counsel for the former Prosecutor filed. So this is what their allegations are. So item...did you say 123?

VICE-CHAIR RAWLINS-FERNANDEZ: 114 and 115 --

MS. MATTHEWS: Oh, 114, let me go up.

VICE-CHAIR RAWLINS-FERNANDEZ: -- on page 23.

MS. MATTHEWS: Oh, on page 23. Okay. So, you know, it states...this is what his counsel submitted, you know, 114 and 115 out of the complaint. So in the motion for summary judgment, is the court limiting it only to those items 114 and 115? You know, we don't know what it...because this isn't a court decision, this is just what he's alleging. So, in the motion for summary judgment, is this what the court is limiting the issue to? We don't know because we don't have the court's decision on the motion for summary judgment. We can't...you know, it's not uploaded, it was not in what was submitted in the...it's not in what's submitted in, you know, by the Administration to the Council for us to be able to see that. So I don't know if that's what the court's limiting it to. And, you know, if they did fight the motion...file the motion for summary judgment, and his claims are already limited to just those narrow issues, keep fighting. And if not, you know, show us what it is that we're...that is still being...that's still worth fighting for, you know. They haven't offered us any settlement. They haven't offered us even a thank you except outside of, like, just briefly outside of that time. So I don't know what is still at issue for the court to decide.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Matthews. And Chair, if testifiers wanted to, they could wait until after Corporation Counsel gives us a presentation on this item before testifying; is that correct?

CHAIR MOLINA: I believe so, yeah. Staff, can you confirm that for me under the new Sunshine Law rules?

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MS. APO TAKAYAMA: Yes, Chair. Testifiers are able to testify either at the beginning of the meeting or just before the meeting is...the item is discussed, but after presentation.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, Staff, when Corporation Counsel gives us their briefing on the item, on this specific item, would that be considered a presentation that testifiers would be able to wait until after to testify on?

MS. APO TAKAYAMA: Yes, provided that no, you know, discussion is had before testifiers.

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

CHAIR MOLINA: Okay.

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

CHAIR MOLINA: Mahalo, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: If testifiers want...if the testifiers wanted to wait to get that briefing, they could. Mahalo, Chair.

CHAIR MOLINA: Okay. All right. Thank you. Okay, Members, any other need to clarify Ms. Matthews' testimony? Okay. Mr. Johnson, second time. Okay.

COUNCILMEMBER JOHNSON: Chair, this is a question for you, if you will allow it.

CHAIR MOLINA: Okay.

COUNCILMEMBER JOHNSON: Can we upload the PACER documents and put...you know, can we do that?

CHAIR MOLINA: Let me check with Staff. I believe Staff was working on the document, getting it uploaded.

MS. APO TAKAYAMA: Yes, we did upload the court order, and I put the link in the chat.

COUNCILMEMBER JOHNSON: Thank you so much. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Johnson. All right, seeing no other need to clarify Ms. Matthews' testimony at this point. Thank you for your testimony, Ms. Matthews.

MS. MATTHEWS: Thank you.

CHAIR MOLINA: All right, Staff, continue on with announcing our next testifier for this particular Committee item.

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MS. SUNDERLAND: Chair, the next testifier we have listed is Elle Cochran, to be followed by Mike Moran.

CHAIR MOLINA: Good morning, Ms. Cochran.

MS. COCHRAN: Wait, hang on. Am I on? Hello? Hello.

CHAIR MOLINA: Yeah, you're...

MS. COCHRAN: Wait, where am I?

CHAIR MOLINA: We're not seeing you.

MS. COCHRAN: Okay, wait, where . . . *(laughing)*. . . Okay, sorry. Hold on...video, yes?

CHAIR MOLINA: Yeah, we can hear you.

MS. COCHRAN: Is it turning on?

CHAIR MOLINA: Your video's not on yet, but we can hear you.

MS. COCHRAN: Okay, why won't it go on?

CHAIR MOLINA: That's okay, you have a very familiar voice. We...I think most of us know what you look like.

MS. COCHRAN: Okay. All right, well, I made my hair and everything. All right. Aloha, Members, Elle Cochran here, testifying on GREAT 11(22), in particular on Reso 22-109, and in reference to the court documents for the statement of claims section. I'd like to ask...request that you folks go back and review my past testimony, which I did back in December of 2020 on CR 20-153, which will specifically prove item number 21 in the statement of claims false. It states...item 21 currently states, devoted public servant other than incident on October 6, 2020, plaintiff selflessly served without issues. That is totally false because my horrifying incident happened in December of 2017. So there had been numerous occurrences of verbal, mental abuse on my own personal behalf while I was on the Council. None of this is hearsay, none of this is...this happened, you know, personally to me, and I am specifically stating it right now, firsthand experience. And because this last incident was so horrifying, I then did file a violence in the workplace complaint. I filed a police report because from that point on, I wanted to start documenting. I was in fear that further type of actions of abuse would occur because that just came totally out of the blue. I mean, in front of God and everybody on the Council floor. This was not behind closed doors, this was not in a private office, this was in front of all the Members, probably had four Corporation Counsels there. I mean, it was...I could not believe it was occurring. Anyway, go back to my testimony, and you'll see the details of that horrifying day. Again, I wish I was here in different

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circumstances, you know, like thanking Mr. Guzman for admitting wrongdoing, seeking help of some kind, changing his ways, but that's not the case here. So I'm asking you, please, Members, to...when you decide on the settlement, or whatever is going to happen in executive session, that there maybe be some type of condition put in place before any...a single red cent is handed over, that Mr. Guzman has to seek some type...get help. Not just seek it, but get it, you know, and to have it documented that he is getting help . . . *(timer sounds)*. . . to change his ways. So I'm sad to hear other past testifiers are afraid to come here today, as Ms. Matthews mentioned. So I thank her for her bravery once again to step out and share. So, mahalo, Members, for your time. And please do not reward bad behavior. Please. Thank you.

CHAIR MOLINA: Okay. Thank you very much for your testimony, Ms. Cochran. We have a clarifying question for you from Member King. Go ahead.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Elle, thanks for being here again.

MS. COCHRAN: Aloha.

COUNCILMEMBER KING: I just wanted to clarify the incident that you were talking about that you made the report, was that the one that happened to you and I when we were both on the Council?

MS. COCHRAN: Yes.

COUNCILMEMBER KING: Okay, I just wanted to clarify that it was the...

MS. COCHRAN: It was that meeting, yeah.

COUNCILMEMBER KING: Yeah. I remember it well. Thank you.

MS. COCHRAN: Yes.

CHAIR MOLINA: Okay, thank you very much, Member King. Okay, we have another clarifying question for you, Ms. Cochran, from Chair Lee. Go ahead.

MS. COCHRAN: Okay.

COUNCILMEMBER LEE: Good morning, Elle. Thank you for...

MS. COCHRAN: Good morning.

COUNCILMEMBER LEE: Thank you for testifying.

MS. COCHRAN: Yes.

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COUNCILMEMBER LEE: You mentioned the date and an incident. Can you describe that incident?

MS. COCHRAN: Yeah, it was...well, quickly, it was a meeting Councilmember Guzman was chair of. It was EAR, I think the meeting...his Committee. I was a Member, and I sit directly across at my desk, you know, down below. And meeting was going on, I asked a question, and he said a snide remark. Basically he said, you know, if you were attending more of my meetings, you would understand. We're talking about blah, blah, blah. I'm like, oh, well, now you know how it feels. Because he hasn't been showing up at my meetings. It was like Members were purposely not showing up at my meetings, so I couldn't have meetings. Anyway, he got...all of a sudden, he slammed that gavel or that poi pounder so hard...and Sarah Pajimola, my Staff then, back behind closed doors, down the hallway, in the office thought it was a gunshot. It was so loud. And we had all just gone through active shooters training, so she automatically thought it was a gunshot that went down. And her heart...I mean, imagine that thought. So he slams that poi pounder down, shoves his chair back, and he's like, we're going to settle this now. I'm like oh, well, what are we settling? And he came rushing down off that chair's podium, down the stairs, toward...came to my desk. I shoved my chair back towards the back little mini wall to get more distance between me and him because I didn't know what he was going to do to me, like, physically...and his arms flailing around...and I just looked at Chair White sitting next to me and said, Chair, Chair, can you do something about your Member? And Mr. White said, Don--you know, in this sort of strong, manly, fatherly type of voice. And that, like, snapped him out of his blind rage, whatever, you know, mental sort of space he was in at the time. But he clearly was in a type of blind rage. And I...he went back to his desk, and when I finished the meeting, and I just walked off. And I did go by Member King's desk, and I just gathered my things, and I said, I'm out of here. I looked at...I told her, I said, I can't sit in this...and I went back to my office. And poor Sarah was shaking, we were...you know, we were tearing up, we were hugging...I mean, we were shaking. It was very...a terrifying day. Right after that, I said, I got to make a violence in the workplace complaint, and we went directly downstairs and did that with, I believe, David Raatz at the time. So, yeah, it's vivid in my mind of what happened that day. So, you know, from then on, it was like walking on eggshells all throughout my entire time there, and not knowing is this person going to go off the handle and do what, I don't know. So it was, yeah, scary times. So please, you know, it is totally false that he had not...that he didn't have any incidents prior to December 2020 because my occurrence happened in December 2017. That's three years prior.

COUNCILMEMBER LEE: I have one more clarifying question, Mr. Chair.

CHAIR MOLINA: Go ahead.

COUNCILMEMBER LEE: Did...at any time that day, or any day you were on the Council with him, did he say that he had some kind of medical condition --

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MS. COCHRAN: No.

COUNCILMEMBER LEE: -- that causes rage?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

MS. COCHRAN: No.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, point of order. I don't know if anyone else read the email from Ms. Corporation Counsel Lutey, but part of the decision was discussion outside of the scope of the reasons for termination. And I'm concerned that continuing these lines of questions and answers may exacerbate the situation.

CHAIR MOLINA: Okay. All right. Good point.

COUNCILMEMBER LEE: Mr. Chair.

CHAIR MOLINA: Okay. . . .*(inaudible)*. . .

COUNCILMEMBER LEE: Mr. Chair, I was asking for a clarification of the incident and what...if it was related to another one, if it was caused by anything in particular. So I believe my question was related to clarification. Thank you.

CHAIR MOLINA: Okay. Thank you. Thank you, Chair Lee. Yeah, so, Members, yeah, just be...tread conservatively with any clarifying questions, if you will, because this is a legal matter which will likely require us to go into executive session to further expand on what's being considered. All right, now. Thank you, Chair Lee. Anyone else with clarifying questions for Ms. Cochran before I recognize Member King for a second time? Okay, Member King, go ahead.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to clarify that the incident that Ms. Cochran just spoke about was an additional incident to the one I was talking about. Because the one...Elle, the one I was asking about --

MS. COCHRAN: Oh.

COUNCILMEMBER KING: -- was the one when you and I were both on the Council floor, and he was sitting in between us, and yelled at both of us.

MS. COCHRAN: Oh.

COUNCILMEMBER KING: And so what you were talking about was a separate incident than what I was talking about. But there were two at least.

MS. COCHRAN: Okay.

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CHAIR MOLINA: Okay. Thank you, Member King, for clarifying that.

MS. COCHRAN: Thank you, Member King.

CHAIR MOLINA: All right. Anyone else? Is there a need to clarify Ms. Cochran's testimony?
Seeing none. Thank you very much for your testimony, Ms. Cochran.

MS. COCHRAN: Okay. Thank you for your time, Members. Aloha.

CHAIR MOLINA: Aloha. Okay, Staff, please continue with announcing our next testifiers for
GREAT item 11(22).

MS. SUNDERLAND: Chair, the next individual that we have signed up to testify is Mike Moran,
to be followed by Kimberly Willenbrink.

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

MR. MORAN: Good morning, Chair. Just to clarify, I had signed up for a different item at the
beginning of the meeting, and I think that's why they're calling me at this time. I'm not
testifying on it on that item that's been discussed so far.

CHAIR MOLINA: Okay. So, Mr. Moran, you're going to wait until we get to that agenda item
to provide testimony?

MR. MORAN: No, sorry...

CHAIR MOLINA: Oh, would you like to testify on that item now then?

MR. MORAN: Yes, sir. Please.

CHAIR MOLINA: Okay, Staff.

MS. APO TAKAYAMA: Yes, Chair. So, at the beginning of the meeting, we are able to take
testimony on all of the agenda items, and then we'll revisit again before discussion on
each item for further testimony.

CHAIR MOLINA: Okay. All right. Thank you.

MS. APO TAKAYAMA: Thank you.

CHAIR MOLINA: Go ahead, Mr. Moran, and announce the item that you would like to testify
on. Proceed.

MR. MORAN: Thank you, Chair. I just wanted to make sure everybody was on the same page.

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I'm on GREAT 2(36) for the Kihei Community Association. And...excuse me, we're testifying in strong support for Dr. Deakos to be on the Planning Commission. We find it very refreshing that someone of his stature is being called up to that Planning Commission, where we have found over the years, it's been an unbalanced group where it was mostly people that were in general support of development...where when we have Dr. Deakos, he is one who, in his history that we've seen him, is...looks at both sides of the issue. He's looking at the built development, as well as the natural environmental development. And so we're very pleased to see someone like him, and we trust that this Committee will approve him and get him settled. And we're hoping this is a change, and not an anomaly that he's going to be left out there with a single voice. But today we are...just wanted to be positive, and say we're very pleased to see him on there. He's a very, very busy man, so to see him willing to devote time to this very work-intensive committee that we need good people on, we're very pleased that he has been named to this, and we ask for the Committee's support of Dr. Deakos this morning. Mahalo for the opportunity.

CHAIR MOLINA: Okay. Mahalo for your testimony, Mr. Moran. Members, any need to clarify Mr. Moran's testimony? Seeing none, thank you very much for your testimony, Mr. Moran.

COUNCILMEMBER SINENCI: Chair. Chair.

CHAIR MOLINA: Oh, sorry, was there somebody? Oh, I'm sorry, Mr. Moran. Hold on, I've got a clarifying question for you from Mr. Sinenci. Go ahead.

COUNCILMEMBER SINENCI: Oh, thank you, Chair. And I don't know if I missed that part of Mr. Moran's testimony, but was he speaking on behalf of the Kihei Community Association?

MR. MORAN: Yes.

CHAIR MOLINA: Mr. Moran.

MR. MORAN: Yes, sir, Member...I have the banner behind me, and I did...I think I said it. I'm in a habit of always saying I'm speaking for the Association. But, yes, to be clear, this is the opinion of our Association in support.

COUNCILMEMBER SINENCI: Okay, great. Thank you, sir. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you very much, Mr. Sinenci. Any other need to clarify Mr. Moran's testimony? Seeing none. Thank you very much for your testimony, Mr. Moran.

MR. MORAN: Yeah. Good luck.

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CHAIR MOLINA: Aloha. Okay, Staff, continue on with announcing our next testifiers.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Kimberley Willenbrink, to be followed by the individual calling in as Guest 7.

CHAIR MOLINA: Good morning, Ms. Willenbrink.

MS. WILLENBRINK: Good morning, Chair Molina and Members of the Committee. My name is Kimberley Willenbrink, and I first want to thank you for continuing the opportunity to have virtual testimony. Unfortunately, COVID found me yesterday, and so I'm here at home, but I definitely wanted to be here for this important item. I am testifying on Resolution 22-109, and I'm here to support Ms. Matthews--whom I have never met, by the way--and all women. You know, in Mr. Guzman's complaint, I would like to clarify a couple things. In complaint paragraph number 58 on page 11, it states, the County Council solicited and accepted false and inaccurate testimony from numerous people, blah, blah. That is not accurate. I was not solicited by Council by any means, but this is a small island, and I did hear about it, and I'm glad I did. Also, on page 22, number 114, it says a few things, and then states, by allowing numerous testifiers to reveal sensitive and defamatory information to be aired in an open forum. You know, that's what testimony is about. When you see something on the agenda, that's your opportunity to speak. I did testify on November 5th and December 14th, 2020. I shared about an incident that happened on February 4, 2015, that's a long time ago. This is during a Council Committee meeting recess. The recess was called because it was apparent the meeting was getting a little bit out of hand. This episode was witnessed by several people outside the Council Chamber. I chose to not report the incident at that time. And if you remember my testimony, I am very remiss that I did not speak up because look what has happened. Mr. Guzman is an attorney. I'm not surprised that he filed this lawsuit, that's what attorneys do. However, I feel certain that you can see this for what it is. It appears as a rant...and clearly, Mr. Guzman has no remorse. Unfortunately, he's still angry. I have worked for the County for most of the past 17 years. Happily, I can say I know most of you, and have worked intimately with some of you, and I appreciate your service. More than anything, as you know, the people of this County want to be assured that their elected and appointed officials have their best interest in mind always. I like what Leslee Matthews said in her testimony about your brave decision. It's a difficult job that you have, and I...I hear that. This is such an important year for elections, she said, but this is an important time in our country, and in our County. We see it even on the front page of the newspaper last week. You know, it's time to address equal rights for women and all other...and this is the opportunity to do that. That's all I have to say, Members. Thank you so much for the time.

CHAIR MOLINA: Okay. Thank you, Ms. Willenbrink, for your testimony. Members, any need to clarify Ms. Willenbrink's testimony? Okay, we have Member King. Go ahead.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Ms. Willenbrink. Thank you for being here. I know it's not easy. But you mentioned two sections of the complaint, one was

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section 58. What was the other one?

MS. WILLENBRINK: One-one-four.

COUNCILMEMBER KING: Oh, okay. The ones that we were discussing earlier?

MS. WILLENBRINK: Yes, ma'am.

COUNCILMEMBER KING: Okay. All right. Thank you for that.

MS. WILLENBRINK: Thank you.

COUNCILMEMBER KING: Have a good day.

CHAIR MOLINA: Okay. Thank you, Member King. Okay, we have a clarifying question for you, Ms. Willenbrink, from Councilmember Johnson. Go ahead.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Ms. Willenbrink. Once again, thank you for your bravery for stepping up and coming here to testify. My clarifying question is, you mentioned that you were not solicited by the County to come and testify or some testifiers were not as well. How did you find out about this to come and testify?

MS. WILLENBRINK: I don't remember exactly, but I think it was just from another County worker who also testified that day, and she remembered the incident that had happened back at the Council meeting.

COUNCILMEMBER JOHNSON: I under...

MS. WILLENBRINK: Thank you for that question.

COUNCILMEMBER JOHNSON: I understand. Thank you once again for your bravery. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Member Johnson. Okay, we have a clarifying question for you, Ms. Willenbrink, from Chair Lee. Go ahead.

COUNCILMEMBER LEE: Good morning, Ms. Willenbrink. Could you tell us...

MS. WILLENBRINK: Hi, Chair.

COUNCILMEMBER LEE: Hi, good to see you. Could you tell us when that incident occurred?

MS. WILLENBRINK: Yes. That incident occurred on February 4, 2015. It was, I believe, the GREAT Committee of that time. Mayor was chairing the meeting, and Mr. Guzman was

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a Member of the Committee.

COUNCILMEMBER LEE: Thank you very much.

MS. WILLENBRINK: Thank you.

CHAIR MOLINA: Okay. Thank you, Chair Lee. Members, any other need to clarify Ms. Willenbrink's testimony? Seeing none. Thank you very much for your testimony, Ms. Willenbrink.

MS. WILLENBRINK: Thank you, Mike.

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

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is the person calling in listed as Guest 7, to be followed by Demi Miho-Elle Addison.

CHAIR MOLINA: Okay. Good morning, Guest 7, you have the floor to provide testimony. Please state your full name for the record. Guest 7, if you're out there, your time to testify. Okay, I don't see or hear any indication. Let's move forward with announcing our next testifier, and we can come back, check for a final time to see if Guest 7 is there. Okay, Ms. Apo Takayama [sic], please announce our next testifier.

MS. SUNDERLAND: Chair, the next testifier we have signed up is Demi Miho-Elle Addison, to be followed by Junya Nakoa.

CHAIR MOLINA: Good morning, Ms. Addison. Please proceed with your testimony.

MS. ADDISON: Aloha mai kākou, my name is Demi Addison. I'm a resident of Ha'ikū. I'm here today to testify in opposition for Resolution 11-109. I believe that settling...settling tells other women that this behavior is okay, and it's not. I believe that we need to stand with survivors and victims. And thank you so much for everyone for your bravery, for standing up for yourselves because you're standing up for other women too. I believe that not doing anything about this only breeds more bad behavior. And I think the right thing to do is to not settle, and to show support for other women, especially people that serve our community and who are supposed to be safe underneath the County. I just...it's not okay. And that's all I have to say. Thank you so much.

CHAIR MOLINA: All right. Thank you very much for your testimony, Ms. Miho-Elle Addison. Okay, Members, any need to clarify Ms. Miho-Elle Addison's testimony? Okay. Seeing none. Mahalo for your testimony. Okay, let's go back to Guest 7, if you're still out there, this is your opportunity. Okay, hearing none, we're going to go ahead to move on to announce our next testifiers. Staff, please go ahead.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Junya Nakoa,

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to be followed by Johann Lall.

CHAIR MOLINA: Okay. Good morning, Mr. Nakoa. Junya Nakoa, if you're out there, it's your time to testify.

MR. NAKOA: Yo.

CHAIR MOLINA: Go ahead. Good morning.

MR. NAKOA: I going wait until the buggahs to the Corp. Counsel...I going wait until Corp. Counsel talk.

CHAIR MOLINA: Okay. So you're going to testify after Corp. Counsel's presentation? Okay, we'll make note of that, Junya.

MR. NAKOA: Okay, shoot. Okay, bye.

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

MS. SUNDERLAND: Chair, the next testifier we have signed up to testify is Johann Lall, to be followed by Collette Cardoza.

CHAIR MOLINA: Okay. Good morning Mr. Lall.

MR. LALL: Sorry, I'm not here to testify.

CHAIR MOLINA: Okay.

MR. LALL: . . .*(inaudible)*. . . Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Lall. Okay. Staff, continue announcing our next testifier.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Collette Cardoza, to be followed by Elle Cochran for item GREAT 2(36).

CHAIR MOLINA: Okay. Good morning. Please proceed with your testimony, Ms. Cardoza.

MS. CARDOZA: Not testifying, just observing. Thank you.

CHAIR MOLINA: Okay. Thank you for informing us of that. All right. Staff, continue with announcing our next testifier.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Elle Cochran for GREAT item 2(36), to be followed by Sam Small.

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MS. COCHRAN: Wait --

CHAIR MOLINA: Ms. Cochran...

MS. COCHRAN: -- am I on again? Hello, can you hear me?

CHAIR MOLINA: Yeah.

MS. COCHRAN: Where am I?

CHAIR MOLINA: If you want to...

MS. COCHRAN: Why am I not...

CHAIR MOLINA: . . .*(inaudible)*. . . you're out there in space someplace . . .*(laughing)*. . .

MS. COCHRAN: Hello...

CHAIR MOLINA: Go ahead and testify on GREAT Item 2(36), I guess there are three nominees that you can testify on.

MS. COCHRAN: Yes.

CHAIR MOLINA: Would you like to do it now?

MS. COCHRAN: Yes.

CHAIR MOLINA: Go ahead and proceed, Ms. Cochran.

MS. COCHRAN: Well, I want to just give a shout out about Mark Deakos. I think this is awesome. This is, like, incredible to see a man of this stature, with his credentials and expertise in the environment, our ocean, and just...I mean, he was one of the...you know, the guys who helped us with the Mahana Estates and that huge, horrible runoff from that into Honokohau Bay, and it was...Honokohua Bay [*sic*]...sorry, D.T. Flemings area. And he's just been on the right side of our environmental issues and everything. So I'm happy and super supportive in seeing his name here on the roster to join the Maui Planning Commission. So I just want to give a shout out and, yes, please confirm him to be on the Maui Planning Commission. That's it. Mahalo.

CHAIR MOLINA: Okay. Thank you very much, Ms. Cochran.

MS. COCHRAN: Welcome.

CHAIR MOLINA: Members, any clarifying of Ms. Cochran's testimony related to GREAT item

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2(36)? Seeing none. Thank you for your testimony, Ms. Cochran.

MS. COCHRAN: Aloha.

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

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

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Sam Small, to be followed by Rainey Dock Matthews.

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

MR. SMALL: Good morning, Chair Molina. You know, with regards to wrongful termination suits and County employees feeling intimidated on testifying, the County has a problem in that no employee is adequately represented. There's current...if you step forward, Corporation Counsel intimidates everybody. And Corporation Counsel pretends...they pretend to have this Chinese wall where they can represent an employee, they can represent a Director, they can represent the Mayor, they even pretend to represent you. And anytime anybody comes forward to launch a complaint, they're immediately silenced as a potential litigant and are...everyone is told...instructed not to communicate, to route all communications through Corporation Counsel. That's absurd. Corporation Counsel, you know, wields a sledgehammer to destroy anybody that attempts to confront them. Whistleblowers within the County are completely unprotected. There's another wrongful termination suit where Chris Salem filed against the Mayor and the County because, as an internal whistleblower, he was blowing the whistle on Greg Brown, and did so for months, writing memo after memo, and getting absolutely no response within the...with any of the departments. And went to Human Resources to find out, who do I even talk to as an employee? Who can I go to to be able to understand my rights as an employee whistleblower...and got no support whatsoever. None. And was eventually wrongfully terminated by the Mayor's Office for pursuing Greg Brown on all of the issues that are currently going into investigation now. All of the things that we claimed about that particular situation have been proven to be correct, so he was correct to pursue these issues.

CHAIR MOLINA: Mr. Small, can I ask you to steer you back to the matter related to Mr. Guzman, if at all possible. Okay.

MR. SMALL: Well, this is about the people that are intimidated in stepping forward in this case. I'm speaking on their behalf because they are employees that have absolutely no proper representation. . . .*(timer sounds)*. . . And that is something within the Council's purview to fix. And you have to find a way to do that because we have layers of inappropriate behavior and corruption that are unassailable because of Corporation Counsel's control. And as a separate note, let me say that Elle Cochran talking about people yelling is absolutely the pot calling the kettle black. Because I was...when Chris

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Salem was working within her office, left over from Joanne Johnson working on the deferral agreements, Elle Cochran went batshit crazy on Chris Salem, dropping f bomb and f bomb.

CHAIR MOLINA: . . .*(inaudible)*. . .

VICE-CHAIR RAWLINS-FERNANDEZ: Decorum, Chair.

CHAIR MOLINA: . . .*(inaudible)*. . .

VICE-CHAIR RAWLINS-FERNANDEZ: Decorum, please.

CHAIR MOLINA: I got it, I got it Vice-Chair. Thank you. Thank you, Mr. Small.

MR. SMALL: So this is an example...this is an example --

CHAIR MOLINA: Mr. Small --

MR. SMALL: -- of employees --

CHAIR MOLINA: -- you're out of time.

MR. SMALL: -- not having representation.

CHAIR MOLINA: All right. Thank you. Okay, Members, any need to clarify Mr. Small's testimony on GREAT Item 11(22)? Okay, seeing none. Thank you very much for your testimony, Sam.

MR. SMALL: Thank you.

CHAIR MOLINA: Go ahead, Ms. Apo Takayama [sic], announce our next testifiers.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is Rainey Dock Matthews, and that is the final testifier we have for the beginning of the meeting.

CHAIR MOLINA: Okay. Thank you. Good morning, Ms. Matthews.

MS. MATTHEWS: Good morning, Chair. Good morning, Members. I am Rainey Dock Matthews. I reside here on Maui, and I am here to testify on Item 11(22) with regards to the settlement. I am definitely in opposition to this settlement. As you know, I am the parent, or the mother of one of the victims of the behavior of Mr. Guzman. I got a call July 15th from my daughter...September 15th from my daughter. She didn't know I was in the ER at that time. She called me to let me know what had happened. And right here, I want to shift just for a moment with regards to the definition of settle. Settle is to resolve definitively and conclusively; to agree upon. And with regards to this

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incident that my daughter reported...Leslee Dawn Hau'oliokalani Matthews reported, she did not settle. She did not settle. With regard to the County Council, I'm not really sure why you all are possibly going to be settling with this because the message that I believe that will be sent out to the community is that the County Council will not have their back in the event of something else that may happen. So the message also is that I believe that will be sent is that to your employees to the County Council...to the County employees that you will need to just settle for this behavior. That you will just need to settle in silence. That you will just need to be quiet because the governing body of Maui County, to me, that is what you are saying to victims that have already been there, that have already been victimized, and maybe even some that have not spoken up. I was in the room with three or four of the testifiers back in November, and my heart sunk. But you know what I saw? I saw that they were not willing to settle. . . .*(timer sounds)*. . . It's unfortunate...I did hear that. It's unfortunate that they had to do that. It's unfortunate that I now am needing to speak very forthright to a group of people that I have a great respect for, but to say, please do not settle. Please stop and consider the message that you are sending to future victims. Thank you for your time.

CHAIR MOLINA: Thank you very much for your testimony, Ms. Matthews. Members, any need to clarify Ms. Matthews' testimony? Seeing none. Mahalo for your testimony, Ms. Matthews.

MS. MATTHEWS: Mahalo.

CHAIR MOLINA: Staff, please continue with announcing our next testifiers.

MS. SUNDERLAND: Chair, the next individual we have signed up to testify is the person calling in that's listed as E.L.

CHAIR MOLINA: Okay, testifier, I guess, is it E.L., this is your time to testify. Calling for a second time, testifier E.L. Okay, seeing...or, not seeing or hearing anything from the testifier, let's move on, Ms. Apo Takayama [*sic*], and announce our next testifier.

MS. SUNDERLAND: Chair, that is the final testifier we have listed for the beginning of meeting.

CHAIR MOLINA: Okay. All right. Let's go ahead and move on. So Staff...or, I guess, Mr. Forrest, so with regards to the new Sunshine Law procedure. So I assume we still keep testimony open because we did have one individual that wanted to testify after the presentation. Clarification, Mr. Forrest or Ms. Apo Takayama, on that.

MR. FORREST: Yeah, Chair, you're correct. You need to keep the testimony open until the presentation is given --

CHAIR MOLINA: Okay.

MR. FORREST: -- after that.

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CHAIR MOLINA: All right. Thank you for that clarification, Mr. Forrest.

MR. FORREST: Just for the record, you can have clarifying questions after the presentation, but you can't have deliberation.

CHAIR MOLINA: Okay. Thank you for that, Mr. Forrest. Member King, you had a question?

COUNCILMEMBER KING: I was just going to ask about that, but he must have read my mind. Thanks.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR MOLINA: Okay. Mr. Forrest is a good mind reader. Okay. All right. Let's go right into the item then, GREAT Item 11(22) which relates to the Settlement Authorization: Don S. Guzman v. County of Maui, et al., Civil Case 21-00202.

**GREAT-11(22) LITIGATION MATTERS (RESOLUTION 22-109, RELATING TO
SETTLEMENT AUTHORIZATION: DONALD S. GUZMAN V.
COUNTY OF MAUI, ET AL., CIVIL 21-00202 DKW-RT)**

CHAIR MOLINA: And I believe we'll call upon--is it Ms. Lutey, to give us a presentational overview in open session. And Members, what we'll do, upon the completion of Mr. Lutey's opening comments, we'll go back and take testimony on that item. I believe we had Mr. Nakoa who wanted to testify after Ms. Lutey's presentation. We'll move forward from there. Good morning, Ms. Lutey. Please go ahead.

MS. LUTEY: Good morning, Chair. Thank you. Good morning, Councilmembers. So I just want to clear something up right out at the front here so that it's clear to everyone who's watching this and who previously testified. Today the only reason I'm here is to convey a settlement demand that was received in April from the plaintiff's counsel. I'm obligated by the rules of ethics to convey the settlement demand, but it in no way means that this...that I am urging this body to settle or otherwise, it's just an obligation that I have to bring that to this body. I can't discuss what that settlement demand is in public because the Federal rules, under Rule 408, makes this a confidential communication, and that was designated by plaintiff's counsel in the way it was conveyed to me. So if I were to disclose that here, I could be disciplined by the ODC and/or the court for conveying what the contents of that settlement demand letter are. So that is why I will be asking for executive session. We are in active litigation, and it's not that we've given up here. So as this body's well aware, in March 2019 through September of 2020, Mr. Guzman was the Prosecuting Attorney for the County. There were two meetings held before this body on his removal after Mayor Victorino recommended that he be

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terminated for some of the actions you heard Ms. Matthews discuss earlier today. And this body unanimously agreed that he should be removed as Prosecuting Attorney. Subsequently, Mr. Guzman filed a lawsuit against the County, the Councilmembers, and Mayor Victorino, alleging three separate claims. The first claim was that his right to privacy was violated. The second claim was that his right to due process was violated. And his third claim was that he had been discriminated against based upon a disability. On July 26th, for the first time ever, our office came in and decided to file a motion for summary judgment rather than filing an answer because we felt that our case was that strong. The court ruled on that motion for summary judgment and granted our motion for summary judgment, dismissing the right to privacy, as well as the discrimination based on disability claims. So that left only the due process claims. Now, my office regularly posts case pleadings that are hot topics in this community on our webpage, so you can go there and take a look at them. We don't obligate anyone to go to PACER and pay for them because we understand there's a lot of interest in these. So these pleadings should all be up. If there's something that you'd like to see that's not on, we're happy to post that because they're all publicly pled. The court then...we were sort of in a stay for a bit. We had a meeting with the court, and then plaintiff filed a motion for summary judgment on March 24th, 2022. We filed our opposition. The court then asked for some supplemental briefing. This was specific to the due process claim. And then on June 27th, the court granted plaintiff's motion. So what that means is that the court believes that there was a violation of due process. So in terms of timing, we got that settlement demand before that order from the court. We have not had any further meetings with the court to discuss settlement; however there is a settlement discussion that is scheduled to occur on August 25th. At that time, we will be prepared to come back to this body and convey some of the information that we receive there. But today, my only obligation is to just let you know what the demand is, and that must be done in private based on Rule 408. Thank you.

CHAIR MOLINA: All right. Thank you for your opening comments on this matter, Ms. Lutey. So, Members, what we'll do...we'll go and recognize public testimony for anyone who would like to testify after the presentation. I guess, Mr. Forrest, again, so now if someone has testified on this item prior to this presentation, we cannot recognize a second time to testify on this item; am I correct?

MR. FORREST: Yes, sir. And I believe you could allow Councilmembers to ask clarifying questions only at this time. Then after those questions are finished, you can allow testimony on this item from anyone who has not testified, and then you can go into deliberations. And that could be questions that are not just clarifying to Corporation Counsel.

CHAIR MOLINA: Okay. Thank you, Mr. Forrest. All right, seeing no requests for clarifying questions at this point for Ms. Lutey, let's go ahead and recognize Mr. Nakoa, who had wanted to testify after the presentation. Go ahead, Mr. Nakoa.

. . .BEGIN PUBLIC TESTIMONY. . .

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MR. NAKOA: Mahalo, good morning. Moana Lutey, mahalo so much for all that information, brah, was solid yeah. Because, you know, that guy Guzman, he try to file for wrongful, you know, because he was sick or something like that. That's kind of bogus. But get plenty...what I like say is get plenty other employees of the County that with me dealing with a lot of issues of this County, plenty people say, ho brah, you can leave my name out because I no like get busted. I no like get fired. So I going tell you straight up, gangy. This is not the kind of County that we want to have, period, you know what I mean? This is the kind...this is junk. This is no good, brah. And, you know, talk about intimidation. Talk about calling out. Since, you know, Elle Cochran went talk about her issue, you know, when she got yelled at and all that stuff, me as a constituent, went into the Mayor's Office to talk about the injection well many years back, oh, nah, three years back. Yeah, yeah, about there, three years back. And, brah, only had me, him, and the guy...what the heck his name? Fukuyama, the so-called Lāhainā representative from the Mayor's Office that don't know crap about Lāhainā. Was in his office and I got threatened, I got pounded on the table, stand up by Mr. Mayor, and called out, tell me he no scared me . . . *(laughing)*. . . You think I scared him? Crazy. But then, you know, was ready for the kine, and then Mr. Sandy Baz came walking into the office and he was like, what's going on? What's going on here? And then end up Zeke Kalua come inside, sit inside the meeting. That's why I never like meet with that guy one on one when he wanted for meet. I wanted him to meet, to talk to the people of Lāhainā for that Greg Brown. So this Administration, this County, it's not good when the employees are only asking to make sure Maui is pono, Maui is bad ass, is so scared. That's the whole bottom line with this whole thing. You know, the wahines that coming up and testifying, you know, and all that stuff against Guzman, now you guys like settle with the guy? You know, it's kind of itchy, kind of scary, kind of piss off, you know what I mean, for everybody on Maui to hear this kine crap. But going back to Mr. Guzman. If he went screw up. He went screw up, brah, you know what I mean? You guys went fire the guy. So I don't know why you guys like make one settlement with a guy who went screw up because that's almost sounding like what you guys like do with Greg Brown . . . *(timer sounds)*. . . or the people who went put us in the situation of we might have to go pay millions of dollars of our tax money, yeah? So you guys putting us in a predicament. So mahalo, guys. And mahalo, Moana Lutey, for clearing up the stuff and...yeah, Don Guzman, throw the keys away. Shoot.

CHAIR MOLINA: Mahalo, Mr. Nakoa. Members, any need to clarify Mr. Nakoa's testimony? Seeing none. Mahalo, Junya.

MR. NAKOA: You guys have a good one.

CHAIR MOLINA: Thank you. Okay, Ms. Apo Takayama [sic], is there anyone else that would like to testify after the presentation related to GREAT item 11(22)?

MS. SUNDERLAND: Chair, no further testifiers signed up for this item.

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CHAIR MOLINA: Okay. We'll wait a moment, see if anyone signs on. Okay, going once, twice, three times. Ms. Apo Takayama [sic], is there anyone signing on to testify for GREAT Item 11(22)?

MS. SUNDERLAND: Chair, there are still no further individuals signed up for this item.

CHAIR MOLINA: Okay. Thank you. Members, if there are no objections, the Chair will close public testimony for GREAT Item 11(22), and accept any written testimony related to this item. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . .END OF PUBLIC TESTIMONY FOR GREAT-11(22). . .

CHAIR MOLINA: All right. Thank you very much. So public testimony is closed on GREAT Item 11(22). All right, Members, let's go right into any questions, clarifying questions you may have in open session for Ms. Lutey related to this item. I'll ask the first one, clarifying question. So Ms. Lutey, so you mentioned, I guess, the three, I guess complaints. The court dismissed two of them, and one complaint that the court believe still has standing, I guess, that has to do with the violation of due process. Can you clarify that in open session what specifics...how...well, you know, the due process, I guess, violation, what the court sees. What was...can you give us specifics on that?

MS. LUTEY: Chair. Thank you, Chair. We do have the order also posted, but in very, very brief summary, the court had a couple of issues. One is that he felt that there should've been more notice to Mr. Guzman in terms of what the complaints were against him, and the findings in the investigative report. That investigative report was completed by a private firm, as I'm sure you all remember, and that formed the basis, in part, for his recommendation for termination by Mayor Victorino. The second issue on due process that the court took issue with is over the fact that during public testimony, there were many, many testifiers. I think we...I know that we went for two days of hearings on this particular matter, specifically the removal of Mr. Guzman. And the court felt that there should have been a recess taken after all the public testimony to allow Mr. Guzman the opportunity to gather his thoughts and respond to some of the allegations. So that's, in a very tiny nutshell, the order from the court.

CHAIR MOLINA: Okay. Thank you for that clarification, Ms. Lutey. All right, Members, any need to clarify Ms. Lutey's comments in open session related to his matter? Mr. Sinenci, go ahead, followed by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Ms. Lutey, for that report. So just for clarification, and contrary to some of the testimony this morning. So you're not...Corporation Counsel is not taking any stance or anything, just...you're just following protocol, receiving the settlement offer and bringing it in to us; is that correct? It's not like you...we've decided on it or anything.

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MS. LUTEY: Thank you, Member Sinenci. That's correct. I'm obligated to convey the settlement demand. Unfortunately, when it came in, all of you were in Budget, so this is really the first time you're able to hear it. But I do want to let you know, because I think I can discuss this publicly, is that I do not have all of the damages materials currently. We have issued requests for them, the court ordered that I get...that plaintiff sign off on these...because some of them are medical, I need to have his signature in order to get them. A subpoena is inadequate. And to date, I've only received one packet of materials, so I am still waiting for things. So today it's really just going to be discussing what the settlement demand is.

COUNCILMEMBER SINENCI: And you mentioned that we are in active litigation, correct?

MS. LUTEY: Correct. Yes.

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

CHAIR MOLINA: Thank you, Mr. Sinenci. Committee Vice-Chair Rawlins-Fernandez, followed by Chair Lee.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Corporation Counsel Lutey. Mahalo for the summary on this item. So it says that if no one, including plaintiff, had notice of the testimony that would be received, after hearing the same, plaintiff needed a reasonable opportunity to prepare a response, given that he could not prepare in advance. He was denied that opportunity, the real time notice plaintiff actually received was simply no notice at all. Did the court indicate what would be considered a reasonable time to recess and give Mr. Guzman to prepare? And did they not take into account the fact that the final decision-making body is the full Council, and that Committee hearings just...Committees just give a recommendation to the full Council for final decision making?

MS. LUTEY: Thank you, Vice-Chair Rawlins-Fernandez. You know, the court, in answer to your first question, did not give an indication of what would have been an adequate amount of time for the plaintiff to prepare for a response. And in regards to the mechanics of how Council works, and this is, of course, by State law also, I don't believe that...and I absolutely respect this judge, so I'm not in any way trying to disparage him, I just don't believe that he fully understands the way that the system works. And we tried--including with your OCS Staff, they signed affidavits and declarations for me to attach to our opposition of the motion for summary judgment so that the court could understand what the procedure is. But in spite of all of that, he still disagreed that it was done properly based on due process.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Lutey. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair Rawlins-Fernandez. Chair Lee, followed by

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Member Paltin.

COUNCILMEMBER LEE: Thank you, Chair. My recollection of that day, after the testimony was completed and we began discussion, I recall Mr. Guzman saying, I take full responsibility for what was said by the testifiers. Ms. Lutey, did you find that information going over the minutes?

MS. LUTEY: Yes. Thank you, Chair Lee, for the question. Yes, that was a highlight of our motion for summary judgment that was initially filed, and also brought back up during our opposition to plaintiff's motion for summary judgment. I also gave the court the entire transcript of that proceeding. But in Federal Court, we're obligated--and understandably so because it was voluminous--to go through and highlight all of that, and then put quotes in the brief itself. So they...the judge was well aware of that.

COUNCILMEMBER LEE: Okay. One last question. As an attorney, you ought to know the words, you have the right to remain silent. He should know that, right, as an attorney?

MS. LUTEY: Yes.

COUNCILMEMBER LEE: All right. Thank you very much.

CHAIR MOLINA: All right. Thank you, Chair Lee. Member Paltin, followed by Member King.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Lutey. I just wanted to disclose and clarify, I'm not a lawyer or an attorney, and so if the question I'm asking is not supposed to be asked in open session, I'll count on you to tell me that. So my question is, my understanding is there's two basic options of action for us to take; and one is to settle, and one is to not settle; is that correct?

MS. LUTEY: That is.

COUNCILMEMBER PALTIN: And then I was wondering, if we choose to not settle, then what happens?

MS. LUTEY: Okay. Thank you for the question. So if we choose not to settle, there is a settlement conference that's already been scheduled with Magistrate Judge Rom Trader for August 25th. On that date, there will be discussion about the positions of both parties. And by that time, I hope to have all of the plaintiff's records. And I can come back to this body at that time, and inform you of what the positions are, what the records actually contain. Because part of the issue here is that anytime you sue us, even if there's a finding of liability, you must prove up your damages. And so right now, what I've been trying to establish is what are the damages. And that's not something that I can really comment on with this body today because I am missing so many documents. It's by no fault of our office, it's really that there were delays in getting signatures on the releases.

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COUNCILMEMBER PALTIN: And the other question I had, couple of other ones was, we're not being told by the judge that we couldn't end Mr. Guzman's employment, we're being told that we didn't do it correctly?

MS. LUTEY: Thank you. Yes. That is what it is. He believes that there should have been more information provided to Mr. Guzman in advance of the proceedings that we've had in this Committee. And also, that he should have been given time after the public testimony to formulate his responses.

COUNCILMEMBER PALTIN: And as a judge, is he aware of the Sunshine Law when...and did he mean that soliciting testimony is just putting out an agenda, and the public is allowed to testify? Is that what he meant by soliciting testimony? Because if we don't do that, then we're breaking some laws.

MS. LUTEY: Thank...

COUNCILMEMBER PALTIN: So, I mean, what are we supposed to be doing?

MS. LUTEY: Thank you, Member Paltin. I think that's part of the problem with the order in this case, is that it appears that in spite of what the law says, requires this Council to do, that the judge disagrees with that process, and that's by statute. That's not something that this body can change, the law itself. But I think what he is suggesting is that we just provide more time...it's ambiguous so, you know, I'm sorry if it sounds sort of a muddled response here, but it's because there seems to be a bit of a disconnect, I think, in terms of what the order says, and what the law says, and what your obligations are as Councilmembers.

COUNCILMEMBER PALTIN: Last question, Chair. Sorry.

CHAIR MOLINA: Go ahead.

COUNCILMEMBER PALTIN: One last one. And in my recollection, I don't recall being asked for that time. So is it something that we were supposed to mindread about? Or was it, like, we got to do this for everybody when testimony is pau? We have to give folks, like...I mean we have some folks coming up to be confirmed after the testimony. Do we have to give them time to digest what testifiers said about them, and then we make our...like, I mean, I'm not super clear, like, when this would apply, especially if we're not being asked for more time. Like, you know, how can we accommodate a request that wasn't made?

MS. LUTEY: I absolutely agree with you, Member Paltin. And I would point out that in the transcript of those proceedings, that Mr. Guzman was asked multiple times by many of you if he was prepared to proceed with, you know, questions on testimony that was given, as well as the investigative report, and he repeatedly said that he was. So that's

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part of the disconnect, I think, with the order.

COUNCILMEMBER PALTIN: Okay. That concludes my questions because I don't know. Thank you.

CHAIR MOLINA: All right. Thank you, Member Paltin. Before I recognize Member King, just kind of following up on this conversation. So, Member Lutey [sic]...Corporation Counsel Lutey, as I understand this, the...maybe the plaintiff is looking at this like a courtroom, which is a judicial branch function. We're the legislative branch. We don't typically have testifiers being cross-examined, so to speak, like it would be in a court of law, correct? So this is where I think, maybe, there's a...I guess a further explanation needs to be given to, maybe, the judge or whatever arguments can be made. Because this is a legislative function, and we don't normally allow cross-examinations of our testifiers. I mean, could you imagine if that was allowed in the United States Congress? Nothing would be done. So, yeah, that's where I'm kind of seeing your point of view on this because this is a legislative branch function, not a judicial branch function. So this is not a courtroom where we typically allow cross-examination, so to speak, of testifiers. So, anyway, Member King, go ahead and...with your clarifying questions for Ms. Lutey.

COUNCILMEMBER KING: Okay. Thank you, Chair. I think you answered my first question, which was, you know, my understanding was that he...you know, he requested the open session, and that there was no request for recess in my recollection. I think you answered both of those positively. The other question I have, it might be...I'm not sure if it's...you can answer in open session, so just stop me if you can't. But there's a...in the order granting the plaintiff's motion, there's a statement that says first, with respect to their own motion for summary judgment, defendants conceded that plaintiff had established a liberty and/or property interest in his employment. Therefore, they are estopped from reversing course in now arguing that Guzman was an at-will employee all along, and no such property interest. So did Corporation Counsel actually concede that issue and...you know, and that was a mistake that we conceded it?

MS. LUTEY: Thank you, Member King. Actually, yes, I wrote that and I have, in many cases, not just this one, conceded various issues at the summary judgment stage. And the reason for it, without getting too deep into it, is that the only way you can prevail in a motion for summary judgment is to show that there are no issues that were material fact. Had we contested that, that would have created a material fact. So instead, we went with the fact that due process had been provided to Mr. Guzman, and then used the transcripts from this and Mr. Guzman's own word substantiating that. The court disagreed.

COUNCILMEMBER KING: But what is...so can you just explain in layman's terms what that means, established a liberty and or property interest in his employment?

MS. LUTEY: That's...well, that's just related to his due process claim. So he claimed that he had a liberty interest in his job.

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COUNCILMEMBER KING: And so you conceded that without...but...isn't that something you would want to, you know, consult with your clients before conceding something like that?

MS. LUTEY: That was a legal call on my part. And, as I said, I regularly concede various issues in motions for summary judgment. For example, in a shooting case, I conceded various topics related to that shooting event in order to secure summary judgment, which I have. So this is a normal tactic by litigation attorneys in these types of motions.

COUNCILMEMBER KING: Okay. And you don't feel that it hurts our case one way or another?

MS. LUTEY: As I said I do it all the time, and I regularly win.

COUNCILMEMBER KING: Right. I just want...I'm just asking you in this case, it doesn't have any bearing, in your mind, on making our case stronger or weaker?

MS. LUTEY: No.

COUNCILMEMBER KING: Okay. All right. Thank you. Thank you for that.

CHAIR MOLINA: Thank you, Member King. If there's any other Member that has not asked a clarifying question of Ms. Lutey, please raise your hand. If not, I will go back to Chair Lee for a second opportunity for clarification for Ms. Lutey's opening comments.

COUNCILMEMBER LEE: Thank you, Mr. Chair.

CHAIR MOLINA: All right. Okay. Go ahead, Chair Lee.

COUNCILMEMBER LEE: Ms. Lutey, I was going to ask you, when you mentioned disconnect with the judge, it seems to be a very significant one. Because Mr. Guzman was well aware of the legislative process, being a Councilmember for six years or so. So he knew exactly what the legislative process is. So I'm surprised that the judge would give him so much leeway as if he were a newcomer not knowing the legislative process, but that's exactly where he came from. Do you intend to reply along those lines to the judge?

MS. LUTEY: Thank you, Chair Lee. We actually have in our motion for summary judgment, and also our opposition to plaintiff's motion for summary judgment, provided the court with all of that information about Mr. Guzman's term as a Councilmember. So the court is well aware of it.

COUNCILMEMBER LEE: Okay. Thank you.

MS. LUTEY: Welcome.

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CHAIR MOLINA: Okay. Thank you, Chair Lee. Okay, Members, before the Chair makes a recommendation to go into executive session, are there any more questions in open session for Ms. Lutey to clarify her remarks? Okay, seeing none. Very good. All right. Members, Chair is going to recommend going into executive session, and assuming we get the six votes for that, I'll give you a little bit of time to, you know, reenergize, and then I'll give you a time specific as far as going into all meet in executive session. So with that said, Chair is going to entertain a motion to go into executive session as it relates to Section 92-5(a)(4) of Hawai'i Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, immunities, and liabilities of the County, the Council, and the Committee. Chair will entertain a motion for executive session right now.

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Okay, motioned by Committee Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura. Any discussion on the motion to go into executive session? Okay, seeing none. All those in favor of going into executive session, signify by raising your hand and saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: Aye. Okay, all right. We have one, two, three, six, nine ayes, and no opposition.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: APPROVE; RECESS open meeting and CONVENE
 executive meeting.**

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CHAIR MOLINA: All right, Members, we're going to go into executive session. You should have been sent a link. So what we'll do...the time is about roughly 10:30. So, Members, why don't we...I'll give you guys a few minutes to energize, and let's meet in executive session at 10:40 a.m. Members, any objections to taking your morning recess, and then meeting in executive session at 10:40 a.m.?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: No objections? All right. So ordered.

MS. APO TAKAYAMA: Chair, I'm sorry. Before you recess, can we please state for the record who will be going into executive session?

CHAIR MOLINA: Oh, yes.

MS. APO TAKAYAMA: Thank you.

CHAIR MOLINA: Okay. All right. So all nine members, Staff, that will be...Mr. Forrest, will you be joining us in executive session? Mr. Forrest? Yeah.

MR. FORREST: Yes, sir. I will be. Thank you.

CHAIR MOLINA: Okay. Ms. Lutey, will it just be you in executive session?

MS. LUTEY: Mariana Lowy-Gerstmar will also be joining us in executive session.

CHAIR MOLINA: Okay. Thank you. All right, anyone else from Administration at this point, or OCS Staff? All right, I believe that is...

MS. APO TAKAYAMA: Chair, we will also have Committee Secretary Pauline Martins. And for the record, that's Legislative Attorney James Forrest, Deputy Corporation Counsel Mariana Lowy-Gerstmar, and Corporation Counsel Moana Lutey. Thank you.

CHAIR MOLINA: Okay. All right. Thank you for the specifics on that, Ms. Apo Takayama. All right. So it is 10:30 right now. The GREAT Committee meeting will recess and then will go into...will open up in executive session at 10:40 a.m. Meeting in recess.
... *(gavel)* ...

RECESS: 10:30 a.m.

RECONVENE: 11:27 a.m.

CHAIR MOLINA: ... *(gavel)* ... GREAT Committee meeting for Tuesday, August 2nd, 2022, is now convened in open session. Again, the time is 11:27 a.m. Members, we have just returned from executive session related to GREAT Item 11(22). Your Chair's

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recommendation is to file Resolution 22-109 based on discussions in executive session. Is there a motion?

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Okay, motion by Committee Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura. Members, any discussion on the Chair's recommendation to file Resolution 22-109? Okay. Seeing no discussion then, Chair will call...oh, sorry. Go ahead, Vice-Chair. As the movant, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Wanted to...again, I'm going to carefully choose my words because I don't want to...in open session, but I wanted to just thank the testifiers that came out again, who...who subjected themselves to reliving the trauma that they experienced. And so just a heartfelt mahalo for standing up for yourself, and others who aren't in the position, or aren't able to. And in filing this, we support. Mahalo, Chair.

CHAIR MOLINA: Okay, all right. Mahalo, Vice-Chair Rawlins-Fernandez. Any other comments as it relates to the motion on the floor? Member King.

COUNCILMEMBER KING: Thank you, Chair. I concur. I support the motion on the floor, and I also want to thank the testifiers who came out again. But if this...and to let them know that having this on the agenda didn't...wasn't an indication that we were going to settle it, it's just one of the things that came across your desk, Chair, that you had to put on the agenda. And so if it does come up again, if we can make sure that we notify the testifiers who, you know, didn't seem to know about this, just as a courtesy, to let them know that if something comes up before us on the same issue, to let them know that, you know, they'll be afforded another chance. But I just want to make that point that having it on your agenda wasn't an indication that we were going to pass it, or approve a settlement. Thank you.

CHAIR MOLINA: Yeah. Thank you very much, Member King. And thank you for adding that to the discussion, yeah. Because as Corporation Counsel Lutey stated to us, it was more out of a legal obligation that this proposal came to us from the plaintiff. And the Council certainly is...you know, has to review everything, and not take any pre-positions, you know, on it. So it's just more, I guess, informational at this point. But, again, with the recommendation to file...maybe if I could add Legislative Attorney Mr. Forrest to comment on specifically what a filing of a Resolution is, just for those who may not be quite clear about the action that's being taken. Mr. Forrest?

MR. FORREST: Thank you, Chair Molina. Can you see me?

CHAIR MOLINA: We can see you fine and hear you fine.

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MR. FORREST: Okay. Well, filing is going to trigger a Committee Report that will be sent to the Council. Deferral would leave the item open. If there is need for further discussion, a new Resolution would have to be filed within your Committee to take up this matter in the future.

CHAIR MOLINA: So I guess in layperson's terms, the filing is basically Council is not considering it, it's basically done for, right?

MR. FORREST: Yes, Chair.

CHAIR MOLINA: Okay. Thank you. I just wanted a...more of a layperson's perspective on that. All right. Any more discussion on the recommendation to file Resolution 22-109? Seeing none, Chair will call for the vote. All those in favor of the filing, signify by raising your hand and saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All right. Chair will mark it nine ayes, with no opposition. All right. Thank you very much, Members. The Resolution has been filed.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILE RESOLUTION 22-109.

CHAIR MOLINA: Okay. Let's move on to our next agenda item, which is GREAT Item...

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR MOLINA: Oh, go ahead, Vice-Chair.

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Just a reminder of what you wanted to disclose to the public about --

CHAIR MOLINA: Oh.

VICE-CHAIR RAWLINS-FERNANDEZ: -- August 25th.

CHAIR MOLINA: Thank you. Thank you for that. Oh, you're such a good Vice-Chair, you picked up on that for me. Yeah, there will be a settlement conference between the defendant, the County, and the plaintiff on August 25th with the judges involved in this matter. So just as Ms. Lutey had mentioned in open session. So at this point, Ms. Lutey can mention the Council's action here today. Okay. Anything else? Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I just wanted to remind you that I needed to leave early today.

CHAIR MOLINA: Okay.

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: We'll try to get things done as expeditiously as possible.

GREAT-2(36) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(VARIOUS) (CC 19-24)

CHAIR MOLINA: All right. Let's go on to our next item, which is GREAT item 2(36) relating to the nominations to boards, committees, and commissions. We have three nominees...oh, by the way, Members, all of the nominees for today, no action will be taken. Action will be taken at the August 5th Council meeting. So with this particular item, we have three nominees to consider, a nominee to the Maui Planning Commission, Mark Henry Deakos, for a term expiring on March 31st, 2027. And then a nominee for the Police Commission, that is Arragon Kekoawiwaole Mowat, for a term expiring on March 31st, 2027. And then a nominee for the Public Works Commission, Nathan Kalani Ignacio, for a term expiring on March 31st, 2027. But before we do that, Chair would like to ask if there's anyone out there who would like to testify on GREAT Item 2(36). Staff?

MS. APO TAKAYAMA: There is no one who indicated that they'd like to testify.

CHAIR MOLINA: Okay. So far no one...I believe we had Ms. Cochran earlier to testify, and Mr. Moran testified on this before we got to this item. We'll just wait a few moments and see anyone signs on to testify on GREAT 2(36) on any of the items and nominees related to this Committee item. Okay. Ms. Apo Takayama, has there been anyone signing on to testify on this item?

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MS. APO TAKAYAMA: No, Chair. Thank you.

CHAIR MOLINA: Okay. All right. So ordered. And then, Members, the Chair is going to recommend closing testimony for GREAT item 2(36) and receiving any written comments. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: Okay. So ordered. Let's recognize Mr. Mossman if he's on the call. Oh, go ahead, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I thought I saw the audio of the person signed in as testifier light up. I don't...

CHAIR MOLINA: Okay, Ms. Apo Takayama.

VICE-CHAIR RAWLINS-FERNANDEZ: It appeared when that person spoke.

MS. APO TAKAYAMA: Chair, sorry. That's Staff in our conference room.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay.

MS. APO TAKAYAMA: Thank you.

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

CHAIR MOLINA: All right, no problem. Okay. So let's go ahead and recognize Mr. Mossman, if he could give us an overview first on the nominee for the Maui Planning Commission. Mr. Mossman, good morning.

MR. MOSSMAN: Hello, Chair Molina, how are you, and Members of the Council. Yeah, let's start off with Mr. Mark Deakos. And it's our privilege to recognize him as the nomination for the Mayor's Office on the Planning Commission. And he brings with him a great resume with his background in marine science. And I know I'd asked him to be on. I'm not sure if he is on the call, but I'd just like to recognize him. But this is our nominee, and he'll bring another area of expertise to the Maui Planning Commission. So let's just stay with that, okay.

CHAIR MOLINA: Okay. Thank you, Mr. Mossman. Questions for Mr. Mossman? Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I was wondering...I had heard that Mr. Deakos is very committed to this, but he did have some pre-scheduled work trips coming up. And I just was wondering...I can't remember exactly about the attendance policy, if it was only for unexcused absences, or both excused and unexcused, but would it be

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possible to defer until after...until November if it's the unexcused one, or is that going to be a problem?

CHAIR MOLINA: Mr. Mossman?

MR. MOSSMAN: Thank you, Councilmember Tamara. You know, as far as the policy reads, I'm sure your...if I answer this correctly for you, the unexcused...if he does get, you know, as far as his schedule, and he works that through with the Planning Commission, you know, as far as when he is...you know, with the virtual, it's pretty much that opportunity for him to sit in on meetings as much as he could. But that would be...you know, from our standpoint it's the unexcused absentee that is...which is what really concerns us from that standpoint.

COUNCILMEMBER PALTIN: Okay. So if he had those prior commitments before getting appointment, and then he gets excused because he had those prior commitments, then it wouldn't negatively affect him on the Commission?

MR. MOSSMAN: Maybe we should ask, is someone on here from Corp. Counsel, or any of our legal team on the policy?

CHAIR MOLINA: Corp. Counsel?

MR. MOSSMAN: Just don't want to give wrong information.

CHAIR MOLINA: Can you clarify Mr. Mossman's statements, someone from Corp. Counsel? Oh, Whittaker. Go ahead, Mr. Whittaker.

MR. WHITTAKER: Yes, that's correct. So an excused absence is if they had something pre-planned, they couldn't make the meeting, informed the Chair of that prior to the meeting, that that's considered excused. It's kind of like your rules as well. If someone just doesn't show up and doesn't say anything, that's an unexcused absence, and that's the primary concern for the boards and commissions. They can plan around an excused absence or move meeting dates if necessary.

COUNCILMEMBER PALTIN: Okay. In that case, thank you very much, Mr. Mossman, for this excellent nominee. Full support.

CHAIR MOLINA: Thank you.

COUNCILMEMBER PALTIN: Because, you know, before he was appointed, he had that commitment, so that's...

CHAIR MOLINA: All right. Thank you, Member Paltin. Vice-Chair Rawlins-Fernandez, you had a question?

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah. So the attendance policy is in a six-month period, once the board or commission or committee record reflects a member's non-attendance, so unexcused absence of 50 percent or more meetings, or absences of at least 25 percent of meetings within a 30 day of the member's last excused or unexcused absence that we would just be notified. I would be supportive of this applicant nominee to start in November after he...his commitments that he's already planned before being asked to serve on the Maui Planning Commission. So, I think, you know, that disclosing that up front and beforehand, so that no one's caught off guard that he would be missing meetings is appropriate. So I would be supportive. Mahalo to the Mayor for working together with the Council on Mr. Deakos' application and serving on the Maui Planning Commission to get a more diverse nominee on there for discussions and deliberations and decisions. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair. All right. Members, I believe we have Mr. Deakos on the call. I'm going to give him an opportunity to just say a little something about himself for two minutes. And, Members, just for your information, we did not get the required four requests from Members to have Mr. Deakos respond to questions. So as I stated...stated earlier with all of the nominees, decision making will be this Friday. So if you do have questions for Mr. Deakos, you can do that on your own time, you know, and that way you're not on any time constraints...if you do have questions. Many of us know Mr. Deakos already. So, Mr. Deakos, aloha. I'd like to give you an opportunity for about two minutes to just state your intentions as to why you would like to be considered for the Planning Commission. Please proceed.

MR. DEAKOS: Sure. Thank you, Chair, and thank you, Committee. And thank you, Mayor's Office, for the nomination. I've been...you know, I've lived in Maui the last 25 years. I'm fairly active in the various issues here on Maui. A lot of them pertain to the marine environment, or the coastal environment. And I am familiar with the Planning Commission duties. I'm under no illusion that it's an easy job, and it certainly isn't the pay that's attracting me to that position. But I do think I can provide some...maybe some expertise in areas that aren't always present in the...on the Commission. So I think that would be a valuable asset. But maybe even more so is my understanding of what I don't know, so I'm very interested always to know both sides of any discussion and situation, and tap into any subject matter experts that are necessary to clarifying things. So, you know, I think...that role, I think it's an honor to, you know, have some role in that decision making, and some guidance and recommendations for the Planning Department, and I look forward to, if nominated, working with the other colleagues on the Commission.

CHAIR MOLINA: Okay. Thank you very much, Mr. Deakos, for your statement. So, as I stated earlier, Members, I know Mr. Deakos, I know many of you do, and he's certainly very well versed in his field. If you have questions for Mr. Deakos, again, you have the opportunity to contact him. You have access to his contact information, and you can contact him now between decision making on Friday. So at this point, I'd like to let Mr. Deakos go and we'll see what happens on Friday, August 5th. And thank you for

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taking the time to be here, Mr. Deakos.

MR. DEAKOS: Thank you, Chair.

CHAIR MOLINA: Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused TK)

ACTION: **DEFER** pending Committee Chair's request to consider Resolution 22-174 relating to the nomination of Mark Henry Deakos to the Maui Planning Commission.

CHAIR MOLINA: Okay. Let's move on to the next nominee under GREAT item 2(36), and that is the appointment of a member to the Police Commission, in this case, Arragon Kekoawiwaole Mowat to the Police Commission for a term expiring on March 31st, 2027. Mr. Mossman, could you give us an overview, and then we'll go to the nominee.

MR. MOSSMAN: Thank you, Chair Molina. I'd like to introduce Mr. Arragon Keko Mowat, a Lāhainā resident, has been involved with the Lahainaluna athletics program for many, many years. A very good voice for the community, we believe. He is now basically the head of security, Director of Security and Telecommunication and Guest Services for the Hyatt Regency. Comes with some well qualifications, and we'd like to give our support in his nomination for Police Commission.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. I'll...okay, I see Mr. Mowat on the call right now. Aloha, Mr. Mowat. Thank you for making yourself available. I'd like to give you about two minutes to share with the Committee your thoughts as to why you would like to be considered for the Police Commission. Please proceed.

MR. MOWAT: Aloha. As he said, I've been coaching Lahainaluna football for over 30 years. I like to...I came from the Island of Moloka'i, I came over to Maui as a boarder. And I always thought that I got a lot from the community, and I just would like to give back to things that I enjoy. So I was a canoe paddling coach. I worked with the Nāpili Canoe Club, also with the high school canoe clubs. I do a lot of stuff with Pu'u Kukui and the Honokōwai Valley. And then the reason why I came to Lāhainā, I got pushed by a couple of police officers who are now retired, so I have a lot of respect for the police officers, and I see negative things in the press about Maui County Police and, you know, the lack of recruitment and, you know, the unhappiness with the Chief, and things like that and I think I can bring a different perspective. I have a lot of ties with the Kānaka maoli community here, and also on Moloka'i where maybe I can have a different voice. I have no preset agenda or anything, where I think I'm going to, you know, come on and do this or do that. I'd like to probably make a positive connection with the rest of the commission members, and just give a different perspective. But I just look forward to giving back to the community and I think this will be a good way to do that.

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CHAIR MOLINA: Okay. Mahalo, Mr. Mowat, for your opening statements. And, Members, before we proceed with questions for Mr. Mowat, Chair would like to note Members Johnson, Kama, King, and Sinenci requested the nominee's presence, so the Chair will recognize those Members. And if you have any questions, I know that a lot of stuff has come out in the news media related to the Maui Police Department, I would ask that you try not to get into too many specifics about what's been in the media for Sunshine Law purposes. So preferably make your questions somewhat broad, if you will, so...just so we don't get into any Sunshine Law issues. Aloha, Mr. Mowat, I will ask you just a general question. Your...do you have any...do you see any areas of improvement that can be made with the Department as a commissioner, and what type of solutions would you be open to doing? Or, again, what can you bring? I know you shared some interesting and good perspectives. So any...if there's any areas of improvement that you would like to see? And if there are, can you share that with us and what you would like to consider as a solution or solutions?

MR. MOWAT: I mean, just from an outsider looking in, the real need is recruitment, and getting people to apply, and get hired on the Department. My son actually went to college, got a degree in criminal justice, came back, and is now working in the hotel instead of working...I mean, his thoughts was he was going to come back and work in the Police Department, but because of the negative press, he decided to go another way. And a lot of it had to do with pay. I don't know, as a...you know, just looking in, like I said, I don't know if we can affect or get them raises. You know, a starting security officer makes...here at this hotel makes \$50,000, \$51,000 a year, and that's before overtime. And I know that's pretty close to the starting pay of a starting police officer. So something like that might be...we might be able to entice people to become police officers more than...especially if they went to school for that, and then decide not to do it once they get here. It just gets...ways to entice them to become officers. And then maybe work with the Chief a little bit more on...it's hard for him as an outsider. I've talked to a lot of officers, I have a lot of relationships with a lot of officers because of being a Director of Security, and they agree that, you know, they were up for a change, but they didn't expect the change that they got. And that's just something I think we need to work on with the Chief. With a lot of the Hawaiian community, in his speech, and he talk about pono and lōkahi, and that kind of was a turn off right off the bat because he doesn't understand the words. Even though he can read the definition, he really doesn't know what pono means or lōkahi because you can see in his actions, he didn't really live up to that.

CHAIR MOLINA: Okay.

MR. MOWAT: But we've talked to him and things, so...

CHAIR MOLINA: Okay, thank you very much.

MR. MOWAT: Just a little guidance, that's all.

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CHAIR MOLINA: Okay. Yeah. Thank you. Okay, Members, sorry. I'm going to put everybody on a two-minute clock. And before my Vice-Chair scolds me, I forgot to recognize that she always has a standing request for all nominees to come in. So with that said, Vice-Chair, two minutes to...for any questions for Mr. Mowat. Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. No scolding, just gentle reminders. And I can hear your mom probably screaming, Mowit. So just pretend that it's spelled M-O-W-I-T, and pronounce it with an I sound, Mowit, and not Mowat. . . .*(laughing)*. . .

MR. MOWAT: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: You're welcome, Auntie Bridgette. Okay. Aloha, Mr. Mowat. Mahalo for your willingness to serve on the Police Commission. I ask all the nominees the same three questions. The first one is regarding attendance. Do you see any concerns with your ability to attend all the meetings. The second is if you would please share with us your experience with the Police Commission? Have you attended any of the meetings, have you reviewed any of the videos of past meetings, or the meeting minutes? And you already kind of addressed the last question I usually ask, but if you would like to add anything more to what you feel you would be able to contribute to the Police Commission.

MR. MOWAT: Okay. So for attendance, before I made a commitment to Mr. Mossman, I checked with my General Manager, also my Rooms Executive, to make sure that before I make any kind of commitment that they would support this move, and they are totally supportive of it. They are wishing that I can get on, so I don't see any problem with attendance. And I also checked with Ipo to make sure that, you know, meetings would fall in areas that they should be. And I looked at the attendance guidelines, and I'm pretty sure that I'll be able to attend all the meetings, so it should not be a problem. And then for experience, for the...I've read the past meeting minutes. I've not really watched any of the Commission except for the hiring process that we just went through. And I can see where the Chief was chosen because he answered the questions well and in full, but that's the only experience I really have in the Commission. I'm not...I did not take a really deep dive into the full extent. I can read the guidelines and just an overview of the Department, but more than that, I don't have no knowledge of it. And then I just feel I would be another voice, especially for the West Side. There's nobody here on the West Side of Maui that is on the Commission, and I have strong ties within the community. If I didn't coach the family member, I'd probably know a lot of the longtime Lāhainā residents, even though I'm from Molokaʻi. But I kind of became a West Maui resident, so I can be a good voice, and maybe see another perspective.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Mowat. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair. Ho, I get my tail between my legs or anything. I mispronounced your name again, Mr. Mowat, and I know your mom would scold me too. My apologies.

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MR. MOWAT: That's okay, I get scoldings about saying my name the way I...people say no, it's Mowat, not Mowit. So...

CHAIR MOLINA: Okay. All right, let's go to Member Johnson. Two minutes. Any questions for Mr. Mowat?

COUNCILMEMBER JOHNSON: Thank you, Chair. Good afternoon, Mr. Mowat. Thank you for your willingness to serve. My first question is going to be for Mr. Mossman before I come back to you. Mr. Mossman, my understanding, there's only three women on the board for...the Police Board; is that correct?

MR. MOWAT: Stacey, Lahela, and Janet is the three.

COUNCILMEMBER JOHNSON: Right, right. Okay.

MS. APO TAKAYAMA: Mr. Mossman, you're muted.

MR. MOSSMAN: I apologize, Councilmember Johnson. Yes, I believe you are correct, there's only three --

COUNCILMEMBER JOHNSON: Okay.

MR. MOSSMAN: -- three members...women. Yes.

COUNCILMEMBER JOHNSON: So having said that, Mr. Mowat, I read your application form. And the sentence that stood out to me was your interest in serving on the Police Commission was to be a part of the process to reinstate the faith and trust in the Police Chief and Department. I want to speak on the faith and trust. There's a lot of women out there that don't feel like they have that faith and trust for the Police Department. So can you speak on it? Can you address the idea that we have a lot of women in the community that need to reestablish that faith and trust?

MR. MOWAT: Yeah. So I think by getting everybody to work together and showing positive movement forward, you know, there's...I mean not only on Maui, but there's a lot of negative press on the police period throughout the country. And, you know, us being a small community, and a tight knit community, I think it won't take as much effort to move forward and get positive feedback from the community just by us working together and getting out there, you know. We talked with the Chief and the assistants in a meeting with the Directors, and they have a lot of good ideas how to move forward and, you know, they work with the community. And it's just getting everything out there and getting more positive press instead of negative. Because they do a lot of good things, it's just that we only talk about the negative. We got to make sure we get the positive out there.

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COUNCILMEMBER JOHNSON: With...so you said there was a...you spoke with the Police Chief about some things. Do you have any things that you mention...that are specific? That's one part of the question. I'm kind of short on time, but would...you know, would you...you think you would be...serve the community on a different commission and allow a woman to sit in that seat, or are you very focused in on this particular commission?

MR. MOWAT: Like I said in the beginning, I would like to do community service in areas that I feel comfortable and I have a lot of interest in. But, you know, if I would be asked to work somewhere else to give room for someone else to get in, then I would have no problem with that. It's up to you guys to choose or not choose me. If you think that I would not be and you'd rather put someone else in that position, then that would be your guys' choice.

COUNCILMEMBER JOHNSON: So the follow up would be is what...you said you spoke with the Police Chief and some other chiefs on, you know, helping out with that faith and trust. Can you give me an example of something specific?

MR. MOWAT: Well, one of the things that stood out is their work with the homeless and, you know, providing healthcare and mobile units to go and work with those people. And I know couple of the officers on that unit --

COUNCILMEMBER JOHNSON: Yeah.

MR. MOWAT: -- and, you know, that's really positive. And then working with their...just the regular officers, not the upper staff, but just the regular officers, you know, moving forward, changing the uniform, getting them the vest, just the small steps they're making to try to help out the new officers and get them to be more into the new leadership that they have.

COUNCILMEMBER JOHNSON: Okay. Thank you so much for answering my questions, Mr. Mowat. Thank you, Chair. I have no further questions.

CHAIR MOLINA: Okay. Thank you very much, Mr. Johnson. Before I recognize Member Kama, sorry, the timer seems to be having some malfunction. So, Staff, just jump in and announce two minutes. That's how we did it back in the old days before we used the timer. So just announce the two minutes, okay? All right. Let's go to Member Kama, your two minutes for Mr. Mowat? Oh, I believe Member Kama...I believe she left. Okay. I was also informed Chair Lee had to go. All right. So we'll move forward to Member King, your two minutes for Mr. Mowat.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. Mowat.

MR. MOWAT: Aloha.

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COUNCILMEMBER KING: Thanks for being here, and thank you for your willingness to serve on this important Commission. So I have a couple of questions. One is, have you met with any of the other Commissioners?

MR. MOWAT: Just with Shelly [sic].

COUNCILMEMBER KING: Okay, so...

MR. MOWAT: Not Shelly...I'm sorry, with Janet.

COUNCILMEMBER KING: Oh, okay. And, you know, I like everything that you said, I just have a little bit of caution about, you know, not coming in with any preconceived ideas, but yet you said you'd give another perspective. So what is the...what is your perspective?

MR. MOWAT: I just...I don't know if I think the same way as everyone else. I would maybe be someone who is not the same. I don't know them, but I'm just saying I could bring another perspective because I tend to think kind of out of the box, and kind of have a little different perspective. Especially with the community that I am in, with the people that I know, I might have a different perspective on how they feel about the Police Department and the Chief.

COUNCILMEMBER KING: Okay. Can you share what that perspective is, how it's different from what's already on the Commission, the...you know, the perspective?

MR. MOWAT: I'm not sure. I talked to Janet and...you know, just like one of the things I was saying, from the beginning, the Chief already has a uphill battle because of his being an outsider. And then he came in and...you know, at his interview, a lot of the local community was turned off from that point on. So...but when I talked to Janet, she seemed to think opposite. So I might have a different perspective in that way.

COUNCILMEMBER KING: Okay. So...but you're still open to...

MR. MOWAT: Oh, yeah, I have no preconception of what I plan to do or what I'm going to do because I have no experience. If I would say I plan to do this, it would be...I would look naïve, and probably someone who's talking about something he really doesn't know about.

COUNCILMEMBER KING: Okay. That's my...that was my main concern so, you know, as long as you're open to hearing all the facts. Because there's so much information --

MR. MOWAT: Yeah, yeah.

COUNCILMEMBER KING: -- you know . . . (inaudible) . . .

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MS. APO TAKAYAMA: Two minutes.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member King. Right on time, good. Okay, and the last Member that requested Mr. Mowat's presence for questions, Mr. Sinenci, your two minutes. Go ahead.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Mr. Mowat, for your willingness to serve. Is there any relation to Hawaiiloa Mowat of Instagram fame?

MR. MOWAT: That's my brother.

COUNCILMEMBER SINENCI: Okay. All right. And then my other question was for Mr. Mossman. So should he be confirmed, Mr. Mowat would be filling an empty seat on the Commission?

MR. MOSSMAN: Yes, Mr. Mowat would be filling a seat that was basically from the expiration...it's a new term, and we had...you had disapproved one of the Members' nominees, and Mr. Mowat is in replacement of that nominee that was disapproved.

COUNCILMEMBER SINENCI: Okay. Then so Mowat, I understand and I appreciate you stepping up to have some kind of representation out in the West Side. I understand that sometimes out in the West Side...and you mentioned about, you know, being considerate to Kānaka maoli issues, and then specifically, I guess, land rights. So, would you be able to...you know, there's...sometimes when it comes to land issues, it's more of a civil case more than a criminal case. So would you be able to kind of navigate some of those types of issues that may arise in West Maui?

MR. MOWAT: Yeah, I would definitely be able to. Right now, we're just looking over some of our family lands and...you know, that might be on Front Street. And it's...being able to differentiate between the both, so I would definitely be able to.

COUNCILMEMBER SINENCI: Okay. Thank you for that perspective. And then you also mentioned Aunt Sharon Silva. She...was she the last representative from West Maui?

MS. APO TAKAYAMA: Two minutes.

MR. MOWAT: Yes.

COUNCILMEMBER SINENCI: All right. Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Mahalo, Mr. Sinenci. Okay, Members, I believe that concludes the Q and A session from the Members that requested Mr. Mowat's presence today. I'd like to

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extend my mahalo to you, Mr. Mowat. And again, apologies for the mispronunciation, and thank you for sharing your mana'o with us here today --

MR. MOWAT: All right.

CHAIR MOLINA: -- in consideration of the Maui Police Commission. Aloha.

MR. MOWAT: Aloha awakea.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused TK, AL)

ACTION: **DEFER** pending Committee Chair's request to consider Resolution 22-175 relating to the nomination of Arragon Kekoawiwaole Mowat to the Police Commission.

CHAIR MOLINA: Okay, Members, we have one more nominee for discussion for GREAT Item 2(36), and this is for the appointment to the Public Works Commission, and that nominee is Nathan Kalani Ignacio for a term expiring on March 31st, 2027. Mr. Mossman, please provide us a brief overview of the nominee.

MR. MOSSMAN: Thank you, Chair Molina This was a...Mr. Nathan Kalani Ignacio is a retired firefighter out of Kaunakakai, Moloka'i, and he is replacing a vacancy from Moloka'i. And what he brings to the table is the ability to, you know, make the meetings. Unfortunately he is not...he is out of state on a trip. He was going to try to see if he could make...and get on the virtual, and I don't think he has...I was looking for his name. But, you know, the Mayor is very, very excited in having this young man join the Public Works Moloka'i Nui a Hina. So we look forward to, you know, your folks' cooperation and approval.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. And Mr. Mossman is correct, Mr. Ignacio could not join us, but I'm going to just recognize my Vice-Chair, who's from Moloka'i, if she has any thoughts that she would like to make the Members aware of about Mr. Ignacio. Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I know Mr. Ignacio well. He's retired, so I don't think I would have concerns with his ability to attend. Let's see. He is a retired firefighter. I'm not sure his experience with the Public Works Commission, if he has had the opportunity to review...Mr. Mossman, do you know if he had any opportunity to review some of the meetings, or if he'd ever been involved?

MR. MOSSMAN: Thank you, Vice-Chair. I did have a conversation when he was sharing with me he wouldn't...he would try to get on, he would be out of state. We went over the preparation sheet, which is what I share with all of them. And he basically...he told me he would go through all of that. I haven't had a conversation, but I'm almost positive he had the opportunity to look through some of the minutes of Public Works.

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VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Mossman. And I fully support Mr. Ignacio's nominee. Mr. Mossman and I have been working for months now to fill this position. Twice nominees ended up going to other commissions, like the Children and Youth and the Planning Commission. And so, I'm really happy that we finally found a nominee that would be great for this...for the Public Works Commission that will serve the community and the County well. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Vice-Chair. So...okay. With that said, Members, I'm going to defer item GREAT 2(36) regarding action on these three nominees. So, again, action will occur at this Friday's, August 5th, 2022 Council meeting. So any objections to deferring GREAT Item 2(36)?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused TK, GJ, AL)

ACTION: **DEFER** pending Committee Chair's request to consider Resolution 22-176 relating to the nomination of Nathan Kalani Ignacio to the Public Works Commission.

GREAT-2(52) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(RESOLUTION 22-170, MAUI COUNTY CULTURAL RESOURCES
COMMISSION)

CHAIR MOLINA: Okay, so noted. All right, let's go on to our last item of the day, and that is GREAT item 2(52). And this relates to the appointment of Andree-Michelle Conley-Kapoi to the Maui County Cultural Resources Commission. And this would be for a term expiring on March 31st, 2023 to fill a vacancy replacing Ian Bassford. And again, Mr. Mossman, if you could give us an overview.

MR. MOSSMAN: Thank you, Chair Molina. As you know, Ms. Michelle...Andree-Michelle Conley-Kapoi is an archaeologist, and we were in need of an archaeologist basically filling the vacancy for Ian Bassford. She comes very equipped, we are very excited to have her. She stepped in as we were looking for that vacancy, and we very much approve and look forward to her working with that with your approval. And I'm not sure if she was able to get on the call, Chair. But again, very good choice from the standpoint of the Mayor's Office here. So...

CHAIR MOLINA: Okay. Thank you very much, Mr. Mossman. And you're correct, she's not on the call. However, Members, you do have the opportunity to make contact with the nominee prior to Friday's meeting. So, again, as I mentioned earlier with all of the other nominees, action for this nominee will also occur at this Friday's, August 5th, 2022, Council meeting. So any other comments before the Chair makes a recommendation on this nominee related to GREAT Item 2(52)? Okay, your Chair's recommendation is

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to defer. Any objections? Oh, sorry. Member Paltin. Oh, Member Paltin, could you unmute?

COUNCILMEMBER PALTIN: Thank you. I just was wondering, was the phone number on the application?

CHAIR MOLINA: Staff, can you clear that up? Typically they should be on there.

MR. MOSSMAN: If not, I can provide that, Chair Molina.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: All right.

VICE-CHAIR RAWLINS-FERNANDEZ: It's on the other page. So we just have to request the other page --

CHAIR MOLINA: Second page.

VICE-CHAIR RAWLINS-FERNANDEZ: -- and that page is confidential.

CHAIR MOLINA: Yeah.

COUNCILMEMBER PALTIN: Okay, so --

CHAIR MOLINA: Oh, yeah.

COUNCILMEMBER PALTIN: -- I did have one question because you know, Lāhainā. So if someone could send me a phone number.

MR. MOSSMAN: You got it.

CHAIR MOLINA: Okay, thank you. All right. Yeah, Members, yeah. We are privy to that contact information, but not the public. Only the top copy of the application is available to the public. So...all righty. So as I mentioned earlier, any objections to deferring GREAT item 2(52)?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused TK, GJ, AL)

ACTION: **DEFER** pending Committee Chair's request to consider Resolution 22-170 relating to the nomination of Andree-Michelle Conley-Kapoi to the Maui County Cultural Resources Commission.

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CHAIR MOLINA: Okay. All right. So ordered. Members, I believe this concludes our agenda for the day. Great job, everybody. Very long, productive discussion. And my apologies for taking you past midnight...I mean, 12:00 noon, excuse me. Not midnight. Thinking of Budget and Charter proposals still.

VICE-CHAIR RAWLINS-FERNANDEZ: Not Budget, Council meeting you're thinking of.

CHAIR MOLINA: Yeah, yeah. There you go. Okay. Well, thank you all, Members, for your hard work and enthusiasm. And also to Administration, Mr. Mossman, Corporation Counsel, and also to all of our testifiers today. So appreciate all of your input and hard work. And also to our nominee, Mr. Mowat. So with that said, Staff, is there anything the Chair needs to be made aware of before we adjourn?

MS. APO TAKAYAMA: Chair, there is no further business before the Committee. Thank you.

CHAIR MOLINA: Excellent. And I also want to thank my colleague, Mr. Sinenci, who is going to give us the rest of the day off, no APT meeting today, so mahalo for that. And tomorrow, I believe, we have CARE Committee, right, Member King? And then we have...followed by PSLU tomorrow afternoon.

COUNCILMEMBER KING: CARE Committee, 9:00.

CHAIR MOLINA: 9:00, and then 1:30 for PSLU.

COUNCILMEMBER PALTIN: No.

CHAIR MOLINA: And then, Member Paltin, you're going to be checking out the waves as well tomorrow?

COUNCILMEMBER PALTIN: Oh, I hope so, but I just wanted to mention that if we can keep it tight, not to say the switch was poho, but because the Chambers is occupied, the testifier area will be in the Mayor's Conference Room, which closes promptly at 4:30. And we're not allowed to continue on when the testifier area is closed, per the new Sunshine Law requirement. So we changed slots to give us time to go a little past 4:30, but the elevator closes at 4:30, and so no extra time. Let's keep it, like, tight is just what I'm saying.

CHAIR MOLINA: Very good advice, Member Paltin. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Can I ask our...I'm sorry, I know we're going past time, but since it was said, like, what the new rules or this new Sunshine Law rule is making me crazy. I thought after we close public testimony, it's okay to not have that testimony area because we closed public testimony? If...

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COUNCILMEMBER PALTIN: Our OCS Director told me no, it's not okay when I asked that question.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, I wasn't challenging you, Member Paltin. I just wanted --

COUNCILMEMBER PALTIN: I mean, I asked that same question, but, yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: -- James Forrest to cite that section. Oh, okay. They require a viewing area. Oh, okay. There's Mr. Forrest.

MR. FORREST: Yeah. Thank you, Chair. There is a viewing requirement, so it's not just testimony. And if you want us to follow up, I can follow up later with the exact section of the Code or HRS.

VICE-CHAIR RAWLINS-FERNANDEZ: So, even if we have the Moloka'i Office, the South Maui Office, the Pā'ia Office, the Lāna'i Office?

COUNCILMEMBER PALTIN: Because it wasn't noticed that that was the official...I mean, the Mayor's Conference Room was noticed as the official site would be my...

MR. FORREST: Yeah, Chair, the other sites are unofficial sites.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo.

CHAIR MOLINA: Okay, good discussion. As a matter of fact, you spurned the Chair's...jogged the Chair's memory on something. I don't believe we took testimony for GREAT Item 2, or made that option available to the public; am I correct? So can we just open that up again, or just state for the record. I know there was no one on record to testify, but I think for the record, we should close...I should make a formal motion to close testimony for GREAT item 2(52) that was related to the nominee to the Cultural Resources Commission. Mr. Forrest?

MR. FORREST: Thank you, Chair. Just to dot all the I's, why don't you ask right now if there's anyone who would like to testify, and then close it.

. . .BEGIN PUBLIC TESTIMONY. . .

CHAIR MOLINA: Okay, is there anyone out there that would like to testify on GREAT Item 2(52)? I'll give you a moment. Ms. Apo Takayama [sic], can you verify if we have any testifiers for GREAT item 2(52)?

MS. SUNDERLAND: Chair, there is no one signed up to testify.

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CHAIR MOLINA: Okay, very good. All right, Members, with no objections then, Chair will close public testimony on GREAT item 2(52) as well as deferring the item. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused TK, GJ, AL)

CHAIR MOLINA: Okay, so noted.

. . .END OF PUBLIC TESTIMONY FOR GREAT-2(52). . .

CHAIR MOLINA: Boy, I tell you, we're still learning all these new Sunshine Law procedures so it's a work in progress for all of us. But thank you for having that discussion, just picked up on that quickly. So anyway, being that there is no further business then, the Chair...it's 12:14 p.m., the GREAT Committee meeting for Tuesday, August 2nd, 2022...the time is 12:14, this meeting is now adjourned. . . .(gavel). . .

ADJOURN: 12:14 p.m.

APPROVED BY:



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

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Transcribed by: Crystal Sakai

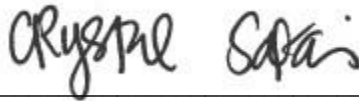
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CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 54 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 25th day of August 2022, in Wailuku, Hawai'i

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

Crystal Sakai