

# **CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**June 1, 2022**

**Online via BlueJeans**

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

**PRESENT: VOTING MEMBERS:**

Councilmember Kelly Takaya King, Chair  
Councilmember Shane M. Sinenci, Vice-Chair  
Councilmember Gabe Johnson  
Councilmember Alice L. Lee  
Councilmember Michael J. Molina  
Councilmember Tamara Paltin  
Councilmember Yuki Lei K. Sugimura

**STAFF:**

Brittney Sunderland, Legislative Analyst  
Jerry Paredes, Legislative Analyst  
Jocelyn Moniz, Committee Secretary  
Pauline Martins, Committee Secretary  
James Forrest, Legislative Attorney  
Jean Pokipala, Council Services Assistant Clerk  
Lenora Dinneen, Council Services Assistant Clerk

Angela Lucero, Executive Assistant to Councilmember Paltin  
Axel Beers, Executive Assistant to Councilmember King  
Christi Keliikoa, Executive Assistant to Councilmember Paltin  
Daniel Kanahele, Council Aide, South Maui District Office  
Davideane Sickels, Executive Assistant to Councilmember Kama  
Dawn Lono, Executive Assistant to Councilmember Sinenci  
Ellen McKinley, Executive Assistant to Councilmember King  
Evan Dust, Executive Assistant to Councilmember Kama  
Gina Young, Executive Assistant to Councilmember Sinenci  
Jordan Helle, Executive Assistant to Councilmember Sugimura  
Kate Griffiths, Executive Assistant to Councilmember Johnson  
Miki Yokouchi, Executive Assistant to Councilmember Sugimura  
Roxanne Morita, Executive Assistant to Councilmember Johnson  
Sarah Sexton, Executive Assistant to Councilmember King  
Anabelle Hernandez, Council Aide, Makawao-Haiku-Paia District Office  
Christian Balagso, Council Aide, West Maui Council Office  
Denise Fernandez, Council Aide, Lānaʻi District Office  
Mavis Oliveira-Medeiros, Council Aide, East Maui District Office

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

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Michael Hopper, Deputy Corporation Counsel, Department of the  
Corporation Counsel

Jordan Molina, Director, Department of Public Works

**OTHERS:** Hannah Bernard  
Eric Miyasato  
David Henkin, Senior Attorney, Earthjustice  
Jay Penniman, Project Manager, Maui Nui Seabird Recovery Project  
Bob Adams  
Jeff Bagshaw  
Mike Moran, Kihei Community Association  
Faith Chase  
Kim Harter  
Martin Frye, Maui Nui Seabird Recovery Project  
Cheryl King  
Peter Strasser, Technical Director, International Dark Sky Association  
Additional attendees (5)

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

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CHAIR KING: . . .(gavel). . . Good morning, aloha kakahiaka. Will the Climate Action, Resilience, and Environment Committee please come to order. Today is June 1, 2022. I can't believe the year's almost halfway over. But welcome, everybody. Council...Committee Members, thank you for being here. And I just want to remind everyone to please silence your cell phones and please mute yourself, your camera and your cell phone, if you're not up to testify yet. And Members, the Sunshine Law includes the following mandate. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in-person at nonpublic locations where board members are physically present, or to identify these locations in the notice required by Section 92-7 HRS, provided that at the meeting, each board members shall state who, if anyone, is present at the nonpublic location with the member. In accordance with the Sunshine Law, if you are at a nonpublic workspace, when your name is called, please identify by name who is present with you in the room, vehicle, or workspace. Please see the last page of the agenda for information on meeting connectivity. And we will get started with roll call. I'm Kelly Takaya King. I'm your Chair today for the CARE Committee, and our...our greeting of the day from Council Chair Lee is chào bây chiều. I hope I said that correctly.

COUNCILMEMBER LEE: Excellent.

CHAIR KING: We'll go first to our Committee Vice-Chair from East Maui, Shane Sinenci. Aloha kakahiaka and, I don't know if you can read this in the...chào bây chiều.

VICE-CHAIR SINENCI: Chào bây chiều, Chair, and hau'oli lā 'ekahi Iune, kākou mai Maui Hikina. We're here at the Hāna Cultural Center this Wednesday morning, with EA Dawn

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Lono and District Staff Mavis Medeiros. And there are no testifiers at the Hāna District Hall.

CHAIR KING: Okay, mahalo. And I think we're going to have to at some point get a ruling, because I think if you're at a public location, you don't have to give the names of everybody. But, you know, that's something I guess you can work out later. And next, we have Council Chair Alice Lee. Chào bây chiều, and aloha kakahiaka.

COUNCILMEMBER LEE: Aloha, Chair. Chào bây chiều all the way from Vietnam to all of our friends who are Vietnamese in Hawai'i and Saigon Cafe.

CHAIR KING: Yeah.

COUNCILMEMBER LEE: I am...I am in my workspace, home alone today, and looking forward to your meeting. Thank you.

CHAIR KING: Okay. Thank you. Thank you for giving us a greeting that might get us seated quicker at one of our favorite restaurants. Okay. Next, we'll go to Councilmember from Lāna'i, Gabe Johnson. Chào bây chiều, and aloha kakahiaka.

COUNCILMEMBER JOHNSON: Good morning, Chair. Good morning Councilmembers. Chào bây chiều to you. There are no--(*clears throat*) excuse me--there is no testifiers in the Lāna'i District Office, and I am alone in my workspace, and I'm ready to work for the birds. Mahalo, Chair.

CHAIR KING: All right. Way to save the seabirds. Okay. And Councilmember Mike Molina will be a few minutes late. He said he'd be...oh, no --

COUNCILMEMBER MOLINA: Actually, I'm here.

CHAIR KING: You showed up exactly on time. He told me he'd be five minutes late, and we were a little late getting started, but aloha kakahiaka and chào bây chiều to you, Mister...Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha and chào bây chiều to you, as well, Madam Chair, and to my colleagues, and everyone else viewing in. For the record, I'm transmitting from my residence under the virtual bridge here in Makawao, and I've been informed that there are no testifiers at the Pā'ia District Office. Aloha.

CHAIR KING: Aloha. Okay, we've got to get that test...those testifiers going. Aloha to Councilmember Tamara Paltin from the West Side. Chào bây chiều, and aloha kakahiaka.

COUNCILMEMBER PALTIN: Chào bây chiều, and aloha kakahiaka kākou. I'm broadcasting live and direct from my home in Nāpili, and I have with me today, Nāhiku Paltin-Vierra, Kalehua Paltin-Vierra, and our pocket pit, King, who's very happy that we're not leaving him home alone today. And possibly later, we will have an icebox repairman in the

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location as well. I'm not aware of any testifiers at the West Maui District Office, but I'm sure our West Maui District Office Staff, Christian Balagso, would let us know if there is any.

CHAIR KING: Okay. Thank you for that. And last but not least, we'll go to Councilmember Yuki Lei Sugimura from Kula. And chào bây chiều, aloha kakahiaka, thank you for being here.

COUNCILMEMBER SUGIMURA: Chào bây chiều, good morning, everybody. I'm here in the County building on the 8th Floor in my office, and I have Jordan Helle and Miki Yokouchi on the other side. And I see, Chair, that you're in the Chamber --

CHAIR KING: I am.

COUNCILMEMBER SUGIMURA: -- so --

CHAIR KING: Come join me.

COUNCILMEMBER SUGIMURA: -- at recess, I'll come visit you. Yeah, I'm glad.

CHAIR KING: Okay. I'm trying to warm up the seat for our Council Chair, who is going to back --

COUNCILMEMBER SUGIMURA: Yeah, Alice is making her way back, so we're...we're cooking. Thanks.

CHAIR KING: I'm trying to warm up the seat, and make sure that everything's proper in the drawers. And for the record, I am here in the Chambers. We have no testifiers in the Chambers, and no testifiers in the District Office in South Maui. Thank you, Members. And we also have with us...we have no Committee Non-Voting Members. We have all Committee Members present. So thank you for that. We have Jordan Molina here, the Director of the Department of Public Works, and not sure if we're going to have Corporation Counsel, because our usual person is on vacation and did not return my call yesterday. But we have Committee Staff, Brittney Sunderland, our Legislative Analyst, and today we have Jerry Paredes, our other Legislative Analyst, sitting in for backup; Wilton's on vacation. We have Jocelyn Moniz, our Committee Secretary, who's doing a wonderful job as our new...one of our newest secretaries. James Forrest, our Legislative Attorney, is with us virtually, and has also done an incredible amount of work on this bill. And Lei Dinneen, our Council Services Assistant Clerk. So Members, we have one item on today's agenda, CARE-74, Bill 21 (2022), Seabird and Biodiversity Protection. We're going to begin with public testimony. Oral testimony via phone, teleconference, or in the Council Chamber will be accepted. Testifiers wanting to provide video testimony should join the online meeting via the BlueJeans meeting link as noted on today's agenda, or called in dialing the phone number also noted on today's agenda. Written testimony is also accepted, and instructions on how to submit testimony can be found at [mauicounty.us/testify](http://mauicounty.us/testify). Oral testimony is limited to three minutes per item. If you're still testifying beyond that time, I will kindly ask you to complete your testimony.

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When testifying, please state your name, and if you are testifying on behalf of an organization or are a paid lobbyist, please inform us. Please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers or Councilmembers. If you are here to provide testimony, please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you're done testifying, you will be asked to disconnect--given that you're not a resource person, you will be asked to disconnect from the call, and you're welcome to continue viewing the remainder of the meeting on *Akakū* Channel 53, mauicounty.us, or on Facebook Live via the Maui County Council page, or in the Chambers, live and direct. Participants who wish to view the meeting only without providing testimony, please disconnect now, and instead view the meeting on one of those channels. Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony is concluded. So I just want to remind everyone to be patient, we have technological issues from time to time. And with that, if there are no objections, we'll proceed with oral testimony. Brittney, will you be calling the names? Oh, Jerry...Jerry will call the...Jerry Paredes will call the first testifier, please?

MR. PAREDES: Chair, the first testifier on the list is Hannah Bernard, to be followed by Eric Miyasato.

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

CHAIR KING: Okay, Ms. Bernard.

MS. BERNARD: Aloha kakahiaka, chào bây chiều. I am so happy to be testifying today for this great bill. My name is Hannah Bernard. I am Executive Director of Hawai'i Wildlife Fund. Greetings, Chair King, Vice-Chair Sinenci, and esteemed Committee Members. Thank you so much for your work on this very important enhancement of our outdoor lighting. I'm so happy about this. Thank you, everyone, who's been involved in this issue for so long. This new bill that you have, Bill 21, CD1 is great. We, Hawai'i Wildlife Fund, are testifying in support of it, and in opposition to the Corporation Counsel's version. Corp. Counsel's version will fail to adequately protect seabirds for a number of reasons, including its exemption of certain outdoor lighting already installed. And unlike Bill 21, CD1, its failure to define the percentage of short wavelength light, which must be reduced to protect seabirds and the nighttime visual environment, and...and ultimately, all of us. So with that, I'm good. Thank you so much for your good work. Mahalo.

CHAIR KING: All right. Mahalo, Ms. Bernard. Any questions for our testifier? Seeing none. Thank you so much for being here, and hopefully you can watch the proceedings today.

MS. BERNARD: I will. Aloha.

CHAIR KING: Aloha. Next testifier?

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MR. PAREDES: Chair, the next testifier on the list is Eric Miyasato, to be followed by David Henkin.

CHAIR KING: Mr. Miyasato? I think --

MR. MIYASATO: Yes, can you hear me?

CHAIR KING: Yes.

MR. MIYASATO: Hello?

CHAIR KING: Yes, we can hear you.

MR. MIYASATO: Okay. Hello. My name is Eric Miyasato. I was born and raised on Maui, and currently reside on O'ahu. I'm a licensed PE, and I am in the lighting industry in Hawai'i. I would like to state that I am against Bill 21, CD [sic] dated 5/26/2022 in its current draft form. The current Bill 21, CD1, dated 5/26/2022, as it is written, an outdoor lighting fixture must comply with Section 20.35.060, with exceptions to Section 20.35.070. Section 20.35.060 requirement for less than 2 percent blue content for all outdoor lighting and the revised exemptions in Section 20.35.070 will affect the following, but not limited to, outdoor restaurant dining, pavilions, patios and outdoor seating, outdoor car sales lots, gas stations, private sports venues like batting cages and golf driving ranges, and outdoor shopping center lighting, like Ka'ahumanu and Maui Mall. Filtered lights and monochromatic lights will not be able to discern true colors. Monochromatic light will make colors shades of gray. Filtered lights removes the blue in colors. Other areas that would be affected are outdoor signage, internally illuminated, externally illuminated, private swimming pools, safety and security walkway landscape lighting, outdoor County fairs and outdoor festivals, outdoor concerts, and all residential exterior lighting. Again, I would like to state that I'm against Bill 21, CD [sic], dated 5/26/2022 in its current draft form. Thank you.

CHAIR KING: Okay, thank you, Mister...any questions for our testifier? Chair Lee?

COUNCILMEMBER LEE: Mr. Miyasato?

MR. MIYASATO: Yes?

COUNCILMEMBER LEE: Do you have any suggestions as to how we can revise and modify this, so that it would still be effective? Thank you.

MR. MIYASATO: Current draft form eliminates a lot of the exemptions that was currently placed in the outdoor lighting ordinance. So by including all outdoor lighting, you affect a broad range of anything outdoor, and defined to be outdoor.

COUNCILMEMBER LEE: Thank you.

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CHAIR KING: We...we actually do have exemptions still in here, Mr. Miyasato. But we have another question for you from Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Mr. Miyasato. So it sounds like you have experience of...of working in...in this area.

MR. MIYASATO: Yes.

COUNCILMEMBER SUGIMURA: So if we were to have everybody comply with this law, do you know if the supplies to make this conversion is available to everyone?

MR. MIYASATO: The blue content, the 2 percent, less than 2 percent blue content, is used on the Big Island, but it's only used on roadway, parking lots, and commercial applications, it does not affect residential. By applying this across the board to all outdoor lighting, you could say any residential project, any, you know, retail establishment, any light source that's outdoors, could be considered under this ordinance. To provide a light that is filtered is very specific, and very limited to a few manufacturers across the board. To provide a light bulb that is monochromatic, that monochromatic light, it's basically you can't see any colors. I submitted two pictures to the County register as part of this BlueJeans, you know, testimony. In that image, I tried to show, you know, a comparison. I'm wearing a colorful aloha shirt. In the monochromatic, you can't tell any color that I'm wearing. It's similar to low pressure sodium. I testified 20 years ago in person to the County Council, when they were considering the outdoor lighting ordinance back then. At that point, I know other organizations was against it, because of that monochromatic aspect. You wouldn't be tell...you couldn't tell colors of a car under this light. With a filtered light, again, there's, you know, a limited amount of manufacturers that can do it, and it's very limiting, and it's probably going to be, you know, cost prohibitive for the County, both commercially and residentially.

COUNCILMEMBER SUGIMURA: So it...it sounds like...thank you for your experience in this, and cost-wise, I guess, I...I know you mentioned the County Fair. So we all are familiar with the County Fair, right, growing up here in Maui.

MR. MIYASATO: Correct.

COUNCILMEMBER SUGIMURA: So even that would be affected, some kind of community event like that, as well as the shopping malls? This has far reaching impacts, and --

MR. MIYASATO: So the current draft form allowed for, you know, light fixtures . . . *(timer sounds)*. . . that are low wattage but, you know, not defining low wattage. And it also allows for fixtures to be powered off of fossil fuel, you know, generators. But in a County Fair, there are lights that are being used that are plugged in and not connected to a generator. Low wattage, there's no definition of low wattage. You know, 1-watt, 10-watt, 100-watt could be considered low wattage. Any of the lights in Maui Mall, the shops at Wailea, any outdoor, you know, shopping center, would have to conform to that light, and would not make retail conducive in that type of environment. Imagine shopping for

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a car at Maui Toyota, and not be able to see what color the car is under monochromatic light.

COUNCILMEMBER SUGIMURA: Wow. Thank you very much for taking the time to testify. We appreciate...appreciate this. Thank you.

CHAIR KING: Thank you, Member Sugimura. Any more questions? We...and also, just to let folks know, we do have lighting manufacturers coming on to do a presentation a little bit later. And as the testifier mentioned, that we are using standards from Hawai'i Island for commercial lots. So our standards will be the same as their car lots and other commercial operations. Do you still have a question, Member Paltin? I thought I saw your hand.

COUNCILMEMBER PALTIN: Oh, that was kind of my question, because the testifier was saying that this bill goes beyond Hawai'i Island's bill. My question was to Mr. Miyasato, thank you for your testimony, would you support a bill that was more like Hawai'i Island bill?

MR. MIYASATO: It depends. Hawai'i Island does have exceptions for retail. Does not include residential. It also has exceptions for outdoor eating establishments. So it depends --

COUNCILMEMBER PALTIN: I know, like --

MR. MIYASATO: -- on how, you know --

COUNCILMEMBER PALTIN: They...they (*audio interference*)... It was...it was meant to be a yes or no answer.

MR. MIYASATO: Do I support the Big Island bill?

COUNCILMEMBER PALTIN: Yeah.

MR. MIYASATO: I support the context of the Big Island bill in its, you know, specific reduction for a specific area for the outdoor lighting.

COUNCILMEMBER PALTIN: That...that limits it to the County and the Government themselves?

MR. MIYASATO: I haven't reviewed it in a while, but basically, you know, all commercial projects, you know, on the exterior, with the exceptions, would have to be that filtered or monochromatic light, less than 2 percent. So roadways, parking lots.

COUNCILMEMBER PALTIN: Okay, but you're not familiar with the exact wording of the Hawai'i Island legislation; is...is that what you said?

MR. MIYASATO: No, I am familiar, but I haven't reviewed all aspects of it. I know within the bill, there is exceptions.



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COUNCILMEMBER PALTIN: Okay.

MR. MIYASATO: So.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KING: Thank you, Member Paltin.

MR. MIYASATO: You're welcome.

CHAIR KING: So Mr. Miyasato, just real quickly, did you testify against the Hawai'i Island bill?

MR. MIYASATO: No, I did not.

CHAIR KING: You're not...you didn't testify at all?

MR. MIYASATO: No.

CHAIR KING: Okay. All right. Thank you. Thank you for your testimony. Oh, I'm sorry. Member Molina? Question?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Yes, I have a question for Mr. Miyasato. Good morning, Mr. Miyasato. This is Mike Molina.

MR. MIYASATO: Good morning.

COUNCILMEMBER MOLINA: You mentioned an original Bill occurring 20 years ago. I was on that Council way back when, and as a matter of fact, I authored the original bill. And I appreciate your input from the industry standpoint. I'm kind of dovetailing off of the question that you were asked by Member Paltin with regards to the Big Island bill. If I'm correct, the Big Island's version of the outdoor lighting bill, which we looked at, I believe was a little bit more restrictive than Maui's; am I correct? Yeah? And --

MR. MIYASATO: *(Audio interference)*...

COUNCILMEMBER MOLINA: Oh, go ahead.

MR. MIYASATO: The Big Island...the Big Island lighting ordinance calls for that specific requirement of less than 2 percent blue output of light. And you would have to show documentation from the manufacturer that it was tested in compliance with that requirement. But the ordinance also allows exceptions. The exceptions, you know, for outdoor eating, retail, and there's other exceptions that allows the light to remain on until 11:00, if I recall, and then shut off.

COUNCILMEMBER MOLINA: So --

MR. MIYASATO: It's different than --

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COUNCILMEMBER MOLINA: *(Audio interference)*...

MR. MIYASATO: -- yes.

COUNCILMEMBER MOLINA: Mr. Miyasato, yeah, if I could stop you there, but thank you. So basically your...your concern is, I guess, maybe the exemption issue, that...I guess...so I guess...maybe I'm just guessing here, you...you...you're [sic] accepted the original bill because of the exemptions that's allowed, whereas you think this new version is a bit too restrictive?

MR. MIYASATO: This version affects the exemptions in Section 20.35.070. It eliminated a lot of the exceptions, and the new section B, it's basically saying all outdoor lighting fixtures.

COUNCILMEMBER MOLINA: Okay.

MR. MIYASATO: So at that point, you know, you might have to define what complies [sic] to outdoor lighting.

COUNCILMEMBER MOLINA: Okay. All right. Thank you. Thank you for your input, Mr. Miyasato. Thank you, Madam Chair.

CHAIR KING: Thank you. Member Molina. Okay, seeing no further questions, we'll go to our next testifier.

MR. PAREDES: Chair, the next testifier on the list is David Henkin, to be followed by Jay Penniman.

MR. HENKIN: Aloha.

CHAIR KING: Aloha, Mr. Henkin.

MR. HENKIN: I appreciate the opportunity to testify. We testified at the last Committee meeting, and really appreciate all the work that Chair King and her Staff have put into revising the bill to try and address some of the issues, to make sure that we adequately protect our seabirds. I'm David Henkin, I work for Earthjustice, I am a registered lobbyist. And you know, some of the concerns we had last time really had to do with the failure to address all of the existing lighting in Maui County. And the bill now does address that, which is super important, because we already have a severe problem with fallout of endangered and threatened seabirds throughout the County. So the bill says that there's basically a three-year phase-in period, which is similar to the approach that Hawai'i County took when it adopted its ordinance back in...and I might mention Hawai'i County adopted its ordinance in 1988 originally, so many of these provisions that we're talking about, including what's exempted and not exempted, go back to '88. Specifically with respect to the blue light content, I believe that goes back to 2011. So there is well over a decade of experience on the Big Island with having this type of lighting in place.

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Another change from the last version of the bill is the definition of what is blue light content and the percent of blue light content that's allowed. So the...the CD1 adopts the same definition as Hawai'i Island. And this would allow for consistency in application, now across two of the counties in the State. And again, with over a decade of experience of businesses, and governments, and...and individuals having to comply with the Hawai'i County lighting ordinance, you know, lighting fixtures, I think there are others who are going to testify today, who are actually in the business and can testify to the availability of these types of things. But this is not new. This would not be difficult to comply with, and, you know, Mister...you know, Mr. Miyasato raised a number of concerns about various types of businesses to which this would apply, and I...I need to just refer the Committee to the Hawai'i County lighting ordinance. Section 14-53 is where the exemptions are found. There is no exemption for any business use, other than just a business sign illuminated from the inside. And that needs to be turned off by 11:00 at night, so...but in terms of outdoor dining, or car lots, or the County Fair, or whatever, all of those would be covered by the Hawai'i County Ordinance, and so the same situation would apply in Maui County if...if you adopt this. And we could get into some of the details if you have specific questions, but basically what...the approach that's taken here, is to take a tried and true method to address the lighting issues, getting a dark night sky for endangered seabirds, also benefiting . . .*(timer sounds)*. . . people in other activities. Thank you.

CHAIR KING: All right. Mahalo, Mr. Henkin. We have a question from Chair Lee.

COUNCILMEMBER LEE: Thank you. Mr. Henkin --

CHAIR KING: And just to let you know...just to let you know, Committee Members, Mr. Henkin will be a resource person. But go ahead and ask your question.

COUNCILMEMBER LEE: Oh, I can wait then. Thank you.

CHAIR KING: Oh, okay. Any...any burning questions, I'm happy to entertain. No? Okay, we'll see you a little bit later, Mr. Henkin. Thank you for your testimony.

MR. HENKIN: Thank you very much.

CHAIR KING: Okay, Brittney? Or, I...I'm sorry, Jerry?

MR. PAREDES: Chair, the next testifier on the list is Jay Penniman, to be followed by Bob Adams.

CHAIR KING: Okay, Mr. Penniman.

MR. PENNIMAN: Aloha kakahiaka, Chair King, Chair Lee, Vice-Chair Sinenci, Members of the Committee. Chào bầy chiều. Glad to be here, and glad to have the opportunity to testify in support of all of the bill which is presented to you. Thank you very much to everyone who has worked on this. It's really a great improvement to the lives of seabirds, of turtles, of all of the wildlife that we have, our coral reefs. All of these are affected by

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outdoor lighting. And in this time of global climate change, rising sea levels, we really need to be focusing on resilience for the 'āina here. The coral reefs are our first line of defense in this, and the seabird nutrients that are brought and feed those coral reefs have been clearly shown to be vital for that. They also feed Upcountry forests that are essential for our watersheds for collection of water. The objections that are raised to changing the lights are largely coming from those who have not really experienced the success on the Big Island. Many of you maybe came to the demonstration about...oh, I can't remember exactly how many years ago, up on Maui Lani Parkway, where a number of different lights were demonstrated. And the reference to monochromatic light is perhaps an outdated one, in that the type of lighting we were asking for was demonstrated in that...that evening up there. And the color rendering of the kind of filtered LED lights that we're asking for in this bill were clearly shown. People who had very colorful clothing on could clearly see all of the colors of that clothing. It's just...it's an outdated sense of how the lighting actually works that...that we...that it...it does now have good color rendering. So I will be available if any questions need to be (*audio interference*) beyond this. But thank you very much for your work, and aloha.

CHAIR KING: Thank you, Mister...Mr. Penniman. And Mr. Penniman will also be available later as a resource person, as long as there are no objections to that. Okay. Seeing no questions at this time, thank you so much. Oh, you know, I have one question. There was a very timely article in *Civil Beat* in the last couple of days about seabirds and their importance to the Hawaiian Islands. Were you...were you consulted on that article?

MR. PENNIMAN: I was.

CHAIR KING: No? You were?

MR. PENNIMAN: Yes, I was.

CHAIR KING: Okay. I was going to say it sounded a lot like some of the information you've been giving us, so I'm going to quote a few excerpts from that, you know, in my opening remarks. But thank you so much for your assistance in these matters.

MR. PENNIMAN: You're welcome.

CHAIR KING: Okay. Next testifier, Jerry?

MR. PAREDES: Chair, the next testifier on the list is Bob Adams, to be followed by the user signed in as IDAMacBook2015.

CHAIR KING: (*Audio interference*) Mr. Adams. I...I saw him on earlier, so I think he's --

MR. ADAMS: Can you hear me now?

CHAIR KING: Yeah, we can hear you.

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MR. ADAMS: Okay. Yes. My name's Bob Adams. I started working with the Big Island in 2010 on their outdoor lighting ordinance. I have supplied lights to the County now for that period of time. We've done lighting at the shopping centers, HOAs, resorts. I think the acceptance there has been rather well done. There...there are exceptions I need to point out. For example, Friday Night Football still...still seems to be a holy grail there, so I believe football lights are allowed until 10:00 at night, then they get shut off then. But other than that, they've done a good job of...of monitoring this. One of the things that the County was looking at that I've not seen discussed here that I think is still relevant, is the idea of energy savings with their old light sources, looking at new ones, raising the standard, and with all of the energy stress going on right now in Hawai'i to meet the 2040 goals, efficiency. So that brings in the new lighting ideas. So I think that's a very valid one. We are now doing lighting at the airport, ramp lights, and other places there, so you know, I'd be happy to answer questions. I also need to add, I...I started out looking at it with the astronomy in mind over the last five years. I see real, live data looking at how lighting affects not only the birds and people, but we see how the type of lighting can in fact...impact things like (*audio interference*) transmission of viruses and other places. It's just a...it's a wide-ranging change that's been put on the environment, and I think we're just beginning to realize all of the impacts. So I'll be happy to answer questions, and I hope this can go through.

CHAIR KING: All right. Thank you, Mr. Adams. And he will be a resource as well, but if anybody's got any burning questions right now, we're happy to entertain them. If not, thank you, Mr. Adams, we'll...we'll circle back to you a little bit later, and ask for our next testifier.

MR. PAREDES: Chair, IDAMacbook2015 has left the call. The next testifier is Jeff Bagshaw, to be followed by Mike Moran.

CHAIR KING: Okay, Mr. Bagshaw.

MR. BAGSHAW: Good morning, Council, I...I hope you can hear me. My camera is not working.

CHAIR KING: Oh, okay.

MR. BAGSHAW: I am usually representing myself, but today I can also represent Division of Forestry and Wildlife for Maui Nui. And we are strongly in support of Bill 21 as amended to specify less than 2 percent of blue light content. The Corporate Counsel version is not adequate. And as stated in my written testimony, I...I elaborate on the resources quite a bit. But what's most important I'll hit on just again briefly to reemphasize, is that this isn't just about protecting endangered species, which we are responsible for. This is also about protecting water resources, and adapting for climate change. Our...the forest that we are trying to replant require nitrogen, and seabirds can supply up to 25 percent environmental nitrogen in the soil. We need them back in the lower islands where they used to be. And as you mentioned in that *Civil Beat* article, the NOAA statistic was pretty grim, that we will lose about 25 percent of their nesting grounds in the northwest Hawaiian islands within the next 100 years. So we have to

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make room for them here back in the lower islands as they used to be. And I will just finish by saying that...I'll touch base on one thing that hasn't...I haven't heard yet, which is seabirds and their calls can provide us a cultural landscape experience. Cultural landscape in the modern definition isn't just a place with archeological sites, it's being able to experience something that your ancestors would have experienced thousands of years ago. And to hear the sea birds at night, and to be able to see the stars, and to navigate by those, those are things that have been disappearing with lights. Those are cultural activities we can do at night besides football. Nothing against football, but those are cultural activities we can restore, if we can protect our lighting...or change our lighting habits. Thank you very much.

CHAIR KING: Okay. Thank you, Mr. Bagshaw. Any questions for Mr. Bagshaw at this time? Okay, no questions. Thank you so much for being here, Jeff. And I know you were...you were straddling two...two meetings this morning at 9:00, so I appreciate you...your testimony. Seeing no questions, we'll go to our next testifier.

MR. PAREDES: Chair, the next testifier on the list is Mike Moran, to be followed by Faith Chase.

CHAIR KING: Aloha, Mike.

MR. MORAN: Aloha, Chair King and Committee Members. Mike Moran speaking for the Kihei Community Association in support of this measure. We recall some wise words we heard from a current Councilmember some time ago, that the human species has to remember that we are part of nature. It's not a separate thing from us, we're just one of the species in here. And sometimes our egos think that we don't want to be inconvenienced in any way, even if it's going to cost another species their life and limb. And we are short sighted in not looking at that...that every other...there's, you know, interplay between all the species. And if you start eliminating species any further than we already have, which it'll...it will change our environment, and it'll change our world. And so...so we have to give up our worrying about our inconveniences, and make modifications. You know, things change. I saw a little blurb about man objecting to change going back to the creation of the wheel. Well, they said, well, we're not going to walk anymore, and...and...and the current one was electric cars. Oh, I'm not giving up my...my gas car. So humans can adapt to...to be part of nature. And we too, saw the article in *Civil Beat*, and we...we were not aware of that aspect of the...specific aspect of the effect on...on the northwest Hawaiian islands, where the sea level rise is affecting them dramatically, and why...and has the potential to wipe out a significant amount of those creatures up there. So we have to try and protect our seabirds down here. So that's our pitch on it. Humans have to make adjustments. We have to make adjust...you know, adjust things that are not critical, you know? So we have to change our lights. We can do it, and we should do it if we want to be part of nature, or there'll be nothing left for any of us in our...our seven generations to come as our Hawaiian folks teach us. So mahalo for the opportunity to offer our perspective, Chair King. Aloha.

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CHAIR KING: Mahalo, Mr. Moran. Any questions for our testifier? I think he was quoting Member Paltin in the beginning, about how we're all part of nature.

MR. MORAN: Yes.

CHAIR KING: Okay. Thank you so much for being here, and thank you for listening to us when we talk, too.

MR. MORAN: A hui hou.

CHAIR KING: Next...a hui hou. Next testifier?

MR. PAREDES: Chair, the next testifier on the list is Faith Chase, to be followed by the individual calling on the phone number ending in the last four digits 4241.

CHAIR KING: Okay. Ms. Chase?

MS. CHASE: Good morning, Chair Lee [sic] good morning, Committee. I just want to say that I really sympathize for that business fellow who gave his testimony, and I guess I just maybe would encourage if there's a piece that could help support businesses that are...that are in that field, instead of just shock treatment with a...a new ordinance. I...I...I totally support Hannah Bernard and the work. I understand the importance of the lighting. I lived on Moku O Keawe, otherwise known as Big Island, for seven years, and I was fascinated at the...the lighting upon arrival. I also...we've also...I also think that there's something that the agencies might be able to do to encourage, to work on some sort of a volunteer campaign to support this. Like when people do change their lighting, they can be...share...share their stories, just to come in on another prong, instead of laying down the law all the time. I really appreciate the cultural activity piece from the previous testifier. That's fascinating language, and I...I totally agree. I mentioned it yesterday in a separate testimony about the 'Ālalā, the I'o don't have...the I'o are eating the 'Ālalā, and the I'o need to eat, and we need to make sure we take care of those upper tiers of our forest in that way. So I...I...I sympathize with everything that's being said, but I also really do sympathize for the people who are in the business. I have people, friends who are in the lighting business, and I just...I don't know. If there's that one piece that you can do to support those businesses, that would be good. And this is a sensitive subject for me, even though I'm an environmentalist, conservationist, you know, there was...not to hijack this...this meeting or this...my testimony, my own testimony, but, you know, when you have people protecting the sanctuary and the Nēnēs, and not the...the houseless people down at 'Āmala, it gets really...I just always want to say, like, you know, look at your...look at your desktop. Is there...are you creating things to protect the people in...in tandem with protecting the wildlife? Thank you.

CHAIR KING: Okay, any questions for our testifier? Okay, mahalo, Faith. And I do look forward to meeting with you on the...on the houseless parking lot issue. So that is on my desktop.

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MS. CHASE: Thank you. Have a good day.

CHAIR KING: All right, thank you. All right. Next testifier?

MR. PAREDES: Chair, the next testifier on the list is the individual calling from the phone number ending in the last four digits, 4241, to be followed by Martin Frye.

CHAIR KING: Okay, 4241, are you here?

MS. HARTER: Yes. Hi. Can you hear me?

CHAIR KING: Yes. Please state your name and if you're representing an organization.

MS. HARTER: Yeah. My name is Kim Harter. I am not representing an organization. I'm just a resident, a longtime resident of Ha'ikū, and I just wanted to support the Bill 21 CDI [sic], specifically the amended summary form from Kelly King. I'm a...I'm an architect and designer, and when I'm looking at a project, all...all the aspects that influence that project need to be made consideration for, and the result, providing a space that works. And in this case, we are living on a home in which our longest residents, the seabirds, are being threatened by all the changes that are happening to our island because of our being here. And this...to take into consideration their needs, is just one of the design pieces of the puzzle of designing a place where they can also live is really important, and I so appreciate the testimony that has been given previously by Mike Moran. I really agree with his words and sentiments, and I...I...I think that there are considerations for businesses, and also the people who are struggling to have a place to live. All of those can be resolved with careful thought and consideration. And so I thank you all for the work that you've done in putting this bill together, and commend you on that. Thank you.

CHAIR KING: Okay, thank you, Ms. Harter. Any questions for our testifier? And then just personally, I want to thank you, because I...I feel like more and more architects on Maui are coming out and voicing their concern for the environment, and their support for some of these mitigations. So I really appreciate that you're here today, Ms. Harter.

MS. HARTER: Thank you.

CHAIR KING: Seeing no questions, we'll go to our next testifier, Mr. Paredes?

MR. PAREDES: Chair, the next testifier on the list is Martin Frye, to be followed by Cheryl King.

CHAIR KING: Okay, Mr. Frye.

MR. FRYE: Aloha. I'm sorry, I...I'm not sure if my camera will be working here, but if you can all hear me --

CHAIR KING: We can hear you, but we can't see you.



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MR. FRYE: -- I'll continue. Okay, apologies. I cannot get my camera to turn on here. However, I want to thank the...I want to thank Chair King, Vice-Chair, all the Councilmembers. My name is Martin Frye, and I do work for the Maui Nui Seabird Recovery Project. I've testified before on CARE-74, Bill 21, and I'm here to reiterate that support, especially to say for the...the specific revisions that mentioned less than 2 percent blue light content, and really drilling down on what makes this bill effective is important. And I definitely...I think there's a great atmosphere for support for these sorts of things. We have the successful sunscreen ban, and people are very willing to get behind the things that they understand will...will improve their surroundings, and the things that...that connect them with their surroundings. And that's...that's definitely what we're talking about here. And as far as the questions and concerns that have risen...arisen over, you know, exemptions and that, I think it's great to consider what are the...the essential activities, you know, that...that do need, perhaps, an exemption for the type of lighting when...when the certain operations are going on? And yet we also know, you know, that it's a question of priorities. And Maui is...I've always thought of as a daytime place. This is...we...we joke about Maui midnight. We...we...we look forward to the sunlit days here, and I think although there's certainly exceptions, and I...I don't feel that there's so much retail activity going on at night, commercial activity going on at night, in this island. We want to keep country, country, and that definitely is important with nighttime lighting. So thank you very much for all of your hard work and for continuing to...to keep this CARE-74, Bill 21 right on the agenda, and let's move it forward. Mahalo nui.

CHAIR KING: Mahalo, Mr. Frye. Any...any questions for the Committee? Councilmember Molina has a question for you.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. Good morning, Mr. Frye. Just real quickly, what are the consequences, you know, if the...the seabirds, their flight paths, are disrupted by the nighttime skies? How does it affect the ecosystem?

MR. FRYE: Well, some of the other testifiers have mentioned the connections that seabirds make with the...the mountain watersheds and the nearshore reefs, and so I think there's...you know, there's a lot of stuff and sort of scientific information coming out about that. Directly speaking about seabirds being affected by light is a less studied phenomenon, although there is and will continue to be great research on that. And we know so much about how light affects other species and other organisms already that we...it's definitely at a place now where we can go ahead and act and use the best practices that are available. We know that the wildlife will respond. People have mentioned the...the fact of reduced habitat in the northwestern islands, pushing millions and millions of seabirds onto the lower islands. And so as those birds are looking to reestablish their...their...their colonies, and reestablish their lives here in the lower islands, we would definitely want to keep in mind something that hasn't quite been mentioned, which is the rising costs to us for dealing with those birds. And we already have a 24/7 hotline. We already have, you know, resources dedicated to that, but if you imagine millions and millions of more birds coming here, the...the expenses to recovering and releasing those birds, the...the instances where they're endangered species, are going to bring up a whole other range of problems and expenses. So getting

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ahead of that, it...it's about, you know, potentially if you want to look at it, more than just what happens to the birds. But --

COUNCILMEMBER MOLINA: Yeah --

MR. FRYE: -- what...what happens, you know --

COUNCILMEMBER MOLINA: Yeah, thank you, thank you for that --

MR. FRYE: *(Audio interference)*

COUNCILMEMBER MOLINA: -- analysis. And there's an economic impact as well as an environmental impact as well too, so...well, thank you very much, Mr. Frye. Appreciate your comments. Thank you, Madam Chair.

MR. FRYE: And to you...and to you as well. Thank you.

CHAIR KING: Thank you, Member Molina. *(Audio feedback)* There's a little bit of...okay, it's gone? You know what that...that is? Okay. I think that's...I think I fixed it. Thank you. All right. Thank you so much, Mr. Frye. Thank you, Member Molina. Next testifier, Mr. Paredes?

MR. PAREDES: Chair, the last testifier on the list is Cheryl King.

CHAIR KING: Okay, Cheryl King, no relation to myself. Aloha.

MS. KING: Good morning. Good morning, everyone. My name is Cheryl King, yes, no relation. I am with the Maui Nui Seabird Recovery Project, and also many other conservation organizations on the island, and I have also testified before on behalf of this bill and many others, and I want to thank you for all your efforts, of course. Again, like everyone has said, it's kind of pretty good summarized by everyone else. But I just wanted to reiterate kind of...one of the questions you kind of asked Mr. Frye just now about what the impacts are of those...to those birds. And part of my job is to respond to those callout incidences, and you know, seeing the impacts firsthand of birds that are very confused and often injured, and often deceased in horrible places, I can definitely let you know that, you know, anyone...anybody that can turn out a light will help these birds. So this lighting ordinance will definitely, definitely help, specifically the amendment brought upon by Kelly King. So we want to definitely go for that one, and anything else we can do to help these birds and turtles. I've seen it all firsthand, the negative effects of lights on all kinds of...of our native wildlife. So just hope that we can make this happen, and so we can make the planet a better place, and coexist. I'm all about working with the people and, you know, helping everybody out, and just making it so it's not an impact for...for everyone. It's going to be a positive step. So I'm here for any questions, but thank you so much.

CHAIR KING: Okay, any questions for our testifier, Members? So, Ms. King, I have just one question, because you were talking about the...you know, just working all together. And

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you're okay with...with the exceptions for lighting for sports in athletic fields, on State...public and private school properties, County parks and facilities?

MS. KING: Yeah. I mean, we definitely don't want to create a culture of...of anger towards the birds, so we want to, you know, like we say, coexist, you know? If we need to make some exemptions, absolutely, but, you know, we also need to be aware of those events and maybe have one of our team be there to look for these incidences that could, you know, draw in...in the birds or, you know, some sort of way to counterbalance any impacts that could occur during those events. But, you know, that's a whole other discussion down the road. But yeah, we want it...we want to, like I said, create this culture of coexistence, so we want everyone to be on board with this, and not create any animosity. So that's kind of what we want to do. So a good way to do that would be allowing those events. We know how important they are, but we also would love to find other solutions if those are possible too. And there are a lot of lighting possibilities out there, and you know, they're...there's just...there's a lot of options. I feel like there are good solutions all around, so I think we can come up with some good, solid things to help everyone, hopefully.

CHAIR KING: Okay, great. Thank you so much. Any other questions for our testifier? If not, thank you again...oh, we have a question from Chair Lee.

COUNCILMEMBER LEE: Ms. King, could you send us some of your suggestions, so that...email?

MS. KING: Sure.

COUNCILMEMBER LEE: So that we can see what you're talking about. Thank you.

MS. KING: Absolutely.

COUNCILMEMBER LEE: Yeah, I agree with you that this is a very important subject, but education of the subject is also important, so that people, like you say, don't become...you know, so we don't antagonize people because they think that we're just passing laws that will hit them in their pocketbooks. But we need to let them know there's a good reason. So thank you.

CHAIR KING: Okay, seeing no other questions, thank you so much for being here, Cheryl. See you again soon.

MS. KING: Aloha.

CHAIR KING: Okay, do we have any more testifiers, Mr. Paredes?

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

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CHAIR KING: Okay. I'm going to give...if anybody on the call would like to testify, please unmute yourself at this time and speak up. We'll give you a few seconds and see if there's anybody here.

MR. STRASSER: Yes, there's myself.

CHAIR KING: Oh.

MR. STRASSER: Can you hear me? Yeah --

CHAIR KING: I can. Can you state your name? This is...you're listed as I...IDAMacbook.

MR. STRASSER: Yeah, I...yeah, I apologize for that.

CHAIR KING: That's okay.

MR. STRASSER: Apparently, I can't get my camera. Yeah, I just switched computers, and for some reason, it's still identifying me as that, when I'm...I have a brand new MacBook Air. But that's here nor there. My name is Peter Strasser. I am the technical director of the International Dark Sky Association. I'm here to help clarify some of the technical misunderstandings that often occur with lighting ordinances. I've helped communities write ordinances in the past, and helped them understand some of the nuances of...of lighting. It becomes a...it's...it's kind of an interesting subject, where if...if you know a little, you think you know a lot, and when there's a lot of details in there that really kind of need to be discussed and understood. Case in point is, when we talk about 2 percent blue light, that's a lot, and the notion of it not being significant is...is really lost. When we talk about color rendering, how well a vehicle is seen under a light, low pressure sodium light was monochromatic, meaning it was a single wavelength, 589 nanometers. That was it. When we're talking about LEDs, or sources that have 2 percent or less, or less than 2 percent, that's [sic] includes the rest of the spectrum as well. So when you consider that a...a color rendering of a low pressure sodium lamp was actually minus ten, it distorted colors, and then you think about a high pressure sodium lamp, which is what everybody was kind of used to for 50 years, and nobody complained about it. Nobody said, I can't see the right colors, that had a color rendering of 23. The products we're talking about here that have 2 percent blue light or less, are in the mid-60s, in some ways two to three times better than the technology that was used for half a century that nobody complained about. So the idea that you won't be able to see colors correctly, actually with these lights, you're going to see color better than you did with the source that was available for 50 years. So the...important distinctions just kind of need to be made. From a general aspect, I've been helping with wildlife, did some Florida Wildlife Commission work with sea turtle lighting mitigation along the panhandle. Spent a month traipsing around, taking pictures of, and analyzing the sky brightness with meters, making changes from bad lighting to good lighting on beaches. I have quite a bit of familiarity with the notion of using the proper light in the proper place. What's being discussed here, having 2 percent of remaining blue light is still quite a bit for human detection, but still provides a significant amount of protection for the nocturnal habitat.

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CHAIR KING: Okay, thank you for your testimony. And also, Mr. Strasser will be available to us as a resource. We have a question for you from Chair Lee.

COUNCILMEMBER LEE: Okay. I'll make this quick. Mr. Strasser?

MR. STRASSER: Yes?

COUNCILMEMBER LEE: Could you give us an idea of the cost difference between this new type of light, and what people are using commonly today...today, please?

MR. STRASSER: Well, the...when used commonly today, I think we'd have to shift that most lighting being sold today is now LED, and that is the...the...the common thing that you'll see. As far as an upfront cost, I mean, that's going to change even with you get expensive or cheap products using old technology that's not new. But there should be no difference in price between the chips that are providing 2 percent blue light or less, and say, 3,000 Kelvin. They are available. The notion that it's...that these are odd lights, that's not really the case. They're becoming more and more common in...in the...the catalogues that are being specified that you can actually order from companies. Operationally, a significant savings. We're talking about products getting, you know, 120, 140 lumens per watt, whereas the previous technology was, in many cases, a half to only a quarter of that. So there should be no difference in cost for a...an LED that's producing 2 percent blue light and one that's producing, say, 12 or 14 percent.

COUNCILMEMBER LEE: Thank you. And I would assume that the availability is...you know, these things are easy to purchase?

MR. STRASSER: They're going to be a little harder to find. There...there's really kind of no question about that, but the lighting industry is responding. The people who have lived with high brightness white LEDs for the past ten years...I mean, when they first came out, people were just thrilled with them. It's so clean and light, it's like daytime. And after about five or ten years, people were going, give me nighttime again. I'm sick of this white light. I don't like living under that harsh, you know, nasty industrial-type, white light. As we were doing a...an installation in Anchorage, Alaska, I get...I get around every continent, and this was...a resident on the street described it as living under an arc welder. And that's beautifully apt, because it was...it's this really harsh white light. . . .*(inaudible)*. . .

COUNCILMEMBER LEE: Thank you. Thank you very much. You've answered my question. Thank you.

MR. STRASSER: Okay. Yeah.

CHAIR KING: Okay. Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you, Chair. Good morning, Mr. Strasser. So I was impressed to hear that you helped a lot of different municipalities across the continent.

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So I guess the common thread is basically, there's like maybe an initial cost, high cost upfront, and...but there's going to be a long-term savings down the road; am I correct? As well as an environmental benefit?

MR. STRASSER: Distinct environmental benefit. As far as cost down the...down the road, it would be...if the technology that's being replaced is LED, it'll probably be about the same in cost. If you're replacing a legacy technology, there would be considerable savings. So it...it kind of depends what...what you're replacing there now. I don't know if there's been any changeovers to...you know, to LEDs in your area. I've...I've been to the Big Island many, many times, and I'm familiar with how it...how it is, and I've dined under that light, and it's...it's...it's not a problem.

COUNCILMEMBER MOLINA: Great. All right. Thank you. Thank you, Madam Chair.

CHAIR KING: Okay. Thank you, Member Molina. So Mr. Strasser, just to clarify, the Big Island ordinance does not exempt outdoor restaurants?

MR. STRASSER: Yeah, I...I...I'm aware of that, but the notion is that the...the light that is there was of adequate quality to...to not be disturbing.

CHAIR KING: Oh, okay, great. All right. Thank you. And then we'll have Mr. Strasser on. Just to let everyone know too, Member Paltin did put in the chat that she has the repairman that she had said earlier might be there. So Carl K. is his name. Thank you for that...that notice, Member Paltin. Okay, any other testifiers? Speak now, or if there are no objections, we'll go ahead and close oral testimony, accept written testimony into the record.

COUNCILMEMBERS: No objections.

CHAIR KING: Okay, thank you, Members.

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

**ITEM CARE-74: BILL 21 (2022), SEABIRD AND BIODIVERSITY  
PROTECTION (CC 21-546; Bill 21 (2022))**

CHAIR KING: All right. We'll move into our one very important item today. Members, we have Bill 21 (2022) entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO OUTDOOR LIGHTING FOR PROTECTION OF SEABIRDS." You will hear an expert on Maui seabirds that will explain the problems. You will hear from the lighting experts that will provide the solution. Finally, you will hear from the lighting manufacturer that helped make it a reality on the Big Island. Then we will have the policy decision to make. By passing this bill, we are not only joining the Big Island, we are taking a huge step to establish a new unified lighting standard for all of Hawai'i that will help preserve our environment and protect our island seabirds. We first discussed this item prior to the budget session on February 23rd,

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2022, which offered questions and insights used to clarify and strengthen the bill's intent. I chose to dedicate the entirety of today's Committee meeting to its discussion in order to give this item our undivided attention and the time it deserves. Bill 21's purpose is to regulate outdoor lighting fixtures for the protection of native Hawaiian seabirds, who become disoriented by artificial lights during their maiden flights from their burrows out to sea. We'll revisit how artificial lighting interferes with their journey, endangering them during this crucial part of their maturation through disorientation, and putting them at risk for attack by predators or unsafe human activity and interference. A recent *Civil Beat* article titled "Hawai'i Offers New Homes For Seabirds As Habitat On Remote Islands Disappears," details the importance of seabirds. And these are excerpts from that article. If left in place, guano can help fight climate change. And you've heard Mr. Penniman in the past talk about bird poop, that's guano, for those of you who don't know that out there. These...these...those nutrients come through seabird guano...through seabird guano, actually...I'm sorry. Those nutrients that come through seabird guano actually fertilize nearshore marine systems, and add to increased density and diversity of species, for everything from plankton to seaweeds to corals to fishes. On top of that, seabirds have been shown to supply key services to ecosystems in the Pacific, according to Brad Keitt, Director of American Bird Conservancy's Oceans and Islands Program. Burrowing birds like Shearwaters provide between 15 and 27 percent of marine-derived nitrogen, which commercial fertilizers mimic, to help plant ecosystems. These seabirds have this incredible role in far more than just seeing them and enjoying them, Keitt said. They're really an integral part of these island ecosystems and the surrounding environment. That's the *Civil Beat* article, which you can find in the...the last week's postings of *Civil Beat*. Members, today we have with us David Henkin, senior attorney with Earthjustice, recent recipient of the prestigious National William O. Douglas Award, who has filed cases on a wide variety of issues, including the Endangered Species Act, the National Environmental Policy Act, the Clean Water Act, and various Hawai'i environmental laws. Mr. Henkin's expertise comes from his intensive work on securing Endangered Species Act protections for Hawai'i's unique and imperiled flora and fauna, including a landmark 1998 case, that held unlawful the U.S. Fish and Wildlife Services' refusal to designate critical habitat for 245 endangered and threatened plants endemic to Hawai'i. We also have with us Jay Penniman, Project Manager at Maui Nui Seabird Recovery Project, who will share with us again the findings of his work, and further introduce how lighting interferes with essential wildlife processes, particularly seabirds during their first flight. Based on his research with seabirds, he recommends a 2 percent blue light standard that is derived from current Hawai'i County law for all outdoor lighting. We'll hear from lighting manufacturer Bob Adams. Through his work as a lighting manufacturer for Hawai'i County, he has contracts...contacts and relationships with distributors and retailers that can...retailers that can provide Maui County with lighting that meets the 2 percent blue light standard. We will also be able to ask questions to Peter Strasser, a Technical Director with the International Dark Skies Association. Mr. Strasser oversees IDA Fixture Seal Of Approval Program, which certifies compliant lighting products as dark skies friendly, and eradicates the...the public and lighting industry about smart...I'm sorry, educates the public and lighting industry about smart lighting choices. He will shed some light on the issue of blue light measurements versus other standards, such as watts, kelvins, and lumens. Again, he will confirm that reducing exposure to blue light is the key to

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protecting wildlife, not the kelvin, lumen, or watt measurements. This bill is a true collaboration from a team of environmental lawyers, including our own in OCS, lighting experts, Maui wildlife experts, and the manufacturer that made it all a reality for Hawai'i Island. From the Administration, we have Jordan Molina, Director, Department of Public Works, to provide comments and answer questions Members may have relating to the proposed legislation. Again, I offer...after I offer additional remarks, we'll hear from Mr. Henkin and Mr. Penniman before we take up Bill 21 (2022), so the body can review the bill. Members, if there are no objections, I would like to designate Director Molina, Mr. Henkin, Mr. Strasser, Mr. Adams, and Mr. Penniman as resource personnel in accordance with Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objections.

CHAIR KING: Okay, thank you, Members. I'd like to start off by sharing some valuable and rather shocking information. In the past century, North America has lost a fourth of its birds. If that's not startling enough, today only 30 percent of all birds are wild, and the other 70 percent are most...mostly poultry chickens. Birds of ranging species make incredible cross-continental flights with a seemingly inherent knowledge of where to go against unbelievable odds, including changing climate patterns, and constantly increasing human activity and interference. Birds also help provide a representation of current biodiversity, or lack thereof, which is foretelling of our possible future fate, one that, if allowed to continue in the current direction, could put us on the precipice of a sixth mass extinction. The good news is that people and organizations are getting involved, including local conservation group Maui Nui Seabird Recovery Project, which is dedicated to protecting young seabirds during fallout season, occurring every year from roughly September 15th to December 15th. Seabirds leaving their nest become disoriented by artificial lighting, either circle lights, or collide with structures, and may fall to the ground due to exhaustion or injury from collision. Once on the ground, they become extremely vulnerable to predators, or may be hit by vehicles. Maui Nui Seabird Recovery Project stated in a *Maui News* article from October, 2021, that artificial lights pose the greatest threats to seabirds and other wildlife when they are unshielded and high in short wavelengths. On a larger stage, Earthjustice is considered to be a premier nonprofit, public interest environmental law organization, utilizing the power of law and the strength of partnership to protect people's health, to preserve magnificent places in wildlife, to advance clean energy, and to combat climate change. A major focus of their work is on the Endangered Species Act, considered to be one of the most visionary and effective environmental laws ever enacted. It requires all Federal agencies to consult with expert Federal wildlife agencies to ensure that their actions will not harm endangered species, and when necessary, to develop project alternatives that will mitigate any possible harm to endangered species, like the legislation we'll be discussing today. It's crucial we continue to seek creative ways, like Bill 21, to update outdoor lighting codes to effectively nurture and protect the multitude of amazing species we're so lucky to have here on Maui and in Hawai'i. You'll hear from an expert on Maui seabirds that will explain the problem, you'll hear from the lighting experts that will provide our solutions, and you will hear from the lighting manufacturer that helped the Big Island make it a reality, and then we can make our decision on the bill. I'm...I'm going to open the floor to the presentations, and then we will have time for a question,



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answer, and discussion following the presentations. The first one will be from Mr. David Henkin. Mr. Henkin?

MR. HENKIN: Aloha, and thank you very much, Chair King, for this opportunity. You know, Earthjustice has been involved in trying to protect our native seabirds for many decades. I personally have been involved for about 20 years, and these efforts have been throughout the State. So we...we welcome Bill 21 because it would be a really important step forward in protecting our native seabirds, in particular, our endangered Hawaiian petrels from human lighting. You heard from a lot of the testifiers earlier today, they spoke very eloquently about how we're part of nature, and we need to, you know, do our part in order to make sure that the native species that preceded us here in the Hawaiian Islands can continue to persist in the future. This bill, as I mentioned during my...my introductory testimony, accomplishes this in a way that is already tried and...and true. So it mirrors very closely the requirements that have been in place on Hawai'i Island for over a decade, adopting the same definition of blue light content, and this will allow for a consistent application. With respect to the exemptions, in particular, it's really important to bear in mind that on Hawai'i Island, a lot of the uses that various testifiers raised concerns about in terms of commercial uses, in particular, outdoor businesses and dining areas, and...and things like that, they are...they've been subjected on the Big Island to...to these lighting restrictions that are necessary to preserve the...the natural balance. There has been no issues that we're aware of with respect to people's ability to get the replacement lighting to come into compliance, and Bill 21 provides a grace period for folks to do that. And I think that having benefited from the experience of people on the Big Island, it should be pretty easy for Maui County to make that transition. So you know, you've got a full agenda, and you have some other speakers who have a lot of on-the-ground applied expertise. But specifically with respect to what the legal requirements are, or related matters, I'd be happy to answer any questions that the Committee Members may have.

CHAIR KING: Okay, thank you so much. And we'll put a pin in that, and we'll go to Mr. Penniman, and then we'll...we'll start with Members questions. Okay, Mr. Penniman, did you have a PowerPoint?

MR. PENNIMAN: No, I have no PowerPoint. Thank you very much for your introduction. I think you've summed up things very well. We have been working since 2006 with this project, and...and developed off of the Division of Forestry and Wildlife and Haleakalā National Park's work of recovering the downed seabirds. Back in 1988, Cathleen Bailey then worked with Ted Simons up on Haleakalā, and that was one of the original studies of the 'ua'u, the Hawaiian petrel. And Ted Simons, in writing up the work that he and Cathleen did on the lifecycle of these birds, very clearly identified the fact that with the increasing lighting--and this, remember, is in 1988--the...the threat to fledging 'ua'u from Haleakalā was significant. In fact, significant enough that it could cause the birds to turn the corner to hit severely towards the extinction threshold. And since 1988, the only thing that has happened with our lighting is that it has increased. And we were hopeful that the bird population, due to the efforts of the Haleakalā National Park and others around there, has been either stable or maybe increasing because of the predator control that went on. But unfortunately, the number of birds that fall out has not

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changed that, and certain years it becomes quite extreme. We've had a year with a very bad moon phase. Moon phase does affect how many birds come down. When it's a full moon, we get many fewer birds coming down, because the moon and the stars are what attract these birds. These chicks have lived in burrows their entire lives from the time they hatch until they're ready to fledge, a period of three or four months, and then they come out at night. Their parents always feed them at night. And they come out at night and they exercise their wings, and they had the moon and the stars to fixate. They learn actually what the stars are, and how to get right back to the same place after spending five or six years maturing out to sea. And unfortunately, the lighting that we have causes distraction. The food that they eat is largely a fish called...it's a lantern fish, the Myctophid, and it's a bioluminescent food, comes to the surface where their food resources for these fish are from the depths. The depths that they live in, the only light sources there, the only light that can penetrate through, are between 470 and 490 nanometers. And that is the light, the bioluminescent light that the birds focus on when they catch this prey at night. This is the short wavelength light that we are asking...this Bill 21 is asking to eliminate from our lighting, the theory being that when these birds that have not honed that instinct to understand what blue light is food, and what blue light is not, they leave their burrow out of the darkness, they see these lights, and some of them just get distracted and they don't know what to do at all. It's just like turns them off. I've watched them fly round and round and round and go way up in the air in Kekaulike High School during football games. And then they come back down and they circle the lights. And sometimes they run into the lights or into a wall. And in fact, at a baseball game in Lāhainā, we had a bird doing that, and the people in the stands watching it, until it flew into the back of the shortstop and broke its neck. This is...you know, we...this...while we have the opportunity with this ordinance to minimize this problem for them (*audio interference*). I think it is (*audio interference*) pretty clearly understood the...the nutrient inputs that these birds provide, the cultural value of these birds, and I will be available to answer any questions that might come up, and like, and just move on from there. Mahalo.

CHAIR KING: Thank you so much, Mr. Penniman. And before we go to Members' questions, I wanted to call upon Director Molina from Public Works. Are you here, Director Molina? If...and do you have any comments? There you are. Aloha. Welcome to the meeting. Do you have any comments, or would you just like to be available for questions?

MR. MOLINA: I have some comments on the draft bill --

CHAIR KING: Great.

MR. MOLINA: -- and I understand, referring to Committee Draft 1. Section 2 of the ordinance includes the use of parenthesis. I would recommend that be clarified. When you use parenthesis, it makes it unclear as to what is the mandate of the ordinance. So for example, "(painted surfaces must have matte)." Is that a mandate, or is that a suggestion? Because it's not clear, when you use those parenthesis, what the intent is.

CHAIR KING: Can you point out what section you're talking about?

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MR. MOLINA: So 20.35.060D...or excuse me, E, Subsection 1 and Subsection 3. You use parenthesis to, I guess, expound on the intent of the bill, but that just causes confusion for me to know am I...am I supposed to impose matte painting on all surfaces now? Is that what the policy is going to be?

CHAIR KING: Okay. So it's confusing to you to have examples in there. Is that what you're saying?

MR. MOLINA: The way it's organized, yes.

CHAIR KING: Okay.

MR. MOLINA: Further down, I see the exemption that gives consideration for sporting events. I'm a bit concerned that we don't extend that consideration for health...health and safety or emergency services purposes. Lastly, the amendments to Section...Subsection .090 for shielding and usage requirements is very confusing because it's this big table that seems like it doesn't say very much, so I would suggest cleaning that up to be more concise on what is the shielding and usage requirements to be proposed.

CHAIR KING: Okay. Anything else?

MR. MOLINA: That's all. Thank you, Chair.

CHAIR KING: Okay. Thank you so much, Director. And with that, if...I'll go ahead and open it up for Q and A to any of our...any of our resources, including Director Molina, Mr. Henkin, Mr. Adams, Mr. Strasser, and Mr. Penniman. And we'll put...we'll do the first round, we'll put three minutes on the clock, and we'll start with our Committee Vice-Chair, Mr. Sinenci.

VICE-CHAIR SINENCI: . . .*(inaudible)*. . . Chair. And mahalo to all the resources for their presentations this morning. Yeah, just following up with Public Works Director Molina. Director Molina, we did receive your March 9, 2022 letter, and so it...sorry, this is from the Parks and Rec, but you're okay with the exemptions for the sports that is currently in the...in the bill, the three-year and the exemption of sports and athletic fields on education properties, private school properties, and County parks and facilities?

CHAIR KING: Director.

MR. MOLINA: I have concern about being applied to Public Works facilities. One example I saw last night, is the covered parking at the bottom of our building. The proposed bill would seek to make that less bright and compromise the safety of people working at night. I know --

CHAIR KING: I think the question was, are you okay with the exemptions that are in here? But...so I'm not sure what...what you're responding to. Those aren't in here.

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MR. MOLINA: Member Sinenci mentioned about County facilities. And so I was responding to that.

VICE-CHAIR SINENCI: Yeah, it says County parks and facilities may remain exempt from Subsection 20.30.060 beyond the three-year period.

MR. MOLINA: Yeah, so I mean Public Works does not operate park facilities, so I would defer to the Parks Director about any difficulty she might have complying with the ordinance.

VICE-CHAIR SINENCI: I see. So you're saying the facilities does not refer to Public Works parking facility?

MR. MOLINA: I guess perhaps that needs to be clarified. Because yeah, if it does extend into all County facilities, those operated by Public Works, including our office buildings and baseyards, would be subject to this. And like I mentioned, the example being the lighting downstairs in the covered parking. I've gotten complaints about, you know, security down there and safety, and this bill seeks to effectively reduce the amount of lighting and the brightness of that lighting under there, so you would be, you know, exchanging the light output for some safety concerns.

VICE-CHAIR SINENCI: Thank you. Thank you, Chair.

CHAIR KING: Did you get your question answered, Mr. Sinenci?

VICE-CHAIR SINENCI: Yes.

CHAIR KING: Okay. All right. Thank you. Thank you, Committee Vice-Chair. Any other questions for our resources? Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Director Molina. Just with regards to the, you know, should this bill move forward, there's going to be not a lot of, you know, public education. Is there anyone in the Department to do outreach with the public to educate? Is there someone you're looking at already having to do this responsibility, or is this going to be maybe left up to the Mayor's Office Communications Department to do the educational aspect of this bill, should this matter move forward?

CHAIR KING: Director?

MR. MOLINA: We would...we would have to work it into the existing duties of our Staff.

COUNCILMEMBER MOLINA: Okay. So it shouldn't...it shouldn't cause any impact or the need for additional personnel to do this? Your existing personnel could do the educational outreach for...for the public on this?

CHAIR KING: Director?

MR. MOLINA: I mean, yeah, that would be within our duties to address.

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COUNCILMEMBER MOLINA: Okay. All right. Thank you. Thank you, Madam Chair.

CHAIR KING: Okay, is that all? We also...folks, we also have Mr. James Forrest on the call, who worked on this bill extensively. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. *(Clears throat)*...excuse me. This is...this question also for Director Molina. Does the Department have any procedures for downed birds when you guys are out working? Do you have any procedures when you have to...your Staff has to deal with downed birds?

CHAIR KING: Director?

MR. MOLINA: We are responsible for cleaning them up off the roadways when they do get reported to us. I'll have to check to see if we have any operating agreements with DLNR about reporting specific types of animals to them.

COUNCILMEMBER JOHNSON: Yeah, that's a thing that...you know, when I used to work in conservation, a downed bird, we had to call the...the 1-800 number, and they're...they're protected under, you know, the Endangered Species Act, so there's a lot of regulations involved. So I'm just wondering if...if...I know you have to clean them up, but...but you said you'd get back to us and tell us if...if you do follow procedures by the DLNR or other...other entities?

MR. MOLINA: I'll have to confirm that.

COUNCILMEMBER JOHNSON: Okay. That's my only question there. Thank...thank you.

CHAIR KING: Okay, thank you, Member Johnson. And...and Director, were you able to reach out to Hawai'i Island on their bill? Their ordinance?

MR. MOLINA: I've been try...I...I made a few attempts. I haven't been able to connect directly with them.

CHAIR KING: Okay. All right. Next, I think I saw Member Sugimura's hand.

COUNCILMEMBER SUGIMURA: Director Molina, so your comment regarding that the 20.35.090 Shielding Requirements and Usage Restrictions, that you would want this to be cleaned up, and what would the Department require? It's not...you said it's not clear, it needs to be cleaned up, so under Usage Restrictions, or...or this whole section needs to be sent to the Department for comments?

MR. MOLINA: No, I think it's more of a legislative drafting review, to making sure we're clearly and concisely stating what the policy is. Looking at this table, it doesn't seem like there's any variation, really. One note is you have others fully shielded, nonusage restriction. Yet others fully shielded with a nighttime usage restriction. How am I to know which type of other light falls within which use's restriction?

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COUNCILMEMBER SUGIMURA: Okay.

MR. MOLINA: And everything being shielded, I don't think we need a table to state that everything requires shielding, except for the two.

COUNCILMEMBER SUGIMURA: I do know that --

MR. MOLINA: Again, with the usage restriction, it seems like everything is none, except for a few.

COUNCILMEMBER SUGIMURA: And Director, I did read Keola Whittaker's comments that he sent, and it's dated May 17, and his email attached to this, he says that he didn't have an opportunity to review his version of the bill with the Department...Department of Public Works, and recommended that we obtain feedback on the enforceability of this version. So I hope that we have Keola Whittaker to also speak on this bill. I...I didn't see you call him up yet. I hope to hear from him regarding this bill.

CHAIR KING: Is that a question?

COUNCILMEMBER SUGIMURA: A request.

CHAIR KING: For me?

COUNCILMEMBER SUGIMURA: For you, yeah.

CHAIR KING: Okay. Okay, let me just say then, that bill was specifically not requested. When we sent our bill in, we requested review for legality and format. I don't know what prompted them to write the bill, but the bill has been reviewed by all of our resource people, and the...the reference to kelvin references heat. We're not talking about heat measures for this bill, we're talking about lighting measures. And the measures are meant to protect the seabirds. So all of the experts that we have here today acknowledge that...that addressing kelvin does not address the...the issue with the seabirds. So that...that bill has, you know, by the experts that have looked at it, has been deemed irrelevant. But, you know, it really wasn't...it wasn't a bill that was requested. I'm not sure where it came from or who authorized it. But, you know, anyway, that's the background that I know of. I did try to call Keola Whittaker yesterday, and was told he was off island until Monday, and I asked for a call back, but I didn't get one. But I was hoping to relay that message directly to him, because I'm not sure what prompted that version of the bill.

UNIDENTIFIED SPEAKER: Can this --

COUNCILMEMBER SUGIMURA: Can we have Corp. Counsel say something about it? I thought that Keola Whittaker was going to be on the call. There he is, Chair.

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MR. WHITTAKER: I'm sorry I wasn't able to return your call. I didn't...nobody from Staff told me you called. Councilmember Sugimura called me yesterday, and I did get a message from Staff, and I called her back on my cell phone. I'm on vacation in San Francisco, but I just wanted to be here as a resource. So whenever our office does not sign a bill, we do try to provide a revised version achieving the same goals, policy goals, that...that we do think is legal, so that was the purpose of it. Of course, we don't introduce legislation, it was just trying to be helpful with alternative legislation which may achieve the same policy goals that does meet the form and legality.

CHAIR KING: Okay. I appreciate...I appreciate that thought, Mr. Whittaker. But as you heard from testimony and from our experts, that that bill does not meet the goals of the bill that we were trying...you know, of seabird protection. So that's why, you know, we're not...we're not discussing that bill right now. We're discussing the bill that is actually, you know, addressing seabird protection. So thank you.

MR. STRASSER: Pete...can Pete Strasser chime in here?

CHAIR KING: Yeah, we can hear from Mr. Strasser.

MR. STRASSER: Okay, yeah. The notion that...that kelvin is describing heat, is...is kind of confusing here. Kelvin...there's two ways of dealing with kelvin. One is the kelvin scale, and the other is the notion of applying it as a correlated color temperature. They're right to say that kelvin is also like saying centigrade or like saying Fahrenheit. Those are...those are measurements of units of heat. This particular application, the notion of the heat has to do with the color of the light, with...there's a filament that's glowing like an incandescent light. The number that is derived, 3,000, is from the temperature of the...the source putting out the light. So there...there is accuracy by saying they're talking about heat, that...that is correct. The problem is there's a...there is not a correlation between the kelvin scale and the amount of blue light, and that...that's where I think there's a huge misunderstanding pertaining to what we're talking about in lighting when we talk about kelvin or blue light. So even there...even that statement was...there was some confusion.

CHAIR KING: Okay. Great. Thank you for trying to clear it up. I'm not sure that we're that scientific, but we'll...we'll see if there's any additional questions for you. Let me go to Member Paltin, who hasn't asked a question, and then I'll come back to you, Mr. Johnson. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'm not sure to...who to direct my question to, but it's regarding the logistics of things. You know, when Member Sinenci did the single-use plastic situation, it was like a ban. And if there's these lighting fixtures that we don't want to be used, I just was wondering why we're not going on a ban...going for a ban at the retail level. I'm not sure is...if it is Public Works that would be tasked at enforcing, or what the consequence would be for using unlawful lights, but it seems that it would be more logical to cut it off at the sale point than at the user point. So I just was wondering as to that, why we are going this approach of regulating usage, if it's still

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lawful to sell lights that we're...we're not...maybe like a permit for exemption, or I don't...that was...that's my general question, I guess.

CHAIR KING: Okay. Let me...let me try to explain it from me, and then I'll ask Mr. Henkin to...to confirm. But the lights are not illegal, and you can use these lights inside. So what we're trying to prevent, is the usage of certain lights outside that are confusing the seabirds. So we wouldn't want to ban something that's...that would be perfectly okay to use inside a building, where the birds aren't flying around, and that's my take on it. But Mr. Henkin, can you respond to that question?

MR. HENKIN: Yes. Thank you, Chair King. That's absolutely right. The...the lighting ordinance only regulates lighting that's intended for outdoor illumination. And so if it's within, you know, your residence, within your business, you could still have, if you want, the bright white light on your display floor inside, so that people could see the color of your aloha shirt even in the evening, that...that's not a problem, it's the...it's the outdoor lighting. And so the additional thing I'd mention is that for a lot of the lighting that this bill addresses, it...it's...it's also government entities that would go to distributors. So it wouldn't necessarily be in a retail store where they would be securing these outdoor lighting fixtures. So I...I think that would be the issue with...with banning it within the County. There are some applications where it would not affect the birds, and people might want to have a brighter white light.

COUNCILMEMBER PALTIN: And then I guess just to follow up, like sometimes...I'm not a expert light person, but if I go to a hardware store, there are bulbs or packages marked expressly for outdoor lighting. And then I guess so you're saying the regulation of lighting that's expressly marked for outdoor could have lawful purposes, whether it's not the ones that are being used? Is that --

MR. HENKIN: Yeah, I...I hear you, and I...and I...I...I think that the approach of...of trying to ban certain lights, I mean, that...that...that could be one...one way to approach it. There's nothing to prevent someone from putting something that's marked for outdoor lighting indoors, I guess. So what this...you know, passing this ordinance, I think, would create incentives for retailers to very clearly indicate to people what, you know, sort of by organizing the...the...the lighting displays in their stores, and say these are appropriate for outdoor use, these are compliant with the County ordinance, and...and these lights over here, you can use, but you need to use them indoors. I think the market would kind of adjust without the need for...for regulation.

COUNCILMEMBER PALTIN: And by that you mean enforcement, or...like, how...how is the enforcement to go and the penalties? Is that not to be focused on, or...

MR. HENKIN: Yeah. Well, in terms of...I mean, one...one thing with respect to enforcement that Bill 21 does very well is establishes a three-year transition period. So it creates a very clear line at which new lighting, exterior lighting, needs to be in place. And I would contrast that actually with what Hawai'i...Hawai'i Island did back in the '80s, and...and was that they...they said, well, when your light burns out, you need to replace it with a new compliant light, and I think that...that would create a lot of enforcement problems



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to say, hey, how old is this light? But if it's out of doors and it's past the three-year mark, then it would need to be compliant. And a lot of that is going to be pretty...I'll defer to the lighting experts, but I...I think a lot of it will be pretty obvious to the naked eye, which is if it's a bright white, full spectrum light, that'll be...that'll have a very different look to it. I guess theoretically, as I think Mr. Strasser indicated, you can have a light that looks more amber in color, that has a lot of the harmful blue light in it, and you just add into the fixture a lot of additional red light. And so overall, the color looks more amber, but I...I...I don't think there's going to be a lot of people looking to get around it that way, because at the end of the day, they're going to have an amber looking light. So they might as well just buy the legal one, and that'll be the easiest thing.

COUNCILMEMBER PALTIN: You're coming in a little bit robotic, but I...is...I just was...is this Public Works to enforce, or what is the entity that's enforcing it? Is that why Public Works was here?

MR. HENKIN: Oh, I...I am actually not aware of that mechanism for enforcement in the counties. I defer to folks who know better than I do.

CHAIR KING: Yeah, I believe it is, Member Paltin, but if we...maybe we can hear from Mr. Forrest...if you're here, you're on, as far as enforcement?

MR. FORREST: Aloha. Thank you, Chair. Great questions, Councilmember Paltin. The existing ordinance and the new proposed ordinance fall under both Works and Environment...Environmental Management. I would, I guess, really just point you to the existing law that we have now, and how it's being enforced. You know, it has certain regulations on low pressure sodium, mercury vapor lights, you know, so on and so on. The enforcement would be the same as how it's enforced right now, and also looking towards Hawai'i Island.

CHAIR KING: Thank you, Mr. Forrest.

COUNCILMEMBER PALTIN: I think Mr. Whittaker (*audio interference*)...

CHAIR KING: Mr. Whittaker, did you have something to add to the enforcement question?

MR. WHITTAKER: Yeah. So the current ordinance, which is an old ordinance, says Department of Public Works and Environmental Management. That was written at a time when the departments were combined. So since the departments have been separated, it would be the Department of Public Works that would enforce this across the board.

CHAIR KING: Okay. Thank you for that, because that was why we don't have Department of Environmental Management here. Okay.

COUNCILMEMBER PALTIN: Is...is my time finished?

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CHAIR KING: You know, we're not hearing the timer, so I'm not sure. Is that three minutes? Oh, okay. Okay. Yes, it is. It's three minutes. So let us just all go another round and then we'll get back to you, Member Paltin. Okay, any other...second round, and we'll go another. Is everyone okay just to continue on with this item instead of taking a morning break, or does everyone feel like they need a morning break? Okay. Councilmember Molina would like the break. Is everyone okay with that? We take a ten-minute break, it's 10:45, and we will break till 10:55, come back at 10:55. All right. The Climate Action, Resilience, and Environment Committee is in recess for ten minutes. . . .(gavel). . .

**RECESS:** 10:46 a.m.

**RECONVENE:** 10:58 a.m.

CHAIR KING: . . .(gavel). . . All right. Will the Climate Action, Resilience, and Environment Committee please come to order. We are reconvening after a ten-minute morning break, and we're in the middle of discussion with our resource personnel. I believe we were going to Mr. Johnson next. Councilmember Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. This question is for Dr. Penniman. I...I wanted to follow up and have some clarifying questions in regards to his statements earlier.

CHAIR KING: Okay.

COUNCILMEMBER JOHNSON: So, Jay, you mentioned that the efforts for predator control has...has gone up, and we've been taking care of the rats that eat the...the eggs, and the cats that eat the babies and all of that. So if the...the hatch rate has gone up, then that would, I assume, the fledglings have gone up. And then therefore, I'm asking, is has the amount of downed birds gone up because of our predator control?

MR. PENNIMAN: I am sorry if I didn't make that a clear statement. We don't actually know. These birds are really, really difficult to monitor to get a number on. People ask...when we first came to Lānaʻi in 2006 and we found all the birds there, and we spent night after night out surveying. We got asked all the time, how many birds are there? And there's...it's just impossible to tell, because it's nighttime, they're nesting in the (inaudible), you can't just go in and walk all around, because then you destroy the habitat, then birds...the cats can then get in more easily to where they are. So we don't know. We just started doing radar surveys this last year, and actually today will be the first of this year's round, which is nighttime, looking at the birds crossing, going to the colonies. And so after several years of doing that, we will have an index on the population. We will see whether those numbers go up, go down, or stay stable. But as to how many birds are actually out there, we just don't know. We're putting more effort into looking for birds, so we're finding more burrows, we're protecting more birds, and we're hoping they go up. But the other compounding factor is that environmental conditions did...also determine how many birds get distracted by our lights. On a...like last year, the moon was full both for 'ua'u and 'ua'u kani fledging. So many fewer birds

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came down for both species, because they have nice, strong moonlight at night to help them get out to sea. So it...it...it's really not a correlation that we can make at this point and, you know --

COUNCILMEMBER JOHNSON: Okay.

MR. PENNIMAN: -- but if the number of the birds are going up, and it's a dark moon night, then yes, we could expect more birds to be falling out, and this ordinance would reduce the impact of that distraction by changing the color temperature of the light and requiring all of the shielding.

COUNCILMEMBER JOHNSON: Okay. Well said. But you...you mentioned a little bit earlier, and before I left conservation...my work in conservation, we were studying the . . .(*timer sounds*). . . the flight paths. Is that what you were mentioning about the radar? So...so my question would be, like, are...are we finding that the flight paths, are they universal? Like do all the 'ua'u kani and all...or all the 'ua'u on the top of Lāna'i Hale, they travel a particular way on and off the island? And if that would be the case at the Haleakalā colony, are they going out over Wailuku and, you know, the central area where there's a lot more lights, or are they going out back side? Is there a particular flight path that they're taking?

MR. PENNIMAN: There are particular flight paths that they take when they return to the colony in the evenings. And so, like, when the birds return in the spring, they come in largely in the gulch areas. That's why the Ke'anae pass has the largest number going up there. However, once it gets to be chick feeding time, and we know this from both on Lāna'i and on Haleakalā, we put GPS trackers on the birds so we could look at chick-provisioning adults and where they travel, and they go all over. They'll do their trip all the way up along Papahānaumokuākea, almost to Alaska, almost to North America, come back, sometimes 1,800 kilometers in one trip. They may be gone ten days on that trip. And when they come back, they go down by Big Island, and they catch some fresh fish and squid, which they bring back. And where they're going to come back at that time, it totally varies, we couldn't find any consistency. They'll come over one way, or they'll go around the island part way. So it --

COUNCILMEMBER JOHNSON: Okay.

MR. PENNIMAN: -- it varies a lot.

COUNCILMEMBER JOHNSON: It's fascinating, the work you're doing. Thank you. My time's up. I really appreciate that. Mahalo, Chair.

CHAIR KING: Thank you, Councilmember Johnson. I...Chair Lee, I know you had to leave for a few minutes. Do you have any questions? I'll...I'll give you your three-minute first round.

COUNCILMEMBER LEE: Thank you. Not...not really. A lot of the questions I had thought about were asked.

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CHAIR KING: Okay.

COUNCILMEMBER LEE: But thank you.

CHAIR KING: Great. Thank you. Anyone else for second round? Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I wondered if Department of Parks and Recreation was here?

CHAIR KING: No. And we did send them the bill. I don't think we got any comments back from them.

COUNCILMEMBER SUGIMURA: I think we should hear their comments, just, you know, because they, like Department of Public Works--

CHAIR KING: Yeah, we...we did...we did request comments, you know, in a couple...we...we had a couple of week leeway, and we got no response.

COUNCILMEMBER SUGIMURA: Okay, and you requested for them to be present today and they didn't want to? Or they...you didn't hear back?

CHAIR KING: No. We didn't hear back from them.

COUNCILMEMBER SUGIMURA: I think they're an important part of this discussion. So I would hope that we can hear from them before we make any decisions, Chair.

CHAIR KING: Yeah. I just have to hope that if there were concerns that they would...you know, Karla's pretty good about getting back to us if she's got concerns. Do you have any other questions, Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. That's my general comment, that I would hope to hear from the Department before we make any decisions on the bill.

CHAIR KING: Okay. I did just get a text that they made comments on the first version of the bill, and we did address all comments in the review of the bill, the revised version. So any other questions, Member Sugimura?

COUNCILMEMBER SUGIMURA: So I...I the impact (*audio interference*) in relationship to your amendment. So what is the financial impact of making changes at the appropriate time for the Department, and what is the cost to the taxpayer? Because what I'm curious about, as they would have the outdoor lighting versus indoor also impacts. But they...they...I think have a huge impact...would have a huge impact with this (*audio interference*) --

CHAIR KING: Yeah, we did...we did have comments from our resource people, who actually said that it could be cheaper in the long run, and that there wouldn't be a huge

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expense...there wouldn't be an extra expense changing out the light bulb, and that these light bulbs would probably save them, consumers, money in the long run. So were you here when we were hearing about that?

COUNCILMEMBER SUGIMURA: That was a comment made by one of the resources, but I would like to hear from the Department. Thank you.

CHAIR KING: I think we...we already did hear from the Department. But I'll go back to Chair Lee. Chair Lee, you have some questions?

COUNCILMEMBER LEE: Thank you. I...I did remember something I wanted to ask...ask you. What is the penalty for violating the ordinance?

CHAIR KING: Well, there's not a...a specific penalty in this bill, but I'll let...I'll ask that...Mr. Forrest to respond. Because I knew that, you know, in the Charter, there's...there's a statement that no penalty for any violations can be more than \$1,000, and the only thing that we changed about that, was short-term rentals, and we pushed that up to 20,000. But Mr. Forrest, can you respond to that?

MR. FORREST: Thank you, Chair. I'm going to need to look into that. I...I know that we did not change the penalty, but I'm...I need to look up if there's a special provision that already provides for the penalty. I can get back to you in a few minutes.

COUNCILMEMBER LEE: Thank you.

CHAIR KING: Okay, thank you. Any other questions, Chair Lee? Okay. Anyone else? Member Molina. Oh, Mr. Forrest is back on. Did you find the answer to Chair Lee's question?

MR. FORREST: Sorry, no, I didn't look yet, but I did want to mention, related to Parks and Recreation, that they did provide comments that are on Granicus. Their comments relate to the recreational fields. They also made a comment on the availability of lighting. And you know, we did take that into consideration when we...we were writing the exemptions. So we...we provided an exemption that allows three years for compliance, but for the Parks and Recreation, specifically for the stadium lighting, we allow that extension to extend if...if lighting doesn't exist to comply at that time. So that's how we did address their concerns. I just wanted to bring that up, because maybe there's confusion whether or not they commented or not, but they did provide comments in writing, and it's on Granicus.

CHAIR KING: Okay. Yeah, that was in the...when we sent that out earlier. And so the language, for Members if...and the public who hasn't maybe not seen this language, it does say, under exemptions, and County Parks and facilities may remain exempt from subsection 20.30.050D beyond the three-year period if...and for as long as there are no compliant lighting fixtures available that meet industry standards for sporting events. So that was one of the things that we talked about in the previous meeting, that they

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don't have lighting for stadiums that comply. So we put that in there to...as long as they can't find that kind of lighting, then they're exempt.

MR. WHITTAKER: I can provide an answer on penalties, if you'd like, Chair.

CHAIR KING: Oh, okay, great. Penalties.

MR. WHITTAKER: So the...so the penalties, it cross-references Section 19.530, which is the Administrative enforcement. That it's up to \$1,000 initial penalty, and \$1,000 per day for every day of noncompliance.

CHAIR KING: Okay. And then...and Mr. Whittaker, those are...those...those figures are the same for the other...the things that we've...other bans we put on, like the single-use plastic, and sunscreen, and so it's...it's a universal violation fee; is that...is that correct?

MR. WHITTAKER: Right.

CHAIR KING: Okay.

MR. WHITTAKER: Quite a few ordinances cross-reference that penalty provision.

CHAIR KING: Okay, great. Thank you. Does that answer your question, Chair Lee?

COUNCILMEMBER LEE: Yes. Thank you.

CHAIR KING: Okay, great. And so next, I think we were at Member Molina.

COUNCILMEMBER MOLINA: Yes, thank you, Madam Chair. Maybe if I could ask the Public Works Director. In terms of the amount of time, should the bill move forward and become law, how long they would need to, I guess, you know, make all the necessary changes? Because I'm just thinking like, say, the bill passes July 1st, I don't know if that would give the Department enough time to go and make the adjustments. So Mr. Director --

CHAIR KING: We --

COUNCILMEMBER MOLINA: Yeah.

CHAIR KING: The three years. Is that what you're asking about, Member Molina?

COUNCILMEMBER MOLINA: Oh okay, so...and three years is...is enough? Or can we do it in less time? Or that's a minimum of three years, Mr. Director, that should be fine for you?

MR. MOLINA: Hard to say. Contingent on funding availability and authorization, availability of materials. I...I...we probably don't have a good handle of how many lights we're talking about just for our County facilities. *(Audio interference)*...

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COUNCILMEMBER MOLINA: Okay. So...so say after three years you're not quite complete with making all the changes. So maybe for you, Madam Chair, is there...or Corp. Counsel, is there a way the Department can come back and ask for an extension of time?

CHAIR KING: Well, we could put that into the bill, Member Molina.

COUNCILMEMBER MOLINA: Yeah, okay.

CHAIR KING: I don't know if we wanted to, but...

COUNCILMEMBER MOLINA: Maybe that would be good to have a provision in there, that they can come back in the event they're not completely...everything hasn't been fully implemented after three years, give the Department that option to come back to ask for an extension. So I think that would --

CHAIR KING: Because you never know what...what . . . *(timer sounds)*. . . you know, what extenuating circumstances are going to happen that are out of their control.

COUNCILMEMBER MOLINA: Lack of supplies, yeah. Yeah.

CHAIR KING: Director?

COUNCILMEMBER MOLINA: I see Mr. Director has a comment.

MR. MOLINA: You know, it's not just us. It's going to be, you know, residents *(audio interference)* -- and I would be...you know, I would...I would challenge the Committee to go to Home Depot or ACE and go find a light bulb that tells you the 2 percent blue light content is compliant. Because I don't think that's...that it's not part of the typical packaging currently. I don't know how quick the industry will move to start making that a standard specification that they print on their product labels, so we'll have to figure out...or I guess typically what will happen is we'll put it on the homeowner to prove to us that they're compliant, and they're left to their own means to...to do so.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Director. Thank you, Madam Chair.

CHAIR KING: Thank you, Member Molina. We...we can also ask Mr. Adams as far...about how...how far...it looks like Mr. Forrest has a comment on that.

MR. FORREST: Thank you, Chair. I just wanted to make it clear that there is a three-year, basically a grace period, but the point of this is that these will be a phased-in change, where whenever there are new light fixtures to be installed, they will meet the...the new standard. So that's...in theory, over a three-year period, you're going to make this change slowly and gradually. You don't have to make it all at once. And then by the time . . . *(timer sounds)*. . . the three years have elapsed, then all items will need to be

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fixed by then. So it's a gradual phase-in of this rule, which should help with, you know, spreading out the cost and making it possible. That's...that's the way it was drafted.

CHAIR KING: Okay. Thank you, Mr. Forrest. And I'm going to also ask for Mr. Adams to address the issue of availability, since he's been working with airports and parking lots for...with this kind of lighting. Are you still there, Mr. Adams?

MR. ADAMS: Yes, ma'am, I am. One of the things that I'd suggest is this. Pete Strasser, through IDA, they have what they call a fixture seal of approval. The County of...the Big Island put in a similar kind of thing, where a...a provider, I would submit to them a third-party verification that says I meet your specification, and that goes on a published list. I'd suggest that you have a Maui County fixture seal of approval. The burden is on the supplier to supply the information, not on the County to collect it, or whatever agency. But their responsibility is just to say we have a database that says this is the case. To address the last comment, to go to Wal-Mart or one of these large places, I think that's...that's not realistic. They're not going to make a special provision for one store out of 5,000. However, I think if you look at local merchants or other places where it's commonly sold through distribution, what have you, and you couple that with the fixture seal of approval, now you're making it easy for the public to see. And I think someone mentioned earlier this idea of putting it out in the public. The County spent a lot of time and effort, the Big Island, getting that into the public through the local news and some other activities, not just putting it on the Public Works Department. That worked really well. And so you saw...once the roadway lights or some of the public lights got up, then we saw others. And as I said, now we see the HOAs. We see individual homeowners, small stores, we see across the board this kind of thing. Part of it is, they save money. And as crass as it sounds, at the end of the day, I think there are two things that really jump out at me. Number one, show that you save money, that gets everybody's attention. Secondly, how does it help protect me, as well as the birds and others? And we've...you know, you've got information that you can show that. And I think it's that combination then, when it's put in the public domain, that they're not...they're not resistant to do that. But in this world, with inflation, how can I save money, and at the same time do the right thing for the public? So as I said, I've been looking now, much more than just looking at the birds and turtles and saying, I believe that's how you present this. How do you, as the public, benefit? That's why I like the fixture seal of approval. The vendor is not the bad guy. The County's not the bad guy. You put it out, this is (*audio interference*) it works.

CHAIR KING: Okay. And then did they...on the Big Island, did they do a specific list for the County?

MR. ADAMS: They have a...they have a list of approved vendors. You can get it on the Public Works website, or as I said, the...the Publicity Department at the County, they did a lot of work encouraging people in that direction, and that...what they did not, is what IDA has done, which is to get down more to the local level of what it is. And as I said, Pete's done that sort of thing at IDA, and I'm sure they've got resources that they can say, this is a way to put it in place and how it can be monitored.



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CHAIR KING: Okay. Great. Thank you so much for those comments. Mr. Strasser, could you maybe follow up with your comments?

MR. STRASSER: Yeah I'm happy to. The...I don't think there'll be really any problem getting commercial products to comply. It may be more difficult to obtain 2 percent or lower lamps that you find at the hardware store for the residential application. At present, the percent of blue light is not a...something that's indicated on a package. But that's not to say that the data to get that isn't...isn't available. During the process of giving the...the...the correlated color temperature, the kelvin temperature of the light has to be put on labels. In that test, you can get the data that you need to figure out what the percent blue light is. So it's one additional calculation from data that already exists. There could be many products out there that simply would work, but we don't know about them, because they haven't been tested or gone through that single calculation. There are multiple sources that allow you to do this calculation. There's even one that's called the Sky Glow Index based upon percent of blue light. That is a...the Department of Energy application on a website. So the stuff is there. Manufacturers are typically stepping up to the plate with consumer demand, and the consumer demand now is I don't like that white light, please give me something warmer. And the type of spectrum that you'd get would be better than the old type of what we call, you know, a bug lamp that had that yellow glow. These are...these would be much better. They're out there. They're just not sourced and advertised as being, you know, a 2 percent bulb. So it's...there's going to have to be another step that's...that's taken. And I think the idea of establishing a database of approved products is the simple way of establishing what works and what doesn't. Then that way, the merchant can also see what's available and say, okay, this is what we want, and this is what we'll stock, we...we know it...it's an approved product. And I think over the three-year time span, you will see more manufacturers stepping up to do that, because the notion of blue light is not just a Maui thing. It's...it's all over. It's...it also has a tremendous amount of interest in...let's just call them occupational work, shift workers, where they're trying to find a lower blue light so there's less circadian disruption. They're doing a lot of work with, say, Alzheimer's memory impairment that has shown that a lot of blue light in the afternoon and later is bad. So there is development for products for indoor use that will have reduced amount of blue. There's going to be a day when a percent of blue light is...is established, and it's taking these sorts of places across the planet and across the application from...from your manufacturers say, okay, we need to put this on our product, we need to just give the percent blue. So it's...it's scarce right now, but I believe over the three-year time, there will be a good supply.

CHAIR KING: Okay. Great information. Makes me want to have these lights in the Chambers tested, to make sure we're not subjecting ourselves to something that's going to cause us to...to have health issues.

MR. STRASSER: Yeah.

CHAIR KING: I really appreciate that information and you know, we're not scientists here on the...on the Council, but we...we do definitely want to be paying attention to the science of these things, so --

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MR. STRASSER: Rapidly developing science too, so if it's --

CHAIR KING: Right.

MR. STRASSER: -- you've got to pay attention to it. Yeah.

CHAIR KING: Okay. We have another question by Member Paltin for your second round.

COUNCILMEMBER PALTIN: Thank you, Chair. And...and I did read Ms. Martin's testimony from HELCO. And so I guess my question would be for either Mr. Strasser or Mr. McAdam...Mr. Adams, would you be willing to create a list of products that are available locally that meet these guidelines that you're promoting, and you know, update it annually or something, for placement on a County website or anything like that?

MR. STRASSER: Yeah, I don't know if...at present we don't monitor light bulbs and spectral output. I...I couldn't...I couldn't tell you what's available locally. I'm in Tucson, so I don't know what's...I don't know what's on the...on your island.

COUNCILMEMBER PALTIN: I guess I'm just saying, like, you know, you continually say that these scientific things that are just, like, above our head, so it's kind of --

MR. STRASSER: I apologize for that.

COUNCILMEMBER PALTIN: -- asking you to help us to help you, because we don't know. You know, I can...I, as a person that's pass...passing this legislation could walk into ACE Hardware or anyplace, and I wouldn't know myself. So I don't think that's fair to put on others. But, you know, as proponents of these, like help us to help you, to help all of us, you know? Because --

MR. STRASSER: Yeah, I would...I would be willing to do this even upon myself. I can...I can check that out. I'll...to be willing to help you...to contribute content to a database that you all would make, and just kind of scour the world looking for light bulbs that would work. Are they going to be available on Maui? I don't know, but I can...I can at least try to, you know, get what's out there and keep up to date. Like you say, monthly, go out and check, look for new products. Yes, I'm willing to do that.

COUNCILMEMBER PALTIN: *(Audio interference)*...

MR. ADAMS: I think also there --

CHAIR KING: Mister...Mr. Adams, you want to address that question?

MR. ADAMS: Yes. There are...there are companies coming along that I see that offer these kinds of products. I...I...I buy things on a routine basis, and check them out just for my own information. . . .*(Timer sounds)*. . . So that's the kind of thing that I feel if you find two or three of these suppliers, to utilize the markets there. Right now from here,

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just going to Hawai'i other than for vacation, not many people are going there on the lighting business, but now there would be a reason because there's a specified demand for something like this, and there are...there are companies that are really focused on that kind of thing. The environmental, and as Pete said, the health side of this, the human side of it, again, is now getting much more attention, whether it's Alzheimer's or...we've seen vet applications where spectral content has...they're using it to cure diseases . . . *(timer sounds)* . . . or cure sick horses, for example. I have been involved in a process looking at that, and lo and behold, this control took some animals that were very sick and they're...they're well. So that's out there. It's just a matter now of saying to people, go to Maui. Here's a list. Look at this. There are people there that are looking to buy it.

MR. STRASSER: I'll have to do a fact finding mission, I'm sure.

CHAIR KING: So I just got a message about a potential amendment that we could put in that I think would address those concerns, Member Paltin, that the Director of Public Works must develop Administrative rules that sets heights...height restrictions for outdoor lighting, and must maintain and list of light fixtures that comply with this Chapter. So if we put something like that into the bill, that would address, in the ordinance, those concerns about creating a database, and we have on record two consultants that have agreed to help us. Is that...anything else, Member Paltin?

COUNCILMEMBER PALTIN: Oh, no. I think my time...I heard the bell, so...

CHAIR KING: Okay. Okay. Chair Lee, you have another question?

COUNCILMEMBER LEE: I have a suggestion. Whether you include it in the rules or not, to me, it might...would be much simpler as part of the outreach program and educational program, which is necessary with regard to this new bill, that we inform all the retailers on Maui about this new bill, and ask them...ask them to do the research, because they will...they have a relationship with the wholesalers, and it's...it would behoove them to begin to stock up on these items. But the good news is that we have three years to transition. So, you know, the more we spread the word, and...and...and work with the people who will be selling these items, the better it will be for the public...the general public. Thank you.

CHAIR KING: Thank you, Chair Lee. I absolutely agree. And you know, as part of the outreach that's already started on the sunscreen chemical ban, DLNR is working with our Maui airport, and so you'll...you'll be seeing one or two displays in those glass cases at the airport on the sunscreen ban. So that's the type of outreach we could also engage the State in possibly, especially if we get this...this type of ordinance across the...all four counties. So Members, if there are no other questions, what I'd like to do is get a motion for the original bill, and then...and then I have the ASF to insert the CD1, which is the bill we've actually been discussing in place of it. So at this moment, unless...are there any other burning questions, Members? If not, I'd like to entertain a...well, first of all, I'd like to thank our resource personnel, Director Molina, Mr. Henkin, Mr. Adams, Mr. Strasser, and Mr. Penniman. Thank you so much for your expertise, and all the

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information, and all the work that you all continue to do on this item, towards Bill 21. We...I, at this point would like to entertain a motion to recommend passage on first reading of Bill 21 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.35, MAUI COUNTY CODE, RELATING TO OUTDOOR LIGHTING FOR PRODUCTION"... "PROTECTION OF SEABIRDS," allowing Staff to make any nonsubstantive revisions, and the filing of County Communication 21-546.

COUNCILMEMBER LEE: So moved.

VICE-CHAIR SINENCI: Second.

CHAIR KING: Okay, moved by Chair Lee, seconded by Committee Vice-Chair Sinenci. And then...so you should also have the ASF, and basically, I would like to entertain a motion to amend Bill 21 (2022) by substituting its contents for Bill 21 (2022), proposed CD1.

COUNCILMEMBER LEE: So moved.

VICE-CHAIR SINENCI: Second.

CHAIR KING: Moved by Chair Lee, seconded by Member Sinenci. So the first thing is to...is...is there any discussion on the motion to amend? Member Sugimura.

COUNCILMEMBER SUGIMURA: I'd like to amend this, because...taking into consideration what Director Molina said about taking off the exceptions, and his discussion was 20.35.070, under the Exceptions category, and --

CHAIR KING: Okay, Member Sugimura, could you just hold your amendment until we pass this one? Because then we're looking at the same bill. So we're...we're just substituting the new bill in the motion, because we...that was...this wasn't posted. So once we post...once we...if we can pass the amendment, then you can make additional amendments.

COUNCILMEMBER SUGIMURA: Okay. I'll wait.

CHAIR KING: Is that okay? So is there any more discussion on this...the current amendment that's on the floor? If not, I'll...I'll take a voice vote on this one. All those in favor, raise your hand and say "aye." Aye. Okay. Motion unanimous, seven ayes, zero noes.

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

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       None.**

**MOTION CARRIED.**

**ACTION:    APPROVE amendment.**

CHAIR KING: So we're now looking at Bill 21 (2022), Proposed CD1. Okay, and any additional proposals for this bill? Member Sugimura.

COUNCILMEMBER SUGIMURA: Sure. I want to make sure I get what Director Molina referenced. So in Item B [sic], I want to take out the word "all," so delete the word "all outdoor lighting," because then it's too broad of a statement. So that's my first amendment, take the word out, "all."

CHAIR KING: Is that your motion?

COUNCILMEMBER SUGIMURA: Yeah, that's my motion. I'll need a second.

COUNCILMEMBER LEE: Second for discussion.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KING: Okay, moved by Member Sugimura, seconded for discussion by Chair Lee. Your...your discussion, Member Sugimura?

COUNCILMEMBER SUGIMURA: The word "all" is...is what we all know it to be. And I think that it's encompassing enough, where education and understanding of the implication is too broad. So I just want to make a motion...an amendment to delete the word "all" in Item B [sic].

CHAIR KING: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Question for Member Sugimura. So in lieu of removing the word "all," is there another word or words you'd like to substitute in its place?

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COUNCILMEMBER SUGIMURA: I...I didn't have another word. I believe that we just start the sentence with "outdoor lighting fixtures installed prior to the enactment of the ordinance." Yes.

CHAIR KING: I'm not sure you're looking at the same CD1 version. So if...if you're...are you talking about --

COUNCILMEMBER SUGIMURA: Oh, you know what?

CHAIR KING: Item D?

COUNCILMEMBER SUGIMURA: I'm sorry. I'm sorry. So CD1, on your amendment, then it'll be on Item E...I'm sorry, E.

CHAIR KING: Okay. It says all --

COUNCILMEMBER SUGIMURA: *(Audio interference)*...

CHAIR KING: -- outdoor lighting fixtures, comma, except for --

COUNCILMEMBER SUGIMURA: Right.

CHAIR KING: -- neon, comma?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KING: So you just...your proposal --

COUNCILMEMBER SUGIMURA: Take out "all."

CHAIR KING: -- is to take out the word "all," and Mr. Molina asked you if you had a substitute word. So the answer --

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: -- was no?

COUNCILMEMBER SUGIMURA: The answer's not.

CHAIR KING: Okay.

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

CHAIR KING: Is there comments on this?

COUNCILMEMBER SUGIMURA: I have more...I have more amendments.

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CHAIR KING: Well, you made a motion.

COUNCILMEMBER SUGIMURA: *(Audio interference)*...

CHAIR KING: -- a motion, so we're on your motion. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'm...I'm just...okay, so I'm on E, and it would say, outdoor lighting fixtures, except for neon, must be blah, blah, blah, blah, blah.

COUNCILMEMBER SUGIMURA: Right.

COUNCILMEMBER PALTIN: I mean, I'm not sure how that changes things just by removing "all," like in...in terms of interpretation and implementation. If it...and if it doesn't change things, then I would say, what is the point?

COUNCILMEMBER SUGIMURA: So it's not mandated, all was not mandated. All is encompassing.

COUNCILMEMBER PALTIN: Yeah, but if it doesn't change anything, then...I mean, because it's...it'll...either all outdoor lighting fixtures except for neon or outdoor lighting fixtures except for neon, I mean, I don't see how that differs.

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER PALTIN: So I mean --

COUNCILMEMBER SUGIMURA: Okay. I'll...I'll withdraw that. I'll...I'll go to my next amendment, then.

CHAIR KING: Okay, your motion is withdraw...withdrawn. Chair Lee, do you --

COUNCILMEMBER LEE: Withdrawn.

CHAIR KING: -- withdraw your second?

COUNCILMEMBER SUGIMURA: Yeah, thank you. So my amendment is in that section, E-1, what Director said was remove for...so that it's not confusing, the parenthesis, which is the example at the end of Item 1, it says (e.g., not a polished or glass surface; painted surface must have matted [*sic*] paint). And then the second one that he referenced, was number 3 example, (where existing lighting and safety standards specify a range of heights to mount fixtures, the fixtures must be mounted at the lowest height in the specified range). So he asked to remove that for clarity.

COUNCILMEMBER LEE: Second.

COUNCILMEMBER SUGIMURA: Thank you.

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CHAIR KING: Okay, moved by Member Sugimura, and seconded by Chair Lee. Do you have any other additional discussion, Member Sugimura?

COUNCILMEMBER SUGIMURA: No.

CHAIR KING: You kind of did all your discussion in your motion.

COUNCILMEMBER SUGIMURA: Right.

CHAIR KING: But I...I would like to bring on Mr. Forrest, because I think the...especially the second in paragraph 3, the paren was...was put in there to give that guidance that was asked for, because Public Works originally told us this was not specific enough. So maybe...Mr. Forrest, can you maybe explain why those...those examples are in there?

MR. FORREST: Thank you, Chair. Yes, we did put them in there to address the concerns that the language was not clear. We do use examples to clarify language in other places in the Code, and so do other...or other municipalities, so it's not uncommon. If you want to remove it, I...you know, that's a policy decision for you. I don't think it has much legal implication, so that would be up to you guys. I do want to say that the section related to the height restrictions, we...we might want to consider amending that section, so that the Director of Public Works would develop rules to set the height restrictions. That issue was raised up that it would be, you know, maybe hard to understand or unclear. And so this way, if the Department of Public Works establishes them by rule, they could...they could address all the height issues, and it would be --

COUNCILMEMBER SUGIMURA: Okay.

MR. FORREST: -- it would be written out.

COUNCILMEMBER SUGIMURA: Thank you, Mr. Forrest. Can I ask Public Works to comment on that?

CHAIR KING: I don't know if the Director is still here. Oh, there he is. Okay, Director Molina, did you hear what our OCS Attorney was suggesting, that we...we can remove the...the paren examples, but he was suggesting that we might want to put a...a...a phrase in there to allow the Director of Public Works Department to develop Administrative rules that set height restrictions for outdoor lighting.

MR. MOLINA: Thank you, Chair. I believe we already have...I know we adopted rules for the outdoor lighting ordinance, so I believe we have that authority already. So it would be redundant to restate that.

CHAIR KING: Okay. So if you have rules already, I guess, Mr. Forrest?

MR. FORREST: Yes, I would welcome comments from Mr. Whittaker, because this amendment was actually his suggestion. And I --



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CHAIR KING: Okay.

MR. FORREST: -- I do like the amendment, so if he...if he wants to explain it further, I would appreciate that.

CHAIR KING: Okay, great. Mr. Whittaker?

MR. WHITTAKER: So Jordan, I believe that the Administrative rules you have are for street lights and...and specifically lights for the County, but this ordinance would have broad application to private individuals. So I think it's better to have it in the ordinance that you set the height limits. The way it's currently worded, it's not clear what the height limits would be, but you could establish that through Administrative rules.

CHAIR KING: Is that acceptable, Director?

MR. MOLINA: Yeah. We'll make it work.

CHAIR KING: Okay. Great. Okay. So Member Sugimura, do you want to withdraw your amendment and put this other language in instead?

COUNCILMEMBER SUGIMURA: Sure, if the Department agrees with it, then that's fine. So that would be for the second...in that second...second example, or you would just add a number 4? You would add a number 4?

CHAIR KING: We can ask --

COUNCILMEMBER SUGIMURA: Department of Public Works. I'm sorry.

MR. MOLINA: Chair, can I clarify that...or I guess just to ask that the Committee be clear if the Administrative rules is just going to be limited to this one subsection, or for implementation (*audio interference*).

CHAIR KING: We...we would be putting it in Item number 3, adding in that --

MR. MOLINA: Yeah. So if that's the case --

CHAIR KING: -- Director of Public Works...so the Public Works Department is direct...will develop Administrative rules that set height restrictions for outdoor lighting.

MR. MOLINA: Yeah. So then with that wording --

CHAIR KING: Okay, you want us to take out the...you want us to take out the paren example and end it there, and then put the sentence about Administrative rules?

MR. MOLINA: I guess I just want you guys to be clear that the Administrative rules are just limited to the height question, or is it applies to the entire ordinance?

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CHAIR KING: Are you...are you saying you want to make Administrative rules for the entire ordinance?

MR. MOLINA: I am saying that I would request you guys to be clear on what you want covered under the Administrative rules.

CHAIR KING: Okay.

MR. MOLINA: So if you (*audio interference*)...

CHAIR KING: It's pretty clear. Yeah. It just clearly refers to the height restriction.

MR. MOLINA: Correct, so to be clear, we would only be administering rules specific to height, not other provisions of the ordinance.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: So would that be a number...Item number 4 for this then, under E?

CHAIR KING: Item number 3, maybe (*audio interference*) --

COUNCILMEMBER SUGIMURA: Correct.

CHAIR KING: -- (*audio interference*) 3.

COUNCILMEMBER SUGIMURA: Right. Or are you going to...are you adding a 4 by deleting the example? Now with what Director said, do you want to add a number 4 to add it in, where he would be establishing rules regarding, you know, height standards? I'm just wondering where it goes.

CHAIR KING: Oh. I was suggesting that we just add that statement on to number 3, because number 3 is the section that talks about height standards.

COUNCILMEMBER SUGIMURA: Oh, okay.

CHAIR KING: No, I was --

COUNCILMEMBER SUGIMURA: But --

CHAIR KING: -- I was suggesting that, you know, to remove the paren and add in the statement about the Department making...setting Administrative rules for height restrictions for outdoor lighting. Do you want to...do you want to make a...Forrest?

MR. FORREST: Thank you --

CHAIR KING: Mr. Forrest?

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MR. FORREST: Thank you. Just to help with the drafting here, I think you would replace that language with the phrase, must be compliant with the Administrative rules established by the Director of Parks and Regulation [sic] related to the height standards.

CHAIR KING: Okay. And that would be after the first sentence and removing the paren?

MR. FORREST: *(Audio interference)*... Sorry, I'm talking about Section E-3 would be replaced with what I just said.

CHAIR KING: Oh, okay, so the whole section would be replaced.

MR. FORREST: Section E-3, yes.

CHAIR KING: Okay. So the...so is that...is that acceptable to you, Member Sugimura, if we just replace number 3 with lighting...outdoor lighting must be compliant with Administrative rules on height restrictions, set by the Department of Public Works?

COUNCILMEMBER SUGIMURA: That's fine.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: The Department's fine with that, right? That what...they had that issue, so...

CHAIR KING: Are you good with that, Director Molina?

MR. MOLINA: I guess the concern being there's going to be a lot of questions with this ordinance, and so if we're only limited to one aspect of clarification, we're going to have difficulty enforcing it. So like the first one, you're getting nonreflective surfaces, that means paint everything black. And if that's the intent, then, well, you know, we'll deal with that. But nonreflective is not defined in the ordinance. So that's an area that could need clarification. How to...how do we translate the blue light content definition into the standards or the calculations that were described by the panelists is another area that would need clarification. Some of the other consideration you guys talked about, about developing those product listings, et cetera. It's not here, and it's not allowed for by Admin rules, then we *(audio interference)* establish those either.

CHAIR KING: I'm...I'm still not clear on what you're confused about, but maybe we can ask...you have a question, Member Sinenci? And then maybe ask Mr. Forrest for...to comment on that.

VICE-CHAIR SINENCI: Yeah, I was just wondering, Chair, if Member Sugimura would consider the friendly amendment to add also a list of light fixtures that comply with this Chapter as Director --

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CHAIR KING: Yeah, that...that was...yeah, thank you for that. That was my...my previous suggestion was to put into this section the Director of Public Works Department must develop Administrative rules that sets height restrictions for outdoor lighting, and must maintain a list of light fixtures that comply with this Chapter. That was the one I had mentioned earlier. And if...if you, if you're good with that, we can just put that in number 3, and that would address the Department's, you know, issue of making that list.

VICE-CHAIR SINENCI: Would Member Sugimura be open to that as a friendly addition?

COUNCILMEMBER SUGIMURA: I...yes, but I'm concerned whether the Department has the capability and capacity to . . . *(inaudible)*. . . that kind of information, or gather that kind of information and be responsible. So, Director, can you make a comment to that?

MR. MOLINA: Yeah, we'll have to submit our budget request before the Council and see what support we can get.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: Another body, or it's going to take, you know, some kind of program to be developed. I hear the Director, what he's saying, so fine. With *(audio interference)* --

CHAIR KING: Okay. So let's --

COUNCILMEMBER SUGIMURA: That could be --

CHAIR KING: -- Member Sugimura, if you could...maybe you could withdraw your motion...your amendment, and then I'll...I'll ask for consideration of the motion I just described? You okay with that?

COUNCILMEMBER SUGIMURA: I'm fine.

CHAIR KING: Okay.

COUNCILMEMBER SUGIMURA: The Department sounds fine, so...

CHAIR KING: Then are you okay, Chair Lee, to withdraw the second? Okay. So I'll entertain a motion to amend section E-3, or let's actually get the number. Section 20.35.060, Item E-3, to delete 3, and add in as number 3, the Director of the Public Works Department must develop Administrative rules that sets height...that set height restrictions for outdoor lighting, and must maintain a list of light fixtures that comply with this Chapter.

VICE-CHAIR SINENCI: So moved.

COUNCILMEMBER JOHNSON: Second.

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CHAIR KING: Is there a motion? Moved by Committee Vice-Chair Sinenci, seconded by Member Johnson. Mr. Forrest?

MR. FORREST: Thank you, Chair. That...that language is close, but it doesn't meet the sentence before it. It says...look at E. It says must be, so the...the next word needs to be basically a verb. Must be compliant with standards established by the Director of Public Works for height restrictions, and you know. The...the part about the compliance list, I think, is...is throwing me off. So I might recommend adding that as another section, as in adding it as a F.

CHAIR KING: Okay. So...oh, because you're...are you saying that if...just having them set Administrative rules doesn't also require compliance with those Administrative rules; is that what the concern is?

MR. FORREST: No, no, not quite. You know, you might...you might take a five-minute recess so I can do some wordsmithing, but we're very close, and I think I can clean it up for you.

CHAIR KING: Okay. Is everybody okay with taking a five-minute recess and we'll come back at...it's 11:48, and we'll come back at 11:53? Chair Lee?

COUNCILMEMBER LEE: Yeah. I was going to tell you that I...I have to go to another meeting shortly, so, you know, I was ready to vote on this, but is it only going to be five minutes, or do you think it's going to be longer?

CHAIR KING: Mr. Forrest?

MR. FORREST: Okay. Taking a page from Mr. Raatz. We can go with your legislative intent, which I have, it's clearly established, that you want to have Administrative rules developed by the...the Public Works Department, and that's going to set height standards. That's going to replace the language in E-3, and then we're going to create Section F that's going to say that the Director of Public Works must establish a list of compliant lighting.

CHAIR KING: Okay. Is everybody agreeable to that? Okay. All right. So let's...can we take a voice vote on this amendment? All those in favor, say "aye"...raise your hand, say "aye."

COUNCILMEMBERS: Aye.

CHAIR KING: It looks like it's unanimous. Seven ayes, the measure...the amendment passes. And if there are no other amendments, we can vote on the bill, as amended. Any other amendments, Members? Member Sugimura.

COUNCILMEMBER SUGIMURA: I don't have an amendment, but I have a comment. I did read what Public Works...I'm sorry, Parks and Recreation did send a letter, a response dated March 9th. I apologize, I didn't see it until during this meeting. And on stadium,

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recreational, outdoor, sporting...sports lighting, their recommendation was that the Department recommends that sports lighting be exempt from this ordinance. That was what, you know, they said based how, when they spoke to their consultant.

CHAIR KING: It's in there.

COUNCILMEMBER LEE: They're exempt.

CHAIR KING: The exemption's in there.

COUNCILMEMBER SUGIMURA: Exempt forever?

CHAIR KING: No, it's exempt until...if you look at, let's see --

COUNCILMEMBER SUGIMURA: Until it has to be replaced?

CHAIR KING: Well, no, it's...it's exempt for as long as there are no compliant lighting fixtures available that meet industry standards for sporting events.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KING: So we...we...because we were told they don't have any lighting that's appropriate for those kinds of venues. So, you know, at some point they'll become available, and then we'll hopefully be able to change them out.

COUNCILMEMBER SUGIMURA: Okay. Hawaiian Electric, their response says it's difficult to meet the requirements set out in Bill 21, and it's not clear on the basis of the specifications contained in the ordinance. Further, given that the County of Maui is already in the process of addressing these issues in a public forum under Chapter 343 procedure, it would be worth coordinating this ordinance for that process. So do you know about that process?

CHAIR KING: The process of public forum?

COUNCILMEMBER SUGIMURA: Chapter 343, Procedure. This is from Hawaiian Electric. Mahina Martin...well, not Mahina --

CHAIR KING: Right. But there --

COUNCILMEMBER SUGIMURA: It's Mathew McNeff.

CHAIR KING: -- there...no. I don't know what...what procedure they're...they're asking about that we're not doing already. This is a public forum, and they're welcome to testify.

COUNCILMEMBER SUGIMURA: Oh, this was their written testimony that was sent to us.

CHAIR KING: Right. Yeah, I saw that.

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COUNCILMEMBER SUGIMURA: *(Audio interference)* --

CHAIR KING: I did. And we...and we discussed it with OCS. So...okay, well, I'm going to go ahead and call for the question, if there's no other amendments, and we'll go ahead and take a voice vote. Brittney, you want to do that vote? The voice vote? Yeah, roll call vote, I'm sorry. Roll call vote on...on the...the motion, as amended.

MS. SUNDERLAND: Roll call vote. Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Aye.

MS. SUNDERLAND: Council Chair Alice Lee.

COUNCILMEMBER LEE: Aye.

MS. SUNDERLAND: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aye.

MS. SUNDERLAND: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. SUNDERLAND: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. SUNDERLAND: Committee Vice-Chair Shane Sinenci.

VICE-CHAIR SINENCI: Aye.

MS. SUNDERLAND: Committee Chair Kelly Takaya King.

CHAIR KING: Aye.

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

**NOES:**    **Councilmember Sugimura.**

**ABSTAIN:**    **None.**

**ABSENT:**    **None.**

**EXC.:**    **None.**

**MOTION CARRIED.**

**ACTION:**    **FIRST READING of Bill 21, CD1 (2022); and FILING of communication.**

MS. SUNDERLAND: With six ayes and one no, the motion passes.

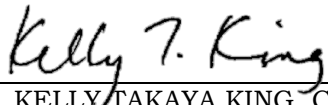
CHAIR KING: Okay. Thank you very much, Members. And I'm going to give you some credit for this too, Mr. Molina, since this was your original bill. Thank you, Members. It was a great discussion, and I'm happy to move this on to the full Council. And with that, any other...anything else I'm missing, Staff?

MS. SUNDERLAND: There is no further business before the Committee, Chair.

CHAIR KING: Okay. Thank you very much. It is 11:53, and I'm giving you seven extra minutes for your lunchtime. The CARE Committee is adjourned. . . .(gavel). . .

**ADJOURN:**    11:53 a.m.

APPROVED:



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KELLY TAKAYA KING, Chair  
Climate Action, Resilience, and  
Environment Committee

care:min:220601: kr

Transcribed by: Kaliko Reed



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CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 57 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 15th day of July 2022, in Wailuku, Hawai'i



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Kaliko Reed