

# PLANNING COMMITTEE

Council of the County of Maui

## MINUTES

February 1, 2001

Council Chamber

**CONVENE:** 1:33 p.m.

**PRESENT:** Councilmember Charmaine Tavares, Chair  
Councilmember Michael J. Molina, Vice-Chair  
Councilmember Alan M. Arakawa, Member  
Councilmember Robert Carroll, Member  
Councilmember Jo Anne Johnson, Member  
Councilmember Dain P. Kane, Member  
Councilmember Patrick S. Kawano, Member  
Councilmember Wayne K. Nishiki, Member

**EXCUSED:** Councilmember G. Riki Hokama, Member

**STAFF:** Wayne A. Boteilho, Legislative Analyst  
Camille Sakamoto, Committee Secretary  
Michelle Anderson, Executive Assistant to Councilmember  
Wayne K. Nishiki  
James Johnson, Executive Assistant to Councilmember Jo Anne Johnson  
Kelly Arbor, Executive Assistant to Councilmember Jo Anne Johnson (Item 8)

**ADMIN.:** John E. Min, Director, Department of Planning  
David Goode, Director, Department of Public Works and Waste  
Management (Item 13)  
Neal Bal, Captain, Fire Prevention Bureau, Department of Fire Control  
(Item 13)  
George Fontaine, Lieutenant (Kihei District Commander), Department of  
Police (Item 13)  
Myles H. Inokuma, Executive Assistant, Office of the Mayor (Item 13)  
Darin Suzuki, Planner, Department of Planning  
Brian T. Moto, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Richard K. Minatoya, Deputy Corporation Counsel, Department of the  
Corporation Counsel

**OTHERS:** Item 13: Patti Domingo  
Amy Burton Johnson, Property Manager, GHA Corporation  
Teo Angel  
Tony Cancel, Director, Kihei Community Association  
Gary W. Zakian

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Elliott Krash, Kula Community Association and Maui  
Association of Upcountry Community Associations  
Patrick Ryan  
Joe Bertram III  
Susan Moikeha  
Jim Smith  
Rob Parsons, Board of Directors, Maui Tomorrow, Inc.  
Christina Hemming  
Buck Buchanan  
DeGray Vanderbilt  
Robert Nichols, Planning and Development Committee, Kihei  
Community Association  
Glenn Shepherd  
Daniel Grantham  
Mercer "Chubby" Vicens  
Lynne Woods  
Additional attendees (6)

**Item 8:** Gary W. Zakian  
Elliott Krash, Kula Community Association and Maui  
Association of Upcountry Community Associations  
Patrick Ryan  
Susan Moikeha  
Jim Smith  
Rob Parsons, Board of Directors, Maui Tomorrow, Inc.  
Buck Buchanan  
DeGray Vanderbilt  
Robert Nichols, Planning and Development Committee, Kihei  
Community Association  
Glenn Shepherd  
Daniel Grantham  
Mercer "Chubby" Vicens  
Additional attendees (2)

**PRESS:** ?

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CHAIR TAVARES: . . . *(gavel)*. . . Members, will the Planning Committee please come to order.

**NOTE:** *Long pause.*

CHAIR TAVARES: . . . Let the record show that we have Vice-Chair Mike Molina here. . . Alan Arakawa, Robert Carroll . . .

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COUNCILMEMBER CARROLL: Here.

CHAIR TAVARES: . . . Riki Hokama's excused, Jo Anne Johnson, Dain Kane, Pat Kawano, and Wayne Nishiki.

. . . From the Administration, we have our Planning Director, Mr. John Min; our Director of Public Works and Waste Management, David Goode; we also have our Corporation Counsel, Brian Moto and Mr. Minatoya. From our staff, the Committee Staff: Wayne Boteilho is our Analyst, and Camille Sakamoto. . .our Secretary. Members, we have two items listed on the agenda today. And Item, the first item that we'll be discussing is Planning Committee Item Number 13. The second item is Planning Committee Number 8, which is. . .on the general, on the community plan process. The way we will do testimony in this particular Committee is to accept testimony prior to the discussion on each item. So the first item is titled vacant properties on Namauu Place, Kihei, and enforcement of County Codes.

**ITEM NO. 13: VACANT PROPERTIES ON NAMAUU PLACE, KIHEI, AND ENFORCEMENT OF COUNTY CODES (C.C. 98-308)**

CHAIR TAVARES: So those members of the public that testified on, that signed up to testify on this item. . .if you have not completed signing up, please do so with our Secretary here. Normally we will be giving each member who's testifying three minutes. I've had a request, Members, from. . .two folks who have, actually, a presentation to show us; and I would like to waive the time requirement with no objections from the Members.

COUNCILMEMBER JOHNSON: No objection.

VICE-CHAIR MOLINA: No objections.

CHAIR TAVARES: Thank you very much. Okay, will those first two folks--Patti Domingo and Tony Cancel--if you'll come up together and share with us. And when you come up, please state your name for the record and who you represent. . .if an organization.

**NOTE: *Pause while Ms. Domingo and Mr. Cancel approached the podium.***

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

MS. DOMINGO: . . . Madam Chair and distinguished. . .Members of the Council, Planning Committee meeting. . .I'm very nervous. This is my first time I've ever done this before. In fact, I'm almost ready to cry . . .*(laughter)*. . .

?: Relax.

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MS. DOMINGO: I'm very. . .take a deep breath. . .that's what I need to do.

CHAIR TAVARES: Patti?

MS. DOMINGO: Yes?

CHAIR TAVARES: For your information, this is our first time, too.

ALL: . . .(laughter) . . .

MS. DOMINGO: Oh, okay. Thank you very much. Oh, that makes me feel better.

ALL: . . .(laughter) . . .

MS. DOMINGO: Okay, I'm very honored, actually, to be given the opportunity to speak to you and address this issue that has been ongoing on, in our community. I'm Patricia Domingo, and on behalf of the residents on Namauu Place in Kihei, I would like to address some very serious issues that's in our neighborhood. I have been living in the neighborhood for eight years. And during that time, I have seen a steady decline in, in the conditions--physically, as well as criminally--particularly in the two residents that we'd like to address, which is. . .addresses 102 and 176 on Namauu Place. I think you have all been given a packet with letters addressed to the Mayor . . .

. . . the Maui County Corporation, Charles Jencks, the Maui County Council, and the letters of petition, pictures, as well as the police report. Officer Knoeppel spearheaded this project because of the daily flow of activity. . .police call activity. . .excuse me, police calls to the. . .the street. So with her assistance, we decided to have a neighborhood committee meeting and tried to figure out what we can do in curbing some of this. . .problems. We have had our meetings, we did a drug vidual [*sic*]. We even had some of the candidates come down and walk the street with us. We had TV exposure. We made signs and banners stating that we are taking our street back. I think we did it very successfully. We had a great turnout. As concerned citizens of this neighborhood, we saw the escalating problems and addressed them in October of 1998 to the Mayor's Office. We are targeting these two streets, I mean, excuse me, **homes** for the very reasons as stated in the letter sent to the Mayor. Number one, safety and fire hazards. Number two, declining of property values. . .and number three, active crime and drug problems. As responsible citizens of this community, and with the help of the Police Department, we did our part in obtaining facts regarding the serious. . .of problems that is prevalent in these two properties--which at that time was vacant. From October 1998 to December 8, I finally got a letter from the Planning Committee that, quote: this matter relating to the activities and hazards to be filed due to no further action taken, unquote. It

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took my calls. . .pleading calls to say do not file this because this matter has gotten worse. It has compound now because tenants are now living in it; in a substandard condition, and also the illicit drug as well as other activities are happening on a daily basis. This also prompts a lot of. . .activity of the Police Department to continuously come there. And I'm sure you can see the police report there.

. . . The paper trail goes as this. October 16, 1998, Council Chair sent a letter to the Members of the Council--Number 98-308, with attachments. November 9<sup>th</sup>, 1998, the County Clerk then sent a letter to Wayne. . .Mr. Wayne Nishiki, with a "CC" to the Director of Council Services and in, with enclosures. Then on May 28, 1999, a letter was sent to Mr. Rogelio Evangelista on these two properties, stating County Code violations. Now here is where the rad, red flag comes up. And if you have this letter, you can. . .turn to that section here. Um . . .

**NOTE: Silence.**

MS. DOMINGO: . . . Sorry, I need to pull up mine so I. . .know exactly what I'm referring to here.

**NOTE: Pause.**

MS. DOMINGO: . . . That's dated May 28<sup>th</sup>, 1999.

CHAIR TAVARES: Wait, hold on a second while we locate that.

MS. DOMINGO: Okay.

**NOTE: Pause.**

MS. DOMINGO: . . . I need a bigger desk.

CHAIR TAVARES: . . . I believe that was in the packet that was put on your desk, Members.

**NOTE: Silence and very long pause.**

CHAIR TAVARES: . . . Sort of a couple pages right after the petition.

MS. DOMINGO: I also have this board here. . .in my own way, a little time-line so we can see what has been happening or not happening during these, this time period. Okay, so if you notice on the letter to him, the very first paragraph states that the **numerous** letters and notices were sent to him concerning this property, as well as notices posted on his property. Since he has not responded to any of the letters or notices, fines began. And the key word here is **began** accruing as

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of February 15<sup>th</sup>, 1999. Then as of June 1<sup>st</sup>, 1999, the outstanding fines **owed** to the County of Maui amounted to \$21,600. And that these fines will continue to accrue at a rate of \$100 per day, per home. As of February 1<sup>st</sup>, which is today, we made our own . . . (*laughter*). . . calculation. And we estimated this man owes us, or the County, \$137,000 of which is County money. . . as per your letter. The last paragraph just . . . (*inaudible*). . . more threats--all of which the County, I believe, have the power to act upon. This letter was signed by Thomas R. . . uh, P. Rack, Deputy Corporation Counsel; and carbon copy to Charles Jencks, Director of Public Works and Waste.

. . . These letters were all issued to me, along with the Committee Chairman. . . Chairwoman. . . at that time, Charmaine Tavares. . . to **file** this. Not soon after we made this appointment, we had a fire at the residence of 176. . . which is what we're talking about, on January 11. Because this home was not up to County Codes, residents had to make a make-shift cooking equipment in order to eat, which caused an explosion. Two teenagers were seriously injured and hospitalized on Oahu. It took Amy's request to start the ball rolling into another paper trail. And I want you to follow me on this time-line. And if you can look through yours, I'm sure you have that. . . request that Amy sent in--which she is here today. She requested that this property, under the Beautification Code. . . be cleaned out. On, and this is when, April 28<sup>th</sup>. Next? Okay, on May 12<sup>th</sup>, Maynard Cabos did the inspection.

**NOTE: Silence.**

MS. DOMINGO: . . . Okay, he did the inspection, then the County sent out. . . Department of Waste Management sent out a letter--and this is a certified letter to Mr. Evangelista **again**. . . giving him 60 days notice to clean up his property. Come August 15<sup>th</sup>, which was the deadline, it expired. Come September. . . 6<sup>th</sup>, 2000, the Land Use and Codes Construction Inspector visited the property and found trash still remained. This is 90 days later. Come October 3<sup>rd</sup>, a **second** and final notice was sent to this man, a **certified** letter again by the Public Works to Mr. Evangelista again. This is 120 days later.

**NOTE: Silence.**

MS. DOMINGO: . . . Okay, December 4<sup>th</sup> . . .

. . . we will inspect the property--now this letter now comes by David Goode. . . who is now the new Director of Public. . . Works--failure to pay within 30 days will result in filing a lien on the property. Now all these other letters did have that--they will file a lien on the property. This is all happening. . . (*sigh*). . . on December 6<sup>th</sup> I get a letter from community, uh, County Council here. . . stating they're gonna file this away. But if you notice from May 30 to December 8<sup>th</sup>, **no fines** were accrued to this man.

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. . . No action was taken. All that was done was paperwork and inspections. So six months go by and nothing is done. He's **allowed** to live in this kind of situation and we are allowed to accept it.

. . . So this is where we come in now. January 5<sup>th</sup>. . . Public Works now sends a letter to Brian Hashiro, the Highways Division. . . stating what is going on. May 11<sup>th</sup>, about the complaint. May 12<sup>th</sup>, property inspected **again**. May 30<sup>th</sup>, sent to the owners, 60-days notice. October 3<sup>rd</sup>--just reiterating the, the rest of the things here. So as of **today**. . . no fines have been occurred to this property, no cleanup has been done. And all those pictures that you see right now. . . that's just how it looks. It still looks that way. Okay?

. . . So all we have here is continued letter writing and inspection. I, I imagine that inspector is probably tired of going down to the same old place.

. . . Okay. . . I know this doesn't paint a pretty picture. In fact, I think I'd be embarrassed with everything that's going on. I'm sure the Committee is not real happy about this, too. We're not here to point fingers. But the names, the dates are all important to us because we all knew about it in some way, shape, or form. This is unexcusable. . . or word, inexcusable. It shouldn't have happened if we had taken the proper or if the proper department took care of this in a timely fashion and acted two years ago. I believe we deserve better service from those we have elected into office. The police can only do so much to uphold the laws. But if the County cannot enforce them, what do we do? How are we protected? How are our **children** protected? We have a right to live in a safe and clean community.

**NOTE:** *Ms. Domingo continued her testimony with tears.*

MS. DOMINGO: . . . We not, may not be the upper class . . .

. . . of Wailea . . .

. . . but we're proud of where we live.

. . . We are hard-working citizens and we don't deserve this.

. . . And I just think this is. . . a very. . . inexcusable thing that has been done. These two girls didn't have to get burned.

. . . This didn't have to happen if somebody just took the ball, stuck with it, followed up with it. Now, I notice on Amy's request, she was given a reply. . . that the lot was inspected. But all our things went in--we went in with information, we were **specific** in what we wanted. . . but nobody replied back to us.

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**NOTE: Silence.**

MS. DOMINGO: . . . We all have responsibility in this matter.

. . . So before I close, I want to find out if any of you had any questions for me and any of the documents I have made in this presentation.

. . . And I'll be happy to answer any of your questions.

CHAIR TAVARES: Members, do you have any questions of Patti. . .at this time/

. . . Okay. Thank you, Patti.

MS. DOMINGO: Okay. Well, I'm not done yet, though.

ALL: . . .(laughter). . .

MS. DOMINGO: So if you don't have any questions, I have questions.

. . . I would like to ask Mr. Wayne Nishiki. . .a question. May I?

COUNCILMEMBER NISHIKI: Sure . . .(chuckle). . .

MS. DOMINGO: You received the letter, didn't you?

. . . Okay. You represent Kihei.

. . . How do you feel about what has all happened here?

COUNCILMEMBER NISHIKI: . . . Responsible and. . .embarrassed.

MS. DOMINGO: Okay. How can you help us?

**NOTE: Silence.**

CHAIR TAVARES: . . . Patti, that's what we're here--

COUNCILMEMBER NISHIKI: I think--

CHAIR TAVARES: --for today--

COUNCILMEMBER NISHIKI: --we're going to . . .

MS. DOMINGO: Okay.

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COUNCILMEMBER NISHIKI: . . . probably--

MS. DOMINGO: So can I pull something?

. . . I propose that the Committee or the County collect all the fines and hold these landlords accountable . . .

. . . Mr. Evangelista, as well as Mr. Peros. Now, I notice Mr. Peros was *never* served a letter, although he is a part owner of 102.

. . . I'd like to have them, **we** as a . . . as a neighborhood, would like to have them cleaned up. . . physically, financially, and morally.

. . . And we'd like to have it done immediately. If the fines are not satisfied, we'd like to see you folks put a lien on the property. . . take it away. . . do what you need to do. Fix it up. Teo Angel, who is the owner next door, has a bulldozer which would, he would--

AUDIENCE: . . . *(laughter)* . . .

MS. DOMINGO: --**love** to do it for free. He has mentioned that over and over in our meetings. Number two, that the County inspects the structures of these homes to see if it meets County Codes and is it livable for human occupancy; and that the County take immediate action starting today. I think the time has run its course and it's time to take action. So in my closing, I'd like to say there's a quote I always go by--if you keep doing what you're doing, you're gonna keep getting what you get. So with all due respect, number one, will you do this. . . for our children? We have over a hundred children in this neighborhood. If not for the adults, at least for the children. Let's think about the two girls that got burned.

. . . Because the adults were allowed to live in a home that has substandard conditions--a poorly built one at that, that didn't meet County Codes--they had no choice. Every child and their parent should have the choice to live in a clean and safe neighborhood where the laws are upheld. So, can I go back to my community, my neighborhood and say, yes. . . County Council will do something and take immediate action? And will you follow with us on this resolution? Let's work together in finding or getting to a finality on this. Thank you for your time and your commitment.

CHAIR TAVARES: Thank you, Patti. Tony, did you have anything to add to this?

MR. CANCEL, FROM THE AUDIENCE: Uh--

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COUNCILMEMBER KANE: Speak into the mic.

MR. CANCEL: I will in sequence. We have a few who are--

CHAIR TAVARES: Oh, okay.

**NOTE: Very long silence.**

CHAIR TAVARES: . . . I'm not sure I **know** the sequence. Is it Amy that's next?

MR. CANCEL, FROM THE AUDIENCE: . . . *(inaudible)*. . . Yeah.

MS. JOHNSON, FROM THE AUDIENCE: Thank you.

CHAIR TAVARES: And. . .to be followed by Teo Angel.

. . . And then, Tony. Okay.

MS. JOHNSON: . . . My name is Amy Burton Johnson. I represent GHA Corporation as their Property Manager for 193 Namauu Place. Uh. . .I don't have a whole lot to say, other than the fact that the. . .the rental property that I manage has become increasingly difficult for me to get people who want to rent on that street. The first question that I get if somebody, when I give them the address is, "oh, that's. . .that's that bad street, aren't there a lot of drugs going on there?". And it's. . .it's been very difficult for me to. . .for me to do my job and to rent properties and to bring in the income to my owners. And I believe that that's a direct result of the activity that's going on, specifically in, in those two properties.

CHAIR TAVARES: Thank you. Any questions, Members?

. . . If not, thank you very much, Amy.

MS. JOHNSON: Thank you.

CHAIR TAVARES: Okay, Teo Angel.

**NOTE: Pause while Mr. Angel approached the podium.**

MR. ANGEL: . . . Good afternoon, everybody. Uh. . .my name's Teo Angel, and I own the property at 110 Namauu. It's right next to that. . .property we, we were. . .talking about. . .102. I got, I got some pictures here. So you folks wanna look at it? And. . .really, I don't know how to start. . . *(laughter)*. . .

COUNCILMEMBER ARAKAWA: Give it to Dain.

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MR. ANGEL: Oh . . .

AUDIENCE: . . .(laughter). . .

**NOTE:** *Pause while the photographs were circulated to the Council Members.*

MR. ANGEL: . . . In 1985, I bought that property. Uh. . .and me and my wife raised our kids and stuff. In 1992, we decided to move. . .like. . .I didn't have any choice already. I was getting tired of that street. I know I cannot fight every drug addict that is around. At one point, you know, I can tell you some stories I used to do. I clean my lot and clean my yard. I used to chase guys on the side of the road . . .(laughter). . . you know, making sure they don't come into my property with my pick and stuff like that. But I know, I mean . . .

. . . I don't know, I mean, it's. . .the way how it's gonna go if this, nothing happens, it's gonna provoke people like me. . .to take . . .

. . . law into our hands. That's how I feel right now. You know, I own a company. I'd be glad to--all I need from you folks, give me the opportunity, I'd go over there. Two days, that's all I need. All you going, when you--I will take pictures. . .of this property. Give me two days. I can guarantee you that. And you're gonna have a bare land.

. . . That's how aggressive I wanna get. Um, the pictures that I shown. . .mice and rats have gone into my property's. . .my, my tenant. . .you know. . .we had fumigated couple times. It costs. My property value . . .

. . . couple years ago, I tried to sell it. No one's interested. I'm selling it way below market value. Way below. . .below what I got it for. So we ending up just renovating it, fixing it up. . .doing all these things. For what? Um. . .really . . .

. . . it's fire hazard, health hazard.

. . . It affected our lives and the community, and the people that lives and own there, that properties over there. Uh. . .this landlord, somehow they letting the. . .people live there. There's no power. Uh. . .if you looked at the--there's no water meter, no electric meter. But the, I know the landlord knows that people is living in this property and allowing them to live as is. And I can't do anything about it? Let's. . .it's enough. This is, this is really enough. I know everybody get their work cut off and stuff. 'Eh, if I gotta take off work and, and spend. . .hundreds of dollars on paying my employees to go over there and clean it up, fine with me. But what I need, I don't wanna be getting charged as a. . .trespassing. You know? That's. . .like Patti said, we don't wanna point fingers and stuff. If you guys can help us out getting this thing straightened out, at least we can get back. You know. . .the morale is like . . .

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. . . it's like a, it's like a . . . a street that oh, well, just go live Namauu Street, you know, it's a, you know, you'll, you'll pay cheap rent and stuff like that. Like Patti said, we, we. . . you know, we might not like Wailea or something like that, but we're people and human, too. We should be treated the same as anybody else. And that's what we're asking here. Please do not file this again. I don't wanna--this is the first time I've ever come here and talk and say my piece. And I, I really hope that I, I not gonna. . . do this again. If you guys, please, help us out. . . and let's work together. And I. . . I'm sure this can be accomplished.

. . . Thank you.

CHAIR TAVARES: Thank you, Teo. Any questions from the Members? If not--uh, Mr. Arakawa?

COUNCILMEMBER ARAKAWA: . . . Yeah, Teo, you know, in your presentation . . .

. . . you're pretty much saying that the guys are hanging out there doing drugs and things--is that something that you guys have actually seen or you're--

MR. ANGEL: Oh . . . *(sigh)* . . .

COUNCILMEMBER ARAKAWA: --willing to verify?

MR. ANGEL: Alan. . . I've known that street, like I said, I lived there from 1985. You know, people come and go. New kids, new--mostly all young. . . you know, in their 20s, in, teenagers. Because that's, once they find a spot. . . where, you know, their friends are, that's gonna be a hangout place. The thing is, if we get rid of these kids out of that street, where would they be? They gonna find another place. They really need help. I've seen a social worker go into that property, talking to this young couple with a child. . . there. And I've seen the County vehicle and seen her--I didn't get her name, though--talking to these people. And I know she knows that it, that place, you cannot live in that building. You don't have power, you don't have water. I thought, you know, once you call the Police. . . police station, they know about that street.

COUNCILMEMBER ARAKAWA: So the, the, the building doesn't have power, doesn't have water?

MR. ANGEL: No. Both, both. . . one two-story building in the front and a cottage in the back. Both of 'em don't have any power or, or water meter.

COUNCILMEMBER ARAKAWA: And about how many people are living in the build, actually *living* there?

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MR. ANGEL: I would say about, maybe . . .

. . . six to eight people in the two, two-story dwelling; and maybe about four people on the . . .the back house, the cottage, the ohana dwelling.

COUNCILMEMBER ARAKAWA: And they're families or . . .just people?

MR. ANGEL: Families. Young couples. I, I, I'm not sure if they married, but they have child, kids like that. And, and I'm so concerned about their health. It's not a place to live. I mean that place really need to be cleaned up. Like I said, rats and mice. 'Cause there's no, the County don't pick up the trash because obviously the . . .landlord's not paying all the bills, right . . .*(laughter)*. . .? So the, the trash just getting stack up. You can see the cars and trash getting stack up right against my wall.

COUNCILMEMBER ARAKAWA: Then what--

MR. ANGEL: Rats and mice going in my house. . .in my place.

. . . In 1992, like I said, my wife would de. . .practically, nearly divorced me if we didn't move out of there.

COUNCILMEMBER ARAKAWA: In one of the pictures, you have mice on the, on the floor.

MR. ANGEL: Yeah, that's in my--

COUNCILMEMBER ARAKAWA: That's your house?

MR. ANGEL: --cottage. That's my house, now. . .when I fumigated--

COUNCILMEMBER ARAKAWA: That's from, that's from . . .*(inaudible)*. . .

MR. ANGEL: --that. That coming out from the next door neighbor.

COUNCILMEMBER ARAKAWA: Okay--

MR. ANGEL: I--

COUNCILMEMBER ARAKAWA: --thank you.

CHAIR TAVARES: Thank you. Any other questions, Members?

. . . Seeing none, thank you, Teo.

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. . . Okay, last person testifying on this item is Tony Cancel.

**NOTE:** *Very long pause while Mr. Cancel reapproached the podium.*

CHAIR TAVARES: . . . Teo, do you want your pictures back?

MR. CANCEL: . . . Uh. . .my, my name is Tony Cancel. I'm one of the Directors of Kihei Community Association, who's been supporting the Namauu Place residents. Last 5½, 6 years I've been involved with community policing--and this is part of extension of all that. Officer Hickle. . .was intending to come here to make a presentation. Unfortunately, Officer Hickle was scheduled for police training, so I'm here in his, in his behalf. And I'm going to be reading from a statement that he. . .wrote. Um. . .letter from Officer Brad Hickle, to the distinguished Members of the County Council. I regret that I cannot attend this forum, as I am attending. . .on Oahu for police training. However, I wrote this letter in hopes that someone would pass this message along to you. In 1998, concerned citizens of Namauu Place and the Community Police Officers of the Maui Police Department hosted the Namauu Place Anti-Drug Vigil. We recognize the problems on Namauu Place as being the illicit drugs and the abandoned homes and cars which have been known to draw illegal drug users. We, the Maui Police Department and community leaders, took a proactive approach to the problem--which is the basis. . .basic philosophy of community policing. An attempt to remedy the problems with abandoned homes located at 102 and 176 Namauu Place by contacting the Mayor, County Council, and other County officials via mail and noting a number of Housing Code violations--including the Maui Code. . .County Code, 9.32, which refers to Community Beautification, and the Hawaii Revised Statutes 712-1270, which is the Nuisance Abatement Act. In October 1998, a letter was written to the Mayor and County Council which included a petition. . .signed by the residents and the neighbors of Namauu Place. By the way, there was 168 people whose names were on that petition. This letter was followed up by a letter submitted on October 6, 1998 by the Honorable Patrick Kawano, who was a current Council Chair, it was addressed to the Members of the Council--which included County Vice Chair James "Kimo" Apana; Councilmembers Alan Arakawa and J. Kalani English, Sol Kaho`ohalahala, Alice Lee, Dennis Nakamura, Wayne Nishiki, and Charmaine Tavares--and referred to County commu. . .Communication Number 98-308. That's included in your documents. On November 9<sup>th</sup>, 1998, the Honorable Wayne Nishiki, who was the Chair of the Committee of the Whole, received copies of the communication referred to as Number 98-308, by Daryl Yamamoto who is County Clerk. Nothing was ever done more than paper-pushing the problem. If something was done, the citizens of Namauu Place nor myself ever saw a change in the condition of the homes there. On May 28<sup>th</sup>, 1999, approximately six months later, the Department of the Corporation Counsel sent a letter to the property owner, Rogelio Evangelista. . .which referred to his properties, 102 and 176 Namauu

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Place. The letter indicating, indicated Housing Code violations and advised Evangelista that as of February 9<sup>th</sup>, 1999, fines began accruing, and that as of June '99, Evangelista. . . owed the County of Maui \$21,600, and that these fines would continue to accrue. . . at the rate of \$100 per day on each property. None, nothing was ever done, and Evangelista was never fined. Over one year later. . . December 8<sup>th</sup>, 2000, Mrs. Patti Domingo of Namauu Place received a letter from Charmaine Tavares, Chair of the Planning Committee, which advised here on the subject of vacant properties at 102 and 176 Namauu Place and the enforcement of the County Codes. In parenthesis, the Committee voted to recommend the above-matter relating to the activities to be filed. A letter further stated, the Committee noted. . . this matter was being pending since 1998 with no recent complaints.

. . . That's because we were waiting for our elected officials to act upon the original complaint, since 1998, which never happened. With only one day to respond to the letter before the scheduled meeting, no one from Namauu Place was able to attend the December 11<sup>th</sup>, 2000 meeting to oppose the Council's decision to file the complaint. As a result of the actions of the County Council, the people of Namauu feel dejected. We have waited by patiently. And after all our efforts and, and patience in dealing with the County, we are told nothing will be done and the matter will be filed. In 1998, we informed the Council that these properties presented a safety and fire hazard to area residents, and especially children. My question is simple--now that two girls have been severely burned at 176 Namauu Place, after we begged the Council to, to help prior to the incident and warned you, our elected officials, of pending catastrophe. . . where are you going to do now? I have further researched the case incident police reports which have been filed and relate specifically to the properties of 102 and 176 Namauu Place, and discovered from January 1999 until December 2000 there have been 52 documented police reports. This does not include calls for service to these properties--which I am sure will double the number of documented cases. I've also included a copy of recent photos of 102 and 176 Namauu Place. Please review at your convenience. In doing our research of this presentation, we also contacted Officer Barbara Knoeppel who's an officer in. . . in Vancouver. . . Vancouver, Washington Police Department for her recollections. . . about all this--given that she was very instrumental. And she sent. . . a letter that I'd like to . . .

. . . read to you.

Mr. Evangelista and others like him are profiting from the drug trade by renting otherwise substandard or uninhabitable units to dealers or users. The tenants ignore housing violations and the landlords collect rent. To fix this problem in Maui, the appropriate agencies must insist that property owners comply with housing, safety, and health codes. Consequently, renting to users and

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sellers become less profitable. These properties should either be refurbished or become habitable dwellings or boarded up. You have let the people of Namauu and every other respectable resident. . .you have let down--I'm sorry--the people of Namauu and every other respectable residence when you failed to take action. Instead of finding all the reasons why you can't do something, just look for the reasons you should. Look at your children, your neighborhood, and the future of your community. Namauu is, is. . .an ice, not an isolated incident. It is an old neighborhood, but I can promise you that what happened there can and will happen in your neighbor when decay and blight is allowed to go unchecked. When I heard the recent fire. . .it made me sick to my stomach. Why wasn't the property abated? I can tell you if someone was hurt and died in that fire, Mr. Evangelista should have been charged with some type of negligent injury crime. He shows absolutely no, no regard for the safety or well-being. . .or well-being of the residents of his property or the surrounding neighbors. Secondly, the enforcement of codes must be organized and systematic to prevent corruption and favoritism. Please look at the proposal I submitted to the Chief of Police prior to my resignation. It is a work, workable proposal that is modeled after similar programs in many jurisdictions. They can prevent these monster houses from developing in, into other areas.

. . .Um . . .

. . . I, I'd like to make some comments. It, it appears in this particular matter that. . .that this matter fell into a, a dark abyss. . .a huge crack between the time that Corporation Counsel sent his letter to Mr. Evangelista--which was May of. . .'99. . .until such time as the Council. . .informed Mrs. Domingo that this matter was being filed. Nothing, apparently, was done. Not, nothing at all. And. . .we note that Mr. Goode attempted to do something. But. . .when Public Works got it, involved in it again and sent Mr. Evangelista letters due to the, the inspection that was conducted and the citations that were posed, that letter appeared like it was going to someone, that this was the first time this matter ever came before Department of Public Works. Because they issued, issued a letter. . .informed him of the citations and the fines. . .gave him a time-line of 60 days. . .he ignored it. Sixty-days-plus goes by. . .another inspection, another letter . . .(sigh). . . you know, a same review. . .of what have already been covered. . .an additional 60 days. He, he, he . . .

. . . he disregarded it. And finally it ended up in Mr. Goode instructing his Chief of Highway, the Highway Division to take appropriate action under County Code 9.32. Which I presume would be the County does the work and charges him for, for doing so. You know, I believe that there exists in, in the County Codes and

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the Hawaii Revised Statute, and ample jurisdiction and authority for the, for the, the board to act.

. . . It just needs to have the will to act. Uh. . . I thank God that what happened to those girls was just getting, getting burned. . . not killed.

. . . You know, it, it's time to act. You know, I. . . you know. . . in the short-run, the residents want. . . the blight, the cars, the garbage removed--like immediately. Okay? In the long-term, I'm thinking how is this. . . not gonna happen again? It, it appears to me that even though there's a lot of correspondence, sometimes the left hand does not know what the right hand is doing. At some point after Corporation Counsel got involved, it seemed like it dropped off the face of the earth until yet another citizen made a complaint. If they hadn't made a complaint. . . I can presume there would have been still no further action. So in the long run, in the long term, you know, I would suggest that there be some interdepartmental team or group comprised of representatives from the Police Department and the Fire Department, and Corporation Counsel, Department of. . . Public Works or whichever other department is appropriate. . . that they would handle all matters that deal with health and safety issues of citizens or issues that pose some kind of endangerment to people's property--like to the things that we've been talking about this afternoon. I think with that kind of a body, each would have their portion or responsibility for what needs to be done. And in all likelihood, I don't think it's gonna fall through the cracks. You know, one of the members could be somebody that representing. . . the Prosecutor's Office, if, if necessary. . . and do a, a team approach to all this. Uh. . . it's, obviously from this example. . . the way it's operating now is not very efficient. Thank you very much.

CHAIR TAVARES: Thank you, Tony. Any questions from the Members?

COUNCILMEMBER NISHIKI: Not a--

CHAIR TAVARES: Mr. Nishiki?

COUNCILMEMBER NISHIKI: --question, just a statement. You know. . . we wanna thank you for coming before us. I think time and time again, perhaps government may not be doing its job very efficiently. And so. . . sometimes it takes a little stern scolding like this. And. . . we thank you for coming.

MR. CANCEL: Yes, sir. Thank you.

CHAIR TAVARES: Mr. Arakawa?

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COUNCILMEMBER ARAKAWA: Yeah, Tony, just a question. Um...in all the discussion that you've heard with the members in this community, was there any reason given why the departments were not doing its job?

MR. CANCEL: ...*(sigh)*... All there is is, like, speculation. You know it...

COUNCILMEMBER ARAKAWA: Was there ever--

MR. CANCEL: ... I think that sometimes...among some departments, you know, a, a...a citizen may send a letter complaining about something. The department may well act upon it but not tell the citizen what they did. And there's no feedback, so citizens can sometimes think that whoa, I mean, I, I just got blown off, I got ignored...despite the fact that something was done. I think related to this particular matter...was that there was a lot of people involved in it, all kinds of people involved and all kinds of carbon copies of letters and all that kind of business, but it still fell through the cracks. It was, it was like...there wasn't anyone...I, I would say, let's say somebody from Council Service, for instance, whose responsibility is to track these...and be like the...the person that can be called regarding the status of a particular situation...okay--

COUNCILMEMBER ARAKAWA: What I'm asking, Tony, was there ever any formal explanation as to why...things were happening? In other words, did someone from one of the departments say oh, we can't do this because...

MR. CANCEL: No. No, absolutely not. It, it...from, if you look at the documents, slowly--

COUNCILMEMBER ARAKAWA: Uh-huh.

MR. CANCEL: --you know, very...*(laughter)*... very slowly it was just kinda like inching its way through the process. And it finally got to Corp. Counsel. And Corp. Counsel sent the letter...and told 'em about the fine, the fine approval, so on and so forth. You would have thought that would have gotten that man's attention, he would have done something about it. A carbon copy of that correspondence was sent to Department of Public Works. Then it disappeared off the face of the earth. And in terms of what we have in the way of documents, that gives us any kind of idea of any kind of progress...*(inaudible)*...

COUNCILMEMBER ARAKAWA: Yeah, that's all I wanted to know. Thank you.

CHAIR TAVARES: Thank you. Any further questions? Mr. Molina.

VICE-CHAIR MOLINA: Madam Chair, thank you. It's for Tony...Tony, as far as...along the way since this problem first started, has any neighbors been

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threatened, their safety been threatened as like a retaliatory thing for reporting this?

MR. CANCEL: I, I don't know of that personally. Do you. . .any of you know that?

MS. DOMINGO, FROM THE AUDIENCE: . . . No, we haven't because . . .(inaudible). . .

CHAIR TAVARES: Wait. Wait, excuse me. Oh, you have to come on the record.

?: Yeah.

CHAIR TAVARES: Members, no objection, we'll call Patti back?

COUNCIL MEMBERS: No objections.

CHAIR TAVARES: No objections, thank you.

**NOTE: Pause while Ms. Domingo reapproached the podium.**

MS. DOMINGO: . . . We didn't have any physical or outward **show** of that. In fact, I've had the banner on my street for a long time--hopefully, as a deterrent. And just last week it got stolen . . .(laughter). . . But, no, nothing like that.

CHAIR TAVARES: Uh-huh.

VICE-CHAIR MOLINA: Okay, thank you, it's just concern, you know, for your folks safety.

MR. CANCEL: I'd like to mention something, too. Uh. . .the, the reason that the residents originally had their vigil be, because all the crime and the drugs and the blight. . .and they finally had their anti-drug vigil. Up to that point, Namauu Street had all kinds of calls for service, all kinds of police calls, constantly. There was a period. . .after the vigil. . .and this corresponds with a degree of, of community cohesion--you know, people were feeling good about their neighborhood. Okay? People were talking about. . .let's have a block party. They, they. . .they organized a. . .essay contest where they invited kids to write an essay, in different age groups, about what they feel about their neighborhood--really feeling good about themselves. And then this drought. . .the drought that we're talking about right now. Well, Officer Hickle already talked, talked to you about the, you know, the 52 documented incidents. And that doesn't even include the. . .calls for. . .service. Crime is back up. And this is really disheartening. You know, that kind of condition being allowed has inadvertently created a situation where it fosters crime.

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. . . That's. . .that's the linkage.

VICE-CHAIR MOLINA: Thank you.

CHAIR TAVARES: Thank you. Thank you very much.

. . . Oh . . .

MS. JOHNSON, FROM THE AUDIENCE: Excuse me. . .if I could just. . .in answer to that question?

CHAIR TAVARES: If you have something new to add.

MS. JOHNSON, FROM THE AUDIENCE: Yes.

CHAIR TAVARES: The Members don't mind?

COUNCIL MEMBERS: No objection.

CHAIR TAVARES: Okay.

MS. JOHNSON: In, in response to your question about any kind of threats--

VICE-CHAIR MOLINA: Uh-huh.

MS. JOHNSON: I do know that the tenant who occupied 193 Namauu. . .during the night. . .one of the residents. . .a, a teenage girl at 176 did come over to their house asking for help because she was. . .involved in some sort of altercation. My tenant did take that girl in for a period of a couple hours. And then she eventually went back. Um . . .

. . . directly after that happened, there was pretty substantial property damage to, to that residence--in the pool was rocks and debris, and all sorts of things were thrown into the pool. And, and. . .we, although I can't say **absolutely**, we did take that as a sign that. . .that tenant should not get involved in, in neighborhood issues.

CHAIR TAVARES: Thank you. And that was Amy Johnson.

MS. JOHNSON: Yes.

CHAIR TAVARES: Thank you.

MS. DOMINGO, FROM THE AUDIENCE: Can I say one more last thing--

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CHAIR TAVARES: Okay, Patti.

MS. DOMINGO: --about the violence? Although there was nothing outwardly to us, however, when we do have to pass these homes, many times you had a lot of people parked out there **on the road** not bothering to move over or moving to their drive or anything. They would block the road, so we would have to . . . *(end of tape, start 1B)*. . . two cars be parked on both sides, so we'd have to wait 'till they're done talking story and then pass. So these are the kind of things that we have had and have to tolerate so that we don't provoke any problems. Because we're dealing with people that we have nowhere where they're at, their minds. So we try to just, you know, stay low.

CHAIR TAVARES: Okay, thank you.

MS. DOMINGO: Thank you.

CHAIR TAVARES: Uh, Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah, Patti, I, I asked Teo this earlier--as far as the drug activities in that area, is that something that you guys have--

MS. DOMINGO: Yes.

COUNCILMEMBER ARAKAWA: --confirmed?

MS. DOMINGO: We have seen it done. We have seen exchanges of hands.

. . . I leave early in the morning, at 4. . . about quarter to 5 because I teach. And I would see people out there **in the morning** cleaning their cars. Why?

. . . *(sigh)*. . . They have a word for that. You know?

COUNCILMEMBER ARAKAWA: So you've actually seen these transaction, the Police--

MS. DOMINGO: We've seen.

COUNCILMEMBER ARAKAWA: --the Police have documented--

MS. DOMINGO: And we've seen many people that do not live on our street. The traffic is heavy.

COUNCILMEMBER ARAKAWA: Okay. But the Police have documented--

MS. DOMINGO: A lot of vans.

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COUNCILMEMBER ARAKAWA: --this as well?

MS. DOMINGO: Pardon?

COUNCILMEMBER ARAKAWA: The Police have documented it and have reports on this as well?

MS. DOMINGO: Um . . . *(sigh)*. . . what we've tried to do is call. But, of course, when we call, then the people are gone. So it's, it's like a cat and mouse kind of thing. We can't really . . . catch it unless we're standing there with the videos. But we know it's going on. People we know live there with children. And I know CPS has been involved. We've been calling them and trying to get something done. And only since the fire, they finally took action and took the girls away from their mothers.

COUNCILMEMBER ARAKAWA: Okay. Thank you.

MS. DOMINGO: So . . .

CHAIR TAVARES: Okay--

MS. DOMINGO: . . . thank you.

CHAIR TAVARES: --thank you. I think we've probably heard enough. . . unless you've got something. . . important, Teo.

MR. ANGEL, FROM THE AUDIENCE: Yeah, I just wanted to . . . *(inaudible)*. . .

CHAIR TAVARES: Come, come on over to the microphone, please.

MR. ANGEL, FROM THE AUDIENCE: Thank you.

**NOTE: *Pause while Mr. Angel reapproached the podium.***

MR. ANGEL: . . . Thank you. Yeah, I just wanted to make a little comment about that pictures that you guys seen. Um. . . two weeks ago, me and my wife went to our property, our ohana dwelling. And my tenant was wondering why their electric bill was over \$300. And so, anyway, we went by and found out that they were stealing power . . . *(laughter)*. . . from our property. This neighborhood, right next door. So. . . here we go, again, yeah, we always catching the . . .

CHAIR TAVARES: Right.

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MR. ANGEL: . . . bills and stuff. And then they didn't have water. And that same day me and my wife was . . . *(laughter)* . . . at the property. . . the people that was living right next door came and just grabbed their couple water jugs. I mean, I pity the, that they have a young child. . . but, you know, we didn't have the heart to tell 'em no don't get the, you know, don't have water. We, we lend 'em and stuff. Really, the. . . fire hazards is very, very important issue to me. Is because if that dwelling burns. . . it's, I can almost guarantee 100 percent my property will burn. Because I've seen houses burn before. There's no way I'm gonna save my property. If that. . . what, what happened to that one, 176. So we really talking serious here. And somebody's gonna get hurt. Probably dies.

. . . So. . . thank you.

CHAIR TAVARES: Thank you, Teo. Any other questions, Members? You wanna recall any of the. . . testifiers back?

. . . Okay, thank you. The testimony on that item is now closed.

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

CHAIR TAVARES: Members, you might have noticed that this is. . . highly irregular--the way this particular. . . item is being addressed. I think that--let me back up a little bit and tell you that in last term. As we were looking at our agenda items that had not been addressed in Committee. . . our Staff wrote to people who had first brought agenda items to us and asked--and, and they quoted the letters--we told them that our intention was to file. . . and that they should contact us if they didn't want it filed. And we did get contacted. And that's why this item was referred to this Council. We had not heard the issue at all in the Planning Committee last year because the Planning Committee was devoted. . . pri, its priority was to finish up the community plans. . . which are still not completely finished. Um . . .

. . . I feel that this has been an item that in the first place should not have been in the Planning Committee. And perhaps if it had gone to another one, it might have been dealt with earlier. But regardless of what. . . happened and how it is, it's before us now. I don't necessarily wanna hear about why things weren't done in the past years. What I would like to hear from the Departments is where do we go from here; how do we restore this neighborhood or help this neighborhood to become restored. And that's what I would like to hear from our. . . I think first we'll hear from the Planning Department to find out what its jurisdiction is; then from Public Works. We also have Fire, and I see. . . Commander Fontaine is in the audience, if, if he wants to come and offer anything, too. . . I'll, I'll hear that. Mr. Kane?

COUNCILMEMBER KANE: Thank you, Madam Chair. And before we, we proceed in that fashion, may I ask. . . perhaps it has, one question.

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CHAIR TAVARES: Sure.

COUNCILMEMBER KANE: And that is . . .

. . . it was mentioned, I guess, through testimony that this was in the Committee of the Whole. So I'm under the impression that at one point in time it was referred out of the Committee of the Whole and put into Planning.

CHAIR TAVARES: I, that's what I understand. I think that's what happened. 'Cause it was two. . .two terms ago that it was in Committee of the Whole. So perhaps with the, the flurry of referring things, you know, at the beginning of the year--like we just did a few weeks ago--it might have been. . .you know, mistakenly thought it should be in the Planning Committee. But it was, nevertheless, it **was** there. I, as Chair, did not take it up because it was not a priority--

COUNCILMEMBER KANE: Uh-huh.

CHAIR TAVARES: --for me. . .because we were doing the community plans. And. . .you know, I apologize that I didn't look into it further. But all we had in our Committee was that first communication and the petition, basically.

COUNCILMEMBER KANE: Is, is there anyway that we could go back and, and find out, you know, go back on the paper-trail and find out the justification for the referral out of Committee of the Whole and into--usually there's . . .

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: . . . you know, along with the request, there's a reasoning behind that, you know, as far as for whatever reason.

CHAIR TAVARES: Right.

COUNCILMEMBER KANE: And, and the other question I would have, maybe--and this is to Corporation Counsel--is. . .because I've seen it happen where we file things from various committees because it was recognized that there wasn't a **legislative** action that was required from it. And, again, because this body is a **legislative** body and not an **administrative** body--which a lot of the public don't understand that and I think we as, because we're here and going through the motions everyday, we have a better understanding of that. But I just wanted to see if that was one of the re, or that's, that was the reason behind the recommendation for filing. . .was because that there wasn't a legislative action. And this is actually from. . .what I'm anticipating is an Administrative function. . .and we're gonna, we're gonna hear for, about that.

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CHAIR TAVARES: Yeah, Mr. Kane, it wasn't **filed** from COW--

COUNCILMEMBER KANE: No, no, but there was a request to file it--

CHAIR TAVARES: Yeah--

COUNCILMEMBER KANE: --and that's my, my. . .that's my point, what--

CHAIR TAVARES: Oh, back in COW?

COUNCILMEMBER KANE: Back in COW--the. . .whether it was a request for filing or was it requested to move to another committee and then. . .through the request for filing, what was the justification for that request. And. . .so that's, I guess, information. If we don't have that now--

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: --I, I, I think it's. . .pertinent for us to understand that so we as. . .as Members . . .

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: . . . can. . .assess that, see if we did something wrong or, you know, or inappropriate, and that we can correct that measure and. . .and act appropriately in, in the future. So--

CHAIR TAVARES: In the future.

COUNCILMEMBER KANE: And that, that's what I'm, that's where my point is . . .

CHAIR TAVARES: Oh, okay.

COUNCILMEMBER KANE: . . . leading to.

CHAIR TAVARES: Actually, Mister. . .Kane, Mr. Nishiki probably can recall. But at the end of the term, at that time when you were COW Chair. . .anything that was still in your Committee was automatically referred to the next Council.

COUNCILMEMBER NISHIKI: Everything was referred to the Council Chairman.

CHAIR TAVARES: Right.

COUNCILMEMBER NISHIKI: I didn't, I don't, I didn't file anything.

CHAIR TAVARES: Right.

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COUNCILMEMBER NISHIKI: I normally don't file anything.

CHAIR TAVARES: That's, that's you, that's his MO. . .Mr. Nishiki. Yeah. Mr. Kawano?

COUNCILMEMBER KAWANO: Thank you, Madam Chairman, Mr. Kane do, do bring up a good point, but as you started off, let's not look. . .we can look at that, but let's try and solve this problem, please.

CHAIR TAVARES: Yeah. We can, we can--

COUNCILMEMBER KAWANO: Thank you.

CHAIR TAVARES: --get that information. We'll, we'll look at this one. Mr. Arakawa?

COUNCILMEMBER ARAKAWA: And. . .uh. . .this, this is an, this is an item that I'm very interested in. You know, I'm actually working on. . .several items like this. I, I'm very curious as to the legislation, the, the rules as to why there's, the legal action isn't taken. I understand that there may be some definitions that need to be corrected within the language. But I know this was something that the Department had addressed. It was in the front page of *The Maui News*. It was a real big thing how the community had gotten behind doing a cleanup. And I, I believe that was an area we thought was, was **addressed**. . .and that's probably why it was mentioned to be filed--because there was some action taken. The follow-up on this and how it's proceeding. . .I think we need to really clearly establish what the rules are, what we can and cannot do. And Corp. Counsel will pay, play a very strong role 'cause what I'd like to hear from Corp. Counsel is when a situation like this happens, what action does Corp. Counsel take, how do we actually take this to the Court system to bring enforcement? The fines that were mentioned on this, you know, on the ability to fine over a period of time, we're talking literally hundreds of thousands of dollars at this point. And at this point, we're not seeing that action being taken. I, I'd like to know the legal ramifications why you can or, or haven't done that work.

CHAIR TAVARES: Mr. Arakawa, I think we'll get to that. If we can kinda go in a, a little bit of the order I was trying to explain a little earlier--that if we can hear from the Department Heads first? And I really would like to start with the Planning Department--go Planning, Public Works, Police, Fire, and Corporation Counsel. And as they do their explanations, we can question, question them or get further information from them at that time--so we're a little more orderly instead of jumping back and forth between and among departments--if that's okay.

COUNCILMEMBER ARAKAWA: It's just that in dealing with several of these already, I think prob, probable. . .the biggest problem is in, with the definition as far as actually taking them to court and having an action.

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CHAIR TAVARES: Yeah. And I, that's why I'm leaving Corp. Counsel for last  
...*(laughter)*...

COUNCILMEMBER KAWANO: ...*(laughter)*...

CHAIR TAVARES: Thank you. Mr. Min, if you would at this time, please. . .share with us now as Planning Director and. . .clarify your role in this particular complaint.

MR. MIN: Yeah, with respect to this particular complaint. . .in looking at the documents, it appears that the two provisions of the Code that. . .have been the basis for enforcement relate to community beautification and the Housing Code. And our Department is not. . .that's not within our jurisdiction insofar as enforcement. So I would defer to Dave Goode, you know, in terms of any specific questions on that matter. Uh. . .so, in terms of our. . .our jurisdiction, again, it's. . .it's more related to zoning issues. Um. . .I'm not personally aware of any. . .investigations on our end relative to compliance or noncompliance with Title 19.

CHAIR TAVARES: Okay. Thank you. Thank you, Mr. Min. Mr. Goode?

MR. GOODE: Thank you, Madam Chair. Uh, if I may, I'd like to. . .to speak for a few minutes--and I'll try to be brief, and I'd like to cover three areas. I'd like to cover, in general, the Community Beautification Ordinance, 9.32, and the. . .the enforcement of it. . .or lack thereof. I'd like to talk about problems that I see specifically with this particular issue as it relates to our Department. And then, finally I'm gonna wrap it up with a, a quick to-do list, 'cause from our side, it's kinda simple. In general, the Community Beautification Ordinance, 9.32, was passed in 1990. To my knowledge, the ordinance was never applied, I'd say, by our Department until about 1997. And there was another case--not this one--but another, I think, where someone came by and mentioned about some junk vehicles and all kinds of trash. And we looked into it and we said, oh, we'll use 9.32, and then our guys in Land Use and Codes said, oh, we've never done it, what do we do. So we kind of opened up the Code book and went through it. Right about that same time, *The Maui News* actually, in their Check It Out item, mentioned that this was going on. And from that date forward, the, the phone started ringing. We have, to date, handled about 30 to 40 of this instances. We have. . .three or four that have never complied. Okay? So I, I just want you to know that ***in general*** 90 percent of these cases have been complied with. Some of them real quick. And some of them like pulling teeth. Uh. . .this one, is by far the worse that I'm aware of. Um, so that, I just wanna give you that, that bit overview. The Construction Inspector, Maynard Cabos, went out there. He spends the majority of his day checking on drainage, checking on driveway permits, working the public right-of-way. And for our inspectors, you know, 9.32 is usually not something that they wake up in the morning all excited about enforcing. Uh. . .let me talk specifically about this particular one. . .in reviewing

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the record. . .and some problems I see. Number one, I don't know why we didn't recognize that we were investigating the same place twice. Even though that first time we had gone through it administrative and eventually sent it to Corp. Counsel for. . .some judicial action, I don't know why our records didn't ring a bell that we were going out to the same place for the second time. And. . .we're just gonna have to figure out why that happened and try to eliminate that from happening in the future. The second problem I see we need to. . .deal with is that we gave these folks two, at least this most recent time, two 60-day notices. The Code says one 60-day notice.

. . . I think we've given two in the past because it's proved to be. . .it proved to work. Uh. . .in some of those other 30, 40 cases, there were a few times where it took, like, a half a year. But eventually they got around to, to do it. And our goal always is to try to get the. . .landowner, homeowner to do the work, not us. And so. . .evidentially, we seemed to have adopted that procedure. But I don't think. . .that is something we ought to continue. And the third thing, and I'm not sure. . .not trying to point any fingers, I have. . .personally, I had no idea it was this bad. In looking at the photos. . .and looking at some of the photos from other places we've cleaned up, they're about the same. I had no idea there were folks living in here with no electricity, no water, other Housing Code type violations. And had I personally known it was that bad, we would have jumped on this much quicker. So finally, to do--well, we've already sent the letter to my Highway's Chief about cleaning it up. No sooner they get that then they had the fire. I remember him calling me, like, the next day saying oh, this place you wanted me to clean up, it was on. . .it was on the front page. Uh. . .it seems that we're fully authorized to do that within the ordinance. So my commitment is we're gonna clean it up right away. And if we can't get it in the next week, I'm gonna call Teo and. . .pay you to do it.

AUDIENCE: . . .(laughter). . .

MR. GOODE: Uh . . .

. . . and finally, we're also gonna double check any other outstanding violations that might be out there. There's. . .it's hard for me to imagine one this bad, but if there's another one out there, we'll find out who hasn't complied. And if we haven't gone in there and used our authority to clean it up, we'll go ahead and. . .we'll go ahead and do that. So, anyway, I. . .just wanna give you a general overview of 9.32, some issues I see we need to resolve in the Department, and then our to-do list which will be. . .pretty quick.

CHAIR TAVARES: Okay. Thank you. Thank you very much, David. So, we, we have your. . .commitment to have this place cleaned up within the week?

MR. GOODE: . . . Well, if I can get out of here quick enough . . .(laughter). . .

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ALL: . . .(laughter) . . .

MR. GOODE: . . . I'm gonna make the call now and see if we can rally the guys for tomorrow.

CHAIR TAVARES: Thank you very much, David. Um. . .Mr. Bal. . .would you like to come down and share with us from the Fire Prevention Bureau's point of view, anything?

**NOTE:** *Pause while Mr. Bal approached the floor.*

CHAIR TAVARES: . . . This is Captain Neal Bal from Fire Prevention.

MR. BAL: . . . Madam Chair and Members of. . .this Committee. Uh . . .

. . . this is, yesterday was the first time I heard about this. I'm not making excuses for anybody, but. . .a lot of times there's policies that are made and. . .there's no teeth in it. And that's what it comes down to--just like everyone of you out there--bottom line, what is it? There's no teeth.

. . . That's all I have to say.

CHAIR TAVARES: Okay. So you were never notified. . .or complained of a fire hazard in this particular area?

MR. BAL: Uh. . .no. I have, we've gone through the records. . .uh. . .for the past couple years. I haven't seen anything.

CHAIR TAVARES: Okay.

MR. BAL: Now, I wasn't in charge--

CHAIR TAVARES: Uh-huh. Right.

MR. BAL: --for the last few years.

CHAIR TAVARES: Right.

MR. BAL: So I couldn't speak for. . .the prior Administration.

CHAIR TAVARES: Well, for the record. . .if there is someone who's concerned about a possible fire hazard in their neighborhood, is it appropriate for them to call you at Fire Prevention?

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. . . Or is it someone else they should be calling?

MR. BAL: No, it's appropriate to call us--

CHAIR TAVARES: Okay.

MR. BAL: --Fire Prevention Bureau. And from there, we go to see just what type it is they're talking about.

CHAIR TAVARES: Okay. Thank you. Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah. I, I'm a little bit concerned about your comment about no teeth. Could you explain what you mean by that?

MR. BAL: . . . It..it seems to me some of the..Codes on the books..for instance. . .just what we've been discussing--I mean, you throw a lien against the property and then..what happens next? Throw some more..fines and nothing's happening.

COUNCILMEMBER ARAKAWA: So from your perspective as, as Fire Chief, if there is a complaint about trash or fire hazard on this particular or..on this or any particular property--in specific this because this is what we're discussing--what authorities does the Department have, in order words, what can you do to rectify the situation? And to what point can you go before you run out of authority.

MR. BAL: Okay, as Fire **Captain**. . .I don't wear the gold badge yet--

CHAIR TAVARES: Yeah, you called him the Chief. You got. . .promoted instantly here.

COUNCILMEMBER ARAKAWA: Well, we can promote him.

ALL: . . .*(laughter)*. . .

MR. BAL: Okay . . .*(laughter)*. . . Um. . .basically, dealing with the brush abatement program for. . .a number of years. . .and the revolving fund that this Council had put forth, we've gone in, we've cited. And under that bill, we've been allowed to clean it up with the funds available. . .in this revolving fund. And people would pay back to it after we've cleaned it up. Uh. . .our funds are sorely lacking right now. And we did a little investigation to find out why. So, well, people just haven't paid it. And. . .so our funds are down to. . .very minimal right now. One job would wipe out our funds available. I'm not out here making a pitch. I'm just saying there's no teeth in this.

COUNCILMEMBER ARAKAWA: So. . .I, I wanna understand this very clearly because it's very important. . .for me as a Councilperson, I'm sure everybody else. The

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reason you cannot enforce this is because you don't have funds in this. . .in this fund to be able to actually pay to get these funds done?

MR. BAL: All I'm saying is that we follow what's in front of us--

COUNCILMEMBER ARAKAWA: Right.

MR. BAL: --and--

COUNCILMEMBER ARAKAWA: And if, if it's. . .the Department can go in and have, hire a contractor to clean it up, you pay out of--

MR. BAL: We have--

COUNCILMEMBER ARAKAWA: --this fund. . .and then you get reimbursed when you bill the, the, the landowners.

MR. BAL: The owners.

COUNCILMEMBER ARAKAWA: And what I'm hearing you say is that there's not enough money in this fund to really go ahead and do this with this . . .*(inaudible)*. . .

MR. BAL: Well, there--

COUNCILMEMBER ARAKAWA: Uncomfortably low.

MR. BAL: There has--yes, that's correct. Yes, because--and apparently these monies have not been paid back and they're outstanding. So how do we get our money back so we can continue our. . .our brush abatement program?

COUNCILMEMBER ARAKAWA: Okay. Thank you.

MR. BAL: I didn't mean to go off on one end, but--

COUNCILMEMBER ARAKAWA: No, no, I, I. . .I think we need to have a very clear understanding as to what the realities are. If that is what the Department is faced with, then we as Council Members need to start dealing with that. It's an issue that we need to deal with. So at the appropriate time, Madam Chairman, you know . . .

CHAIR TAVARES: Right.

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COUNCILMEMBER ARAKAWA: . . . I'm sure we're gonna be working with it. But, I just wanted to have that clear on, on the record. Because I, my understanding is absolute. Thank you.

CHAIR TAVARES: Okay. Captain Bal, can we ask you to send an inspector to these two places and file an official report regarding the conditions there?

MR. BAL: I . . . I sent one yesterday--

CHAIR TAVARES: Okay. Oh, thank you.

MR. BAL: --after I got this notice.

CHAIR TAVARES: All right.

MR. BAL: And there's another one in question that also needs attention, and I'll be--

CHAIR TAVARES: Okay.

MR. BAL: --finding out today.

CHAIR TAVARES: Thank you very much . . . *(inaudible)* . . . some action. 'Cause maybe if we hit from more than one side, we might encourage this person to take responsibility. Thank you very much. Any other questions for Captain Bal?

. . . No. . . from the Members. You, you cannot ask questions. You can see him afterwards. Uh, Commander, do you wanna come down and . . .

**NOTE:** *Pause while Mr. Fontaine approached the podium.*

CHAIR TAVARES: . . . This is George Fontaine, who is the Commander of the Kihei Police District.

MR. FONTAINE: . . . Good afternoon, Members of the Council. As many of you have known me through the years, I've been involved in the Kihei community both as the Police Commander and also very involved in the Kihei Community Association. . . and an advocate of community policing. And I'd like to kind of step back here a couple of steps and explain to you the reason why our prior, prior Chief, Howard Tagomori, went forward with the concept of community policing. And the idea was, was to develop partnerships with the community and also with the County government in doing problem solving. And this kind of problem is the prime example. What happens is is that when the Police Department becomes reactive. . . it becomes an enforcement problem. And in this particular situation, that's what it's become. One part of government hasn't acted. It falls back. The police have to now enforce problems with drugs. We're

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the ones that when all the problems fall back--criminal, whatever--the police are the ones that always end up with having to take care of the problem. That was the reason why we decided to do community policing--so that we became not **reactive**, but proactive. But in order for community policing to work, everybody has to buy into it. It can't be just the police and the community. It has to be every aspect of government. My only recommendation in this particular situation, what I would make, is that I'd say that this government needs to work more closely in partnership with the other organizations. We all have to be on the same page and we have to streamline this process so that we can act accordingly and responsibly to the community that we serve. I think the situation with this, with these two girls being burnt is a prime example of that--of our ineffectiveness in being able to react. I was very touched by your testimony. Uh, it's been very frustrating for my officers. Officer Hickle works for me. Officer Knoepfel did work for me at the time. We've put a lot of energy into do, going out and doing the drug rally and doing our part. But we can't enforce Building Code, we're, that's not our jurisdiction to do that. We can't do everything. And so I think what Mr. Cancel suggested, about looking at ways that we can develop a policy within the departments to streamline this--when we get complaints dealing with health and safety at this magnitude. . .this should be fast-tracked, we should be acting immediately. My community police officers or myself or whoever. . .Fire Department, everyone should meet and get this thing going. Anything beyond 30 days is just not acceptable. So that's all, really, the comments that I have. I can say that we will continue to fight our efforts and do--we have other areas that we've noticed, on Walaka Street. . .there are some other, other areas up by Mehani Circle. We're seeing problems with homes that are being foreclosed on, that banks are sitting on and not occupying and not taking care of properties. Kids are going into those properties and doing drugs and other things. Empty homes, homes in these conditions become perfect havens for drug activity and all other kinds of illegal activities. And unless we act and we work on it--Police respond, Fire, Vector Control, everybody comes in, we work as a unified team. . .and not let this football drop on the ground again--that's the only way it's gonna work. Thank you.

CHAIR TAVARES: Thank you, Commander. Any questions from the Members?

COUNCILMEMBER NISHIKI: Question.

CHAIR TAVARES: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. You know, the, the, the concern that I have is when you went in and saw there was drug activity, have there been any busts made in that area?

MR. FONTAINE: Yes, we actually had. . .there have been several raids on Namauu Street--where the Vice Department came out. Not only in those areas,

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but also in other homes on that street where there were vice raids done. And there, there, this is a known problem, a known vice activity area that we've been doing it. But. . .again, we're, we're dealing with an environment issue, we're dealing with an environment that condones this kind of activity. And that's why the activity is present. We can't. . .be reactive and just simply going down. We have to do other things with the environment to change the activity that's going on.

COUNCILMEMBER NISHIKI: There was no way in which you could have confiscated [*sic*] the, the, the property itself, if you know that there is drug activity being done?

MR. FONTAINE: I know that we do do. . .civil forfeitures on, on properties. I would have to defer that to the Vice Commander--to ask them where they are with that, if there was any, you know, confiscation done or, or civil forfeiture done on any of those properties. I do not believe that any of the properties that we're talking about today, none of that has been, has been done.

COUNCILMEMBER NISHIKI: So despite that we've heard communities say that there is still drug activity there, there is no way that the Department can get a grip on it?

MR. FONTAINE: We're doing our best efforts, sir. But. . .it's. . .with what resources we have, we can only do what we can do. And. . .again, it's. . .it's a problem of not just an enforcement issue problem. It's a problem that relates to all of the other activities that are going on in that neighbor to, to do. And I, I wish I had the resources to put a police officer on that street 24 by 7 to curtail this activity. I just don't--

COUNCILMEMBER NISHIKI: Have they been--

MR. FONTAINE: --have that--

COUNCILMEMBER NISHIKI: --prosecution done on the, when you apprehended these people?

MR. FONTAINE: Again, I'd have to defer that to the Vice. I didn't bring that information today, but I could find out.

COUNCILMEMBER NISHIKI: Have these people, are these people, any of these people that you know of repeat offenders?

MR. FONTAINE: I, again, I would have to, to defer to the Vice Commander. He would know. He would have specifics about who the responsables were in that area. But I understand that there have been occasions where there've been two or

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three complaints against the same individuals in that neighborhood, that have been involved in dealing drugs, and, and informants who have come forward and said that this type of activity is occurring there.

COUNCILMEMBER NISHIKI: You don't have any power--whenever a household is discovered to be . . . a place where drugs . . . are being sold--to go in and contact that owner. . . or whomever is responsible?

MR. FONTAINE: Normally when we get a report of, of drugs being sold in a, at a, from a particular location or from a house or a building, we would use either informants or an undercover officer or, or some investigative means to develop probably cause to go in--either to make an undercover purchase, to go in and make observations that are, drugs that are there--so then we could go to court and get a search warrant and go in and, and execute a search warrant on that property or that person or whatever the case may be. Okay, I know that those types of things have been going on in that neighborhood. As it relates specifically to those two properties, I cannot tell you for certain. I would have to ask the Vice Commander as to what specific investigations he did, he was doing down there.

COUNCILMEMBER NISHIKI: Yeah, I guess my concern is how long have you known? It seems like by . . . some of the testimony here, you've known a long time that this house was a drug area. In fact. . . the community organized and did an effort. So . . . if it's been going on for so long, are these people that arrogant that it, it continues or is it because we do nothing?

MR. FONTAINE: It's actually a combination of both, sir. Um . . . actually what's happening is is that because nothing has happened with the property owner, we go in, maybe we make an arrest, maybe we put people that are there in jail. Other people come into the property that are doing the same type of activity. The environment just continually perpetuates that type of activity in the nature that it is. So whether it's the same tenants or different tenants or other people that are coming in or coming out of that property. . . it's, it's the same thing. It's the environment in which it, in which the activity is taking place in.

COUNCILMEMBER NISHIKI: . . . Has this been, this place been known for a gang activity, also?

MR. FONTAINE: Yes.

COUNCILMEMBER NISHIKI: Because I read with . . . and what has been done in regards to that?

MR. FONTAINE: Again, we've been doing what we can to do on an enforcement level. We have organized and worked with our community police officers in identifying

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people that are involved in this type of activity. The efforts that--what Officer Knoeppel has done, what Officer Hickle has done subsequently after Officer Knoeppel left--to work with the residents as best as we can; working with other members of the community to identify these problems and develop information and develop strategies to deal with these particular issues. But, again, we're, you know, it comes down to we can do all of that, but we really need to take. . . a **complete** approach to it. It can't be a Band-Aid approach. You have to look at the approach in an entire, in its entirety. Not only do we have to have law enforcement involved in dealing with the, the problems that are occurring in terms of crime, but we also have to deal with all the other issues that are in violation as well. Dealing with it in its totality is what the solution is.

COUNCILMEMBER NISHIKI: . . . Has any members of this gang been apprehended?

MR. FONTAINE: I know that there have been members of the gang. . . that we were aware of. There have been several members that have been arrested for other types of crime--such as burglary. . . theft. . . in the, in the surrounding areas of activity that they've been involved in.

COUNCILMEMBER NISHIKI: And to your knowledge, is this gang still operating yet . . .

MR. FONTAINE: I--

COUNCILMEMBER NISHIKI: . . . in the area?

MR. FONTAINE: I believe it is.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR TAVARES: Thank you. Any other questions? Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah. . . um. . . from what I'm understanding, the way you're, you're phrasing it is you, the officers on the beat have a certain jurisdiction. Then, if there's drug involved, you put it up to another area of the Police Department?

MR. FONTAINE: Basically, the Police Department is broken up into. . . you know, different roles. The area of my responsibility is primarily the Patrol Division, which is the primary responder. When you pick up the phone and you dial 911, Patrol Officer's the ones that respond there and take the case and do the preliminary investigation. Normally if we're dealing with something that, that requires, you know, an ongoing investigation--like, for example, if somebody does call up and say, well, there's drug activity going on, we'll send a uniformed car by to check. We'll do what we can. If we do any observation, we'll try to identify who people are in that particular area. We'll try to gather as much

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intelligence as we can as a uniformed officer. But then, normally after that, it's re, we'll refer it to, like, the Vice Section where they have investigators who specialize in doing drug investigations. . .where then they can bring in all of their tools to bear--such as undercover officers, confidential informants, be able to go in and do stakeouts, maybe be able to go in and do buys, all of these things. Our role in Uniformed Services is not that. We're, we are basically the primary responders.

COUNCILMEMBER ARAKAWA: And as uniformed service in, in the area. . .you have adequate staffing to be able to do what you need to do in these areas?

MR. FONTAINE: No, we don't.

COUNCILMEMBER ARAKAWA: Could you explain what, what you feel you should. . .be having there?

MR. FONTAINE: Well, first of all. . .our patrol services, in general in the Kihei area, are, are tremendously lacking. And I've testified numerous times in Budget hearings regarding that. We're basically staffed right now for three beats in Kihei--which goes from the tunnel all the way to La Pérouse Bay. When in actuality I'm trying to staff five beats. . .is what we really need. We have a larger population and more crime than Lahaina, but yet we only have three authorized police beats in the Kihei area. It's a huge area. It's 45 square miles. We have--including the tourists--probably 50 to 60 thousand people living in the Kihei area. We're doing what we can with what we have. So we are understaffed on the patrol side. I do not have a Vice Officer specifically assigned to Kihei; nor do I have a Detective assigned to Kihei; or a **Juvenile** Officer in Kihei. Those resources come out of the Wailuku station. They take care of all of Central Maui. And we're handled on a case-by-case basis. So I have none of those support structures available in, in, in my district at all. So we have to rely on District 1 or the Central District to come out and support us in that manner. So, and yes, in terms of staffing, we have no support staff in that regard, and our patrol staffs are. . .are quite limited.

COUNCILMEMBER ARAKAWA: Is there a number that you would put to. . .the law officers--

MR. FONTAINE: Right now, they're--

COUNCILMEMBER ARAKAWA: --that you're short?

MR. FONTAINE: They basically, in order for us to even keep our heads afloat with what the level of work that we have right now, we need five beats. And. . .which is 12 officers. We need 12 additional officers in our patrol division right now in Kihei just to keep our heads above water and what, the type of work that we're doing. The workload assessment that I just completed in December is phenomenal.

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These officers are working, like, two to three times harder than any other police officer in this County. It's incredible. . .the amount of work that these guys do. And. . .there's, it's really miraculous what they do--

COUNCILMEMBER ARAKAWA: I have--

MR. FONTAINE: --with what we have--

COUNCILMEMBER ARAKAWA: --another question. Yesterday, when we were talking. . .Brian Miskae was committing to a new fire station and he all. . .you know, we're making the point that we need to have a new **police** station in that area. Is that something as the. . .the Commander of the, of that area, you think you can use--is a, is a full-on police station where you would have all that support. . .*(inaudible)*. . . there in Kihei? Do you think you warrant that in that area?

MR. FONTAINE: Oh, definitely. Right now we're operating out of a shopping center. . .which is barely adequate for what we have in terms now of staffing, but allows for no expansion. We need a permanent facility out there. There's no question. The way that the growth is happening in South Maui. . .no question we need that.

COUNCILMEMBER ARAKAWA: Well. . .then, perhaps during this budget session we'll discuss that with. . .the Administration and see if that's a possibility. Because in the Community Plan I know we, we were discussing police, fire, ambulance service. So. . .we'll bring it up. Thank you very much.

CHAIR TAVARES: Thank you. Any other questions for the Commander?

. . . Well, thank you very much for being here, Commander.

MR. FONTAINE: Okay.

CHAIR TAVARES: Members, I'm gonna take a ten-minute break. And we'll reconvene at 5 after 3. . .*(gavel)*. . . Recess.

**RECESS: 2:57 p.m.**

**RECONVENE: 3:10 p.m.**

CHAIR TAVARES: . . .*(gavel)*. . . Member. . .Members, I'd like to reconvene the meeting.

. . . We have the same Members here, except. . .Jo Anne Johnson, now, has been excused.

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**NOTE:** *Silence.*

CHAIR TAVARES: . . . Okay, at this time, we'd like to pick up our . . . process with hearing from the Department of Corporation Counsel.

**NOTE:** *Silence.*

MR. MINATOYA: . . . Well, I guess first of all, I'd like to apologize for the fact that this item had somehow slipped through the cracks. When I left the Prosecutor's Office two weeks ago and joined the Corp. Counsel's Office. . . about a week and a half ago. . . Code enforcement items were assigned to me. So, basically, it'll give you a perspective of what. . . I'm faced with at this point in time. I have two sets of files--one set of files that were. . . that were pending when I joined the Department. Those files have been sent back to Public Works for reinspection. Okay, and, and the status of those. . . at this point in time is if the inspection comes back and the inspectors say the violation still exists, then we'll proceed with filing a suit for injunction to abate the Code violation; and secondly for collection of damages, that is, of course, the civil fines. The second type of files that I have are the new ones that are come, that, that are coming in. With those files. . . the standard right now is I send 'em a letter, I give 'em 15 days. . . to pay the fine and to correct the problem. If those problems are not corrected within those 15 days and the fine is not paid. . . then, again, we file a lawsuit. . . for an injunction to abate the, the Code violation and also for collection of the fines. With regard to this matter, because it's already. . . been inspected and will be corrected, I'm told tomorrow or shortly thereafter. . . once I receive the. . . amount or the, of the cost to correct the problem for, for the County to go out there and correct the problem, I'll incorporate that with the fine amount and we'll be filing a suit to collect those amounts. At this point in time, we are taking a stance that we will be--since I've been assigned these matters--that we will be aggressive. We've already filed a lawsuit yesterday against another violator. And I'm in the process of starting a second suit against a second violator. So everybody's on notice at this point in time that if you are violator, we haven't forgotten about you and we will be coming after you for. . . the fines and for correction of any Code violations.

CHAIR TAVARES: . . . Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah, Richard, in this particular case, are you going after the full, full amount of fines, which is. . . what, like, several hundred thousand dollars?

MR. MINATOYA: With anything. . . with any lawsuit involving monetary amounts. . . those amounts, of course, are always negotiable. If there is a. . . a settlement that is, or settlement proposal that's advanced, that, that we may think is reasonable, you know, we may accept that amount. On the other hand, if we,

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if there, if there is no cooperation from. . .the violator, then. . .definitely we will be pursuing the entire amount due.

COUNCILMEMBER ARAKAWA: Okay. And. . .in understanding. . .what you guys are doing, do you have any trouble with the language within the count, within the Code, 9.32?

MR. MINATOYA: As far as I'm concerned--

COUNCILMEMBER ARAKAWA: Definitions.

MR. MINATOYA: --and in my review of looking at it, I don't. . .have a problem with enable of, with it enabling us to. . .recover the amounts expended by the County to. . .abate the problem. I don't know if. . .Mr. Moto has any other concerns as far as the, the language of the. . .ordinance itself. But as far as the collection of the amounts due and owing, I, I don't see any problem with that.

COUNCILMEMBER ARAKAWA: Okay, because I, I know that in the past when this, this particular situations have come up. . .and on the KTA, Kahului Town Association Board as well. . .so we've pursued some of these projects.

. . . We, we've been given the excuse that the definitions within the, the language of this Chapter are very difficult to enforce in, in Court. And I'd like to know, you know, if there's a problem with that, perhaps we need to re, revisit some of this. For instance, unsanitary conditions, the definition for unsanitary conditions. . .um. . .whether you can enforce that in Court or not. I mean, there, there are. . .different. . .definitions, for instance, what somebody considers valuable and what somebody considers trash. Uh. . .how do you, how do you do that in Court? And I think if those kinds of questions are there within the Prosecutor's minds, within, within your office, we need to start revisiting that. Because you know, if I as a homeowner, you're trying to enforce against me and I'm saying well, my '52 junk back there is, you know, to me it's a piece of art. . .and you're saying it's trash, and if that is the kind of thing that becomes a conflict, then it could be a problem within the Department. So what I'm trying, what I'm trying to get to is if there's things that need to be redefined, perhaps we need to be discussing some of those things.

MR. MINATOYA: As far as. . .my review of the, of the County Code at this point, I don't see any. . .problem with the language. You know, with the problems that you've described--as, you know, like the '52 Chevy or whatever, I think the bottom line is what is reasonable. And reasonableness is, is the key. And if we can prove that what you have in your property is **not** reasonable--it's not reasonable for your community, it's not reasonable for your neighbors to, to see everyday--then definitely, I think, you know, we, we will prevail. Likewise, if it's, it is, it is

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reasonable, then we would have a problem. But . . .until that time comes, at this point, I don't see any . . .problem with the language of the ordinance.

COUNCILMEMBER ARAKAWA: Okay. And, and I, and . . .remember, I'm bringing this in light of . . .discussions we've already had. I've been trying to run some of these things through your Department. So when we have situations like this, I'm gonna . . .you know, you're telling me to rest assured that this is not a problem with the language. And I will assume that that's accurate.

CHAIR TAVARES: Mister . . .Arakawa, I, I think what I'll do is I'll write a letter to Corporation Counsel, asking them specifically about any problems they've had in pri, prior cases with definitions in this particular Chapter. And then we'll let them research what's happened in the different cases. Maybe I'll send that to the Prosecutors, also--if they've had any problems prosecuting because the definitions have been deficient.

COUNCILMEMBER ARAKAWA: Okay, that, that's . . .essentially what I'm trying to get to--

CHAIR TAVARES: Okay.

COUNCILMEMBER ARAKAWA: --if there's a, there's a correction that needs to be made, then . . .let's look at it.

CHAIR TAVARES: So why don't we do that, Staff? I'll send a letter both to Corporation Counsel and to the Prosecutors Office--

COUNCILMEMBER ARAKAWA: Thank you, Chair.

CHAIR TAVARES: --to Prosecutor Bissen. Thank you. Mr. Molina?

VICE-CHAIR MOLINA: Thank you, Madam Chair. Questions for the Corp. Counsel. . .if these people cannot pay these fines, what is the next step? Are we looking at . . .confiscation of the property or . . .possible jail time or anything of that nature?

MR. MINATOYA: Um, you know, unfortunately debtor's prisons have been done away with . . .(laughter) . . .

VICE-CHAIR MOLINA: Yeah . . .(laughter) . . .

AUDIENCE: . . .(laughter) . . .

MR. MINATOYA: The remedy that we would have would be to attach the property, as in any other civil done, judgment, and have the property sold.

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VICE-CHAIR MOLINA: Thank you.

MR. MINATOYA: And attach any other income. . .assets, so forth, of, of the debtor.

CHAIR TAVARES: Councilmember Carroll?

VICE-CHAIR MOLINA: Thank you.

COUNCILMEMBER CARROLL: . . . Talking about. . .thank you, Chair. David suggested that they'll be going over there very shortly, maybe even tomorrow, but as soon as possible to clean up that area. However, nothing was mentioned about--unless I missed it--about the people living in the home. So these people are gonna still be there, right? I mean, you, you, I don't think we can throw them out, I don't know any way to do it. And. . .that's nice, I mean, it's really good we're cleaning it up, we're--

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER CARROLL: --solving the immediate problem and giving some relief to the community. However, we still have a home over there without electric, without water. . .with, probably, too many people in there. And are we going to address it today?

CHAIR TAVARES: I think so. Mr. Carroll, one of my, one of the people that I didn't call in, that I think we should have was the Department of Health. But I think we can write a letter or. . .we can write a letter, but we'll call first to let them know of the situation. I wanted to, in that line, ask Mr. Goode. . .your inspectors go in, if they find out that there's no electricity and water, can they revoke a certificate of occupancy or deem the dwelling in, inhabitable?

MR. GOODE: Uh, Madam Chair, the, if I recall correctly in certain sections of Title 16, the Building Code. . .and I believe . . .*(inaudible)*. . . the Plumbing Code. . .maybe Electrical Code--if you don't have . . .*(end of tape, start 2A)*. . . uh--

?: . . .*(inaudible)*. . .

MR. GOODE: --if I recall correctly, we can give something on a very short notice, almost like 48 hours. . .to correct. And then. . .I believe there's some action for actual eviction. And the Department of Public Works is not good at evictions. It's not something that we. . .are even **trained** to do. And even in the case tomorrow, we're rallying the guys to go out there and deal with that issue, we're gonna have the Police Department come with us because I don't feel comfortable sending my men in a situation like that. . .without some kind of police escort. We're going on private property. We've got the added difficulty trying to figure

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out, well, what are they supposed to take and what are they not supposed to take.

CHAIR TAVARES: Uh-huh.

MR. GOODE: So it's, it is. . .it's difficult at best, but we will investigate under the applicable sections of Title 16 as well.

CHAIR TAVARES: Thank you, Mr. Goode. Mr. Carroll, I will make a call to the Department of Health today if we get out in time. But at the latest, tomorrow, to alert them to this and, and perhaps they can send their health inspectors out and somehow address. . .some of the human needs in that, in those two dwellings.

COUNCILMEMBER CARROLL: Thank you.

CHAIR TAVARES: Okay. Mr. Kane?

COUNCILMEMBER KANE: Thank you, Madam Chair. Um . . .

. . . one of the. . .one of the issues that was mentioned that it's kinda picking up a, a common thread . . .(laughter) . . .

. . . And, and I, and I. . .respectfully ask my colleagues to forgive me. . .but . . .

. . . I guess part of, or some of the problems that I, in my mind I. . .I can identify is that when we start dealing with discretionary authority without proper authorization to have that discretionary authority. . .it tends to lead to these kinds of things. As an example, Mr. Goode made his comments. . .that instead of the one notice of 60 days, they adopted a policy of sending out two notices at times. Whereas, the Code calls for one notice. And they took, they made it, and they took it upon themselves--without any type of proper authorization, which I believe comes through this body--of getting that authority to make that discretionary decision. Now, I'm not saying that lead to what, what ultimately happened, but things like that. . .I think is what creates problems that can be. . .avoided if we just follow what the rules are. They were put there with a lot of thought--the County Codes, State HRS, the. . .United State Constitute, I mean, everything. These were put together with a lot of thought and they were done for a reason. And it's, I guess it's scary when we start talking about because of these tragedies that occur, that people come to the conclusion that we need to change things. Well, maybe we need to step back for a moment and really think about that. Maybe we just need to identify *why* it ended up. . .to that particular result and, and identify what we could do better in refining ourselves rather than changing things. In this case, we need to look better, the Administration needs to look better at it--as far as making sure that they're not overstepping their bounds without proper authorization for doing things. So that, that's one point. It's

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difficult for me to--and this why I'm . . . I'm asking. . . my colleagues to pardon me, but I, it's . . .

. . . I've repeatedly made comments regarding the Sunshine Law in allowing things that are not germane to a topic to continually be discussed. As an example, on today's agenda we're talking about PC-13. It specifically shows in the description and the status that the Committee will discuss this item with representatives of the Public Works and Waste Management and the Department of Corporation Counsel.

. . . And yet we allowed Police, Fire. We allowed lines of questioning from colleagues. And, again, this is something that's discretionary that can lead us away or distract us away from coming to . . . a conclusion or resolve to this. And . . . if I wanted to be a real hard-nose, I would have been going point of order, point of order. . . and, and I think that would have been really insensitive of me to do that because of the situation. And sen, and again that's why I'm kind of like apologizing for doing this, but . . . it's, it's almost rampant going on. And it, whether it's intended or unintended or we're, we're. . . not conscious of it, that's why we encounter a lot of these problems. And all I'm asking is that for, for people in this room--and I'm not trying to place myself any better or any worse or more conscious or less conscious--it's just something that I'm identifying with and I'm hoping that other people can see if they can identify with that and see if that is, in fact, an issue. And if it's not, then maybe it's just myself and I, it's just something I'm picking upon that. . . you know, I'll just have to deal with it, it's not a real problem. But I do, I, I see it as a problem. And I'm just hoping that . . .

. . . my colleagues . . . *(laughter)*. . . especially since we have to live with each other for the next two years, you won't get it, upset with me if I start bringing forward these types of issues and making sure. Because when we have rules. . . like the Sunshine Law and posting agendas. . . a lot of people out there may not have known that we're gonna talk to the Police and to the Fire, and, and to other people because it was specifically posted that we were only gonna talk to David Goode and we're only gonna talk to Corporation Counsel.

. . . And yet there were lines of questionings that I think other people may have wanted to participate in. . . but because it wasn't posted, they didn't think it was relevant for them to come down here 'cause they couldn't talk to . . . Lieutenant Fontaine or okay, I'm sorry, I think it's Lieutenant Fontaine who came down. I, I'm sure there's people out there who, because he's so active in the community in Kihei, that they may have wanted to come down and said something to him on, on record. So that's the kind of things that. . . uh, I'm just hoping. . . that. . . to my colleagues, I hope that you folks can, can try to understand why I make it such an issue. Because here's a perfect example.

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. . . Because of discretionary decisions being made without any type of authority within a government system. . .you know, it leads to problems. And it's rampant.

. . . And I'm gonna continually point it out if I have to. . .whether people think I'm off the wall or not. Because I really truly believe that it's an issue. And I'm, so, so I'm hoping. . .you know, I'm hoping that. . .to my colleagues, that I hope that you folks consider that. And, and Madam Chair, thank you for. . .that--

CHAIR TAVARES: You will get back to the subject now?

COUNCILMEMBER KANE: Well, I wanted to make sure. . .well--

ALL: . . .*(laughter)*. . .

COUNCILMEMBER KANE: --to me, it *is* the subject because you're saying we're trying to find a, a resolve to this.

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: Okay, so I'm identifying a problem. I'm identifying what I think. . .as a Member, what I think is one of the problems. And so, to me, it is very germane to the topic. I think it's germane because you're over, you know, the request is we're not gonna take action, we're not expected to take action on this item. . .but the Committee will seek to, seek input regarding ideas and strategies to improve the--excuse me, I'm on the wrong side. Uh, Committee will make, consider other related action. Well, in this case, I'm trying to suggest on some action that. . .we need to look at this, we need to make sure that we're doing it. . .that we're looking at what are the real problems. . .and then we can move to resolve it. Finally, Madam Chair, although you did allow. . .the Police and Fire de. . .to come in, and Mr. Molina brought up a question when, when. . .Fire Captain Neal Bal came down, he made the comment of no teeth with regards to the ordinances. And, and Mike touched on it, Councilmember Molina regarding condemnation--I guess it's kind of our ultimate authority to go in. I mean, a proactive approach--hypothetically is. . .and I mentioned this to one of the Members. . .in recess--one of the. . .one of the proactive approaches is the, the, we have the authority to go in and condemn this property. Now, if there's all these liens and monies against it and we find out what an appraised value of it and we find, find the net and we end up paying that amount because they already owe us this money. . .and we net it out and we bulldoze that area down and that's a cost to the person who owns the property, and we go in there and spend "x" number of dollars to put grass in there and make a passive park. . .voila! Now we have a proactive. . .approach to it--which is not our job, all we do is, as a legislative body, we authorize that kind of thing. So, again, I'm just throwing that out because we want, you want answers? There's one. . .right off the top of my head. And I mean, I'm sure everybody else

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may have some sort of . . .comment to that. I'm sure that the people on Namaau Place would consider that as well as other ideas for them to consider and come forward and approach the Administration, who's responsible for the enforcement of these laws and Codes and. . .all these things.

**NOTE:** *Silence.*

COUNCILMEMBER KANE: . . . Thank you.

CHAIR TAVARES: Yeah. I, I think that what we. . .we're trying to establish here is a process by which we will resolve this particular condition in the neighborhood. And should we get to the point that we're talking. . .or maybe the Prosecutors or Corporation Counsel may come to us and request condemnation. But that will be an action by the Council. And so that's one of the, you know, one of the remedies that is affordable, afforded to us on the **extreme**. On that side extreme--

COUNCILMEMBER KANE: Uh-huh. And, Madam Chair, and I, and just one, and real short is. . .I think it's appropriate that if it's identified that this body doesn't have a legislative action. . .on this agenda item for today, then I think it's appropriate that we file it. The idea is whenever we get communications to us, I think it's incumbent upon us--and maybe we need to review our. . .process--is that whatever comes to us, we need to take care of it somehow whether it's. . .and you've talked about this before. Whether it's. . .doesn't even have to be on the floor. . .we. . .calling the person, responding, pointing them in the right direction. Or. . .what it took here is putting it on the floor for discussion. . .and from what I'm seeing so far, there is no legislative action involved. And that's our jobs--is a legislative action. And if there's no legislative action, where we are at this point. . .then I think it's appropriate that it can be filed. Anyway, and that's just my two cents. And--

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: --I know people may get upset, and a lot of people came down here, charging down here because, you know, we're not doing our job. Well. . .you know, we're, what we can do is communicate with the Administration and we can work together with the Administration to come up with some of these answers. But ultimately the Administration is the one who's gonna implement--just like how David is gonna instruct his people go down there and clear it, and Corp. Counsel and they're gonna deal, do their part of it--we have our part. And our part is. . .putting it on here, on the floor, putting it on record so these people have an opportunity to come forward and speak their mind so we know and we've remained attached to them and not detach ourselves by filing it and not doing anything about it and kinda hoping it goes away.

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CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: You know, and that's the perception. The perception is that . . . *(laughter)*. . . we tucked it under the rug and it, it's gonna go away. And it didn't.

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER KANE: This time.

CHAIR TAVARES: I think, Mr. Kane, when we discuss the . . . Council Rules in your Committee, would be the time to discuss what things come to the Council . . .

COUNCILMEMBER KANE: Thank you.

CHAIR TAVARES: . . . and what gets referred. I think for now, we have some actions that the different Departments are going to be pursuing--that I hope will . . .

. . . solve this problem, hopefully immediately if we can get Public Works out there. And, and for everyone, I know that it's hard for the folks who are living here at Namauu Place because it has been such a long period of time that this has not been adequately addressed--it's hard to say that we have processes in place to protect everyone. And, yes, it does take a longer time. But that length of time is to ensure that things are done properly and people's rights are not infringed upon. Saying that, Members and Mr. Kane, with your permission . . . *(laughter)*. . . I would like to actually refer this item to the COW committee and have . . . progress report provided in . . . let's say . . . maybe two weeks . . . is that sufficient for all the Departments? Public Works?

. . . Corporation Counsel?

. . . Two weeks is okay. . . just to give us a status update on what's happening so it will be in the record? And . . .

. . . refer this to the Committee of the Whole where it actually, I think, does belong, rather than in the Planning Committee.

COUNCILMEMBER KANE: . . . *(inaudible)*. . .

CHAIR TAVARES: Mr. Kane?

COUNCILMEMBER KANE: Thank you, Madam Chair. And so just for clarification, you wanna refer to COW. . . in COW to provide, when we bring it up as an agenda item, to review the status report--

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CHAIR TAVARES: Right.

COUNCILMEMBER KANE: --is what you're saying?

CHAIR TAVARES: Uh-huh. Yes. Yes.

COUNCILMEMBER KANE: . . . If, if that's the will of the body, I have no problem with that.

CHAIR TAVARES: Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yes, Madam Chairman, and at the same time, I would request. . .from Corporation Counsel. . .an idea of what their action is gonna be, or has been. . .as, as far as. . .the fines that they are being liened, how they're, I mean how they're gonna be able to do. . .how they're gonna do that. Uh. . .in, in the discussion we have today, I think one of the things that's very critical as far as how we address situations like Namauu Place. . .we need to be very cognizant of the fact that. . .in the way our rules are structured and the way we have done enforcement in the past. . .we have, we've taken positions in the County where we have laws on the books that we've deliberately chosen not to enforce. Um. . .and we've been reviewing some of those laws. So in this particular case, we need to be able to very, be very cognizant of the fact that, you know, there needs. . .there needs to be some leeway for people that are actually. . .making attempts to make the corrections with, and the Department needs to have that freedom. Um. . .so this particular topic and how we address it, is, is very critical in not over-doing it, not going overboard and trying to get the enforcement part done, but also be looking at this as a case-to-case basis as to how we're gonna be handling cases like this. I think that very critical, too. 'Cause I don't want the Departments to all of a sudden start going overboard and going anything that comes up that's, that's different, you know, you don't have any discretionary power, you cannot think, you cannot create. . .discussion with whoever the. . .people are and work on ways to do this. Uh. . .you know it cannot be so strict that you can't take, the department can't think. And I think they've made some decisions as far as giving double notices. And I think in a lot of cases, that's proper. If. . .90 percent of so, as they're saying. . .the cases actually resolve themselves over time and we don't have to take legal action, that's really good. It's just those few percentages that don't take the action and we have to come to this point that we have to deal with this. But for the most part, I think, the Department actually has been really well conceived and they've been getting the proper responses. Thank you.

CHAIR TAVARES: So what other information is it that you want Corp. Counsel or Prosecutors to include?

COUNCILMEMBER ARAKAWA: I wanna know how they're gonna handle the fines.

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CHAIR TAVARES: The fines?

COUNCILMEMBER ARAKAWA: How they're gonna handle fines and whether or not there's. . .definitions that need to be changed or need to be worked on.

CHAIR TAVARES: Okay. Richard, we'll include that in our transmittal to you, too.

COUNCILMEMBER ARAKAWA: Thank you.

CHAIR TAVARES: Thank you.

COUNCILMEMBER ARAKAWA: And, by the, by the way. . .just background information on this--I believe what happened when I was Planning Chair. . .this, this was two terms back before you got it, toward the end of the term, we were running out time.

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER ARAKAWA: And we were doing the community plans in Kihei. Um. . .so everything that had anything to do with Kihei was thrown into the Planning Department . . .*(laughter)*. . . Planning. . .Committee. And this was one of those that was thrown in. But there was an action that the Department was gonna be working on this, so we didn't schedule it.

CHAIR TAVARES: Okay.

COUNCILMEMBER ARAKAWA: That's how, I think, it got there.

CHAIR TAVARES: Uh-huh. Thank you. Okay, Members, any further discussion?

?: Yeah.

CHAIR TAVARES: Mr. Molina?

VICE-CHAIR MOLINA: Thank you, Madam Chair. One last thing--I guess the school teacher is coming out in me--just a quick review about what each Department is gonna do so these people who came from Namauu Place can go home with some sort of resolution today towards this problem. My understanding--Public Works. . .with the assistance of the Police will go to the property and do what needs to be done there; the Fire Department will send out their inspector and come back with a report with regard to the fire hazard; and the Corp. Counsel will be filing the lawsuit or already, may have already have with regards to one of the violators. Just, just so they know, you know, they've taken their time here to--

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CHAIR TAVARES: Uh-huh.

VICE-CHAIR MOLINA: --express their concern, you know, no neighborhood should have to go through this.

CHAIR TAVARES: Yes--

VICE-CHAIR MOLINA: And . . .

CHAIR TAVARES: --I agree.

VICE-CHAIR MOLINA: . . . I just want, want that made clear for the record. And, you know, thank you on behalf of my fellow colleagues for coming down here and letting us know about this.

CHAIR TAVARES: Okay. Thank you. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. Just so that--we, we went and got some records because some people were asking about how this whole item was sent. So I just want it real clear on the record. . . I think in October of '98, a letter was sent to then elect Mayor of Maui County Linda Lingle from the undersigned petitioners. In November of '98, this referral was then sent to the COW. In November. And this was. . . near the end of the term. So the topic never got discussed in '98 in the COW. After that. . . and, and as other, as I told you, I **never** file anything. So this referral was then sent to the Planning Committee in the term of January of '99. So that those of you that wanted to track this communication, that's how it was done. Thank you.

?: Thank you.

CHAIR TAVARES: Okay, thank you. And I think also what we learned from this experience of filing was. . . that before we file something for sure, that we contact the people who originated the, the idea or the problem or the concern--letters are sent to them, giving them an opportunity to respond. And I see two people in the audience regarding two different items that were scheduled to be filed that have not been filed because they wanted them to be discussed in the next Council. So I think this was an attempt to let people know what's happening and give them an opportunity. And please realize this is our first meeting of this term. And we've scheduled it first so that we could give it just, just some attention that was sorely needed. I think you for your patience, people in the Namauu neighborhood. And I think we're gonna see some positive results now. Mr. Kawano?

COUNCILMEMBER KAWANO: Thank you, Madam Chairman. I, I at one point thought you couldn't see your desk. But. . . I just wanna say one thing, Madam Chairman,

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this morning when I came in and I was looking at your agenda--and I, I too felt how in the hell did this thing end up in your Committee--but I'm glad you brought it up. Because I think all over Maui County we have problems like this, Madam Chairman. And I'm glad we bringing this up because I'm, I think that there's lot of people who'll be watching this and to see how Public Works clean this out. And I think this is a good start to clean up Maui County. Because on Molokai we do have this problem, too. But thank you for bringing it up in this Committee. . .although it was, like, two hours, but I think it's worth it.

CHAIR TAVARES: Thank you.

COUNCILMEMBER KAWANO: And I sure like to see the end result. Thank you.

CHAIR TAVARES: Thank you. Any other comments? So my recommendation is to refer. . .PC-13. . .item to the Committee of the Whole.

COUNCILMEMBER ARAKAWA: No objection.

COUNCILMEMBER KANE: Is that a motion? You need a motion?

CHAIR TAVARES: I need a motion.

COUNCILMEMBER ARAKAWA: No.

COUNCILMEMBER KANE: So moved.

COUNCILMEMBER KAWANO: Second.

CHAIR TAVARES: Okay, moved by Mr. Kane, second by Mr. Kawano to refer this item to COW for basis of keeping it alive for follow-up, that kind of stuff.

COUNCILMEMBER KANE: As well as the attachments . . .*(inaudible)*. . .

CHAIR TAVARES: Yes, as well as the responses that will come from the different Departments who have been noted today. And each Department will receive an official letter. It will still come under my signature 'cause it, the Council hasn't approved the referral yet. So the letters will go out under my signature with a . . .instruction to send it to COW.

. . . Okay? Any questions about this?

**NOTE:** *Silence.*



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**ITEM NO. 8: IMPROVING THE PROCESS FOR UPDATING THE GENERAL AND COMMUNITY PLANS** (C.C. No. 98-51)

CHAIR TAVARES: . . . We have several people signed up to testify. Uh, let me just preface all of this by saying that this topic. . . is not gonna be completed today. I have no intention of completing it today. I think that it bears much discussion. I would like to hear from as many people as possible in the community. And at some point in time--and it will probably be after the budget. . . is adopted by this Council and sent to the Mayor, which is May 31<sup>st</sup>--that I would like to continue the discussions on this topic and actually to try to have some meetings in some of the different districts so that we may hear from more folks in the communities regarding our community plan process. Each community has had some opportunity to participate in, in the planning process by way of the Citizens Advisory Committees that had been established to review each of the community plans. So that's not a totally unfamiliar topic in the communities. I think because many members of the, of the com, of the. . . of Maui County has participated in the process--as it sort of existed--has had experience with it and can speak to its effectiveness. Others who are looking at the results of those community plans can speak to its effectiveness or lack thereof. And this opens the process up. This by, in no means. . . is gonna be done in a short period of time. . . as I surmise. I think it will take us several meetings. I will check with the Planning Department at some point in time to what the deadline might be for us to. . . enact new laws or amend existing ordinances to promulgate a plan, a community plan process that meets what we've considered the needs of Maui County. And. . . this is just sort of the introductory one. So please, people who are testifying today, feel free at any other meeting. . . that we post, that you may come and repeat the testimony or add other things to it if you don't feel you had time to complete it today. Written testimony will also be accepted on this at any time. Uh . . .

. . . and saying, with that, we'll go into our. . . discussion. We're here to listen, Members, ask questions of the testifier if you would like, but I don't intend to have any discussion on this topic after the last testifier. We're in the, what's called the information-gathering phase of this particular item. I do intend to adjourn the meeting at the end of the last testifier. Okay? And hopefully that will be before 4:30.

COUNCILMEMBER ARAKAWA: So moved.

CHAIR TAVARES: . . . *(laughter)*. . .

COUNCILMEMBER ARAKAWA: . . . *(laughter)*. . .

CHAIR TAVARES: All right, our first person signed up to testify is Gary Zakian, to be followed by Elliott Krash. And if you would kinda get ready. . . Elliott, you're in a

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fine place--but kinda get ready on that side of the room when you're hear you're, that you're in the . . .

. . . the "on-deck". . . designation.

**NOTE:** *Pause while Mr. Zakian approached the podium.*

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

MR. ZAKIAN: . . . Thank you, Madam Chair, Committee Members. Uh, three minutes or . . .

CHAIR TAVARES: Yeah. Well, try to keep it in three minutes and--knowing that this isn't gonna be our last opportunity to, to voice. . .our concerns or--

MR. ZAKIAN: Oh . . .

CHAIR TAVARES: --opinions.

MR. ZAKIAN: At that point, I'll just hit the highlights.

CHAIR TAVARES: Thank you.

MR. ZAKIAN: As some of you may be aware, I, I did have the privilege serving as a Deputy Corporation Counsel for a number of years, going through some of the community plan processes with you. So, what I'm sharing with you today--

CHAIR TAVARES: Gary?

MR. ZAKIAN: --are my own . . .

CHAIR TAVARES: You have to identify yourself . . .*(laughter)*. . .

MR. ZAKIAN: Oh, Gary Zakian. . .private citizen at this point. These are my own personal comments. I'm not representing anyone here today. There are two main points I'd like to bring out to you. First of all is that as you consider the General Plan and community plans, you take a unified or a holistic approach to the plans themselves and make good use of the technology that's available to you, as well as adopting appropriate County ordinances to enable and further the community planning process and develop good plans. The second main point I'd like to make is with regard to streamlining the community plan process and suggest some possible changes in the law that you might consider regarding the community plan process. First, with regard to a uni list, unified or holistic approach, technology, legislation. . .I would strongly encourage this body to make sure that in the **General Plan**, as you go through **that** review, that you

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specifically put in there that community plans should include in them...a cross-community plan approach to infrastructure--roads, sewers, water, things of that nature, electric. The, the infrastructure doesn't stop and start at artificial community plan boundaries. They continue right through--as do a lot of people that live here, tourists--water flows, sewage flows, everything else. So please take a holistic approach to that. I think that can be very, very helpful. In conjunction with that, it's very critical to consider that holistic approach as you develop your County budgets for sewer, roadway, State funding, Federal funding, things of that nature. If it's part of the, the bigger plan, money might be easier to obtain or at least we can show that there is an overall plan that we're shooting for. Having...most recently worked and advised Department of Water Supply and the Board of Water Supply, I point out that this is **especially** critical for them. They are...I think the **only** County agency in the Charter that is **mandated** to implement the community plans. So if you have just a community plan for water that only relates to one community plan, doesn't go cross-boundary, they're kind of stymied because their mandate is to implement the community plan. So consider the Water Department as you're looking at this. With regard to technology, I know that a Geographical Information System is under way either through the Planning Department or maybe through the Mayor's Office. I would strongly encourage you, as you go through the budget process, to make sure that...a high priority is given to funding the GIS process. Make sure that money is there for hardware, for software, for staffing, whatever it takes. I've seen bits and pieces of how the GIS process--

MR. BOTEILHO: Three minutes.

MR. ZAKIAN: Okay, I'll probably have to come back--of how the GIS process can be used for good planning. I think it's real critical that you encourage that and ultimately see it used as you go through the next round of General Plan and community plan updates. Do you want me to come back?

CHAIR TAVARES: Yes, please--

MR. ZAKIAN: I--

CHAIR TAVARES: --Gary. Thank you. El...*(cough)*... Elliott Krash, to be followed by Patrick Ryan.

MS. KRASH: Good afternoon, Madam Chair...and Members of the Committee. My name is Elliott Krash, and I'm here today representing the Kula Community Association and also MAUCA, which is the Maui Association of Upcountry Community Associations. And, Madam Chair, I have remarks from both of these groups, back-to-back. I might go a minute beyond three minutes. I'm gonna try and do it all in three minutes--

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CHAIR TAVARES: Okay.

MS. KRASH: --because I'm just going to hit the highlights. For the MAUCA group, what I'd like to do is give you a summary of some of the discussion from that group's planning forum that we had a couple of months ago--and several of you were there, also. And for the KCA, I will summarize some of the points that were in position statement that we submitted when. . .Mr. Arakawa was Chairman of this Committee two years ago, in response to his request for suggestions for revising the planning process. And I'll highlight those items that relate to the points that were in your memo, Madam Chairman. First of all, the KCA items--with respect to. . .updates of community plans, the Association supports the staggered cycle approach. . .using the same year of the decade for the plan so that the community will know when they're on deck again. And we support the approach of doing one plan at a time. With respect to timelines and deadlines, they feel strongly that there should be timelines and deadlines for all entities that are involved in the process. And. . .that there should be these timelines at all phases--including the development phase and the review phase. With respect to the role of the community bodies, the CAC. . .this was a very strong point in the discussion as I went back and reviewed our minutes. And our group felt very strongly there should be full involvement of CACs--again, at all phases, not a rubber stamp body, that there should be the opportunity to review and revise at different stages. And I know there, it will be further discussion on how that might be staged. And we'll comment on that when we see the specific suggestions. And we also felt strongly that there should be the right to express recommendations at the final level. . .whatever that might end up being. Now with respect to land use redesignations, that point was one that caused a lot of discussion, a lot of differences of opinions. And the two threads that I was able to pull out of the notes were, one, that we felt strongly about a firm concrete, setting concrete deadline. But at the same time, they favored having some flexibility so that, yet with very high standards--if there was to be any redesignation. . .land use redesignation taking place after adoption of the General or the community plan--and that it should be based on. . .an emergency need. Now, the points that came out at our recent MAUCA forum--and the format for that, as you may know, we had a panel of speakers, Chairman Tavares. . .Department Head. . .Mr. Min; Barbara Long; and John Rapacz.

MR. BOTEILHO: Three minutes.

MS. KRASH: We had discussion, then, among the members in the audience. So what I've done is pull out the points that the Upcountry residents made in their discussion. Four themes seemed to be, emerged. . .seemed to have emerged there. And one was put the community back into the process. There was some concern that developers and politicians seemed to have the upper hand. And. . .a specific point that kept emerging was that. . .in, in a County. . .an island

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community, that the consultants who work with the department have, maybe, worked for the department before; and there's, we need people from off-island, from other parts. . .of the State or of the United States to consult with us. Another thread that emerged was put **planning** back into the process. This isn't a quasi-zoning process. We need to look at the goals, the vision, the big picture--where are we headed, what does the community want as a whole, and what does each individual community want. Policies--focus on policies, priorities, vision, goals. And related to that was the point that people made that. . .how can we be planning when we end up with, without the infrastructure to support the development that's occurring as a result of this plan. A third thread that emerged has to do. . .as you might imagine with an Upcountry group. . .that we need to protect and promote agriculture, and we need to preserve the rural quality of life. And related to that point, what many people mentioned was we need to have boundaries for urban growth, green space. And. . .we need to enact an open space ordinance. And the fourth point that in or, emerged. . .that many people mentioned in the discussion--enforcement. Enforce the plan we have. Close the loopholes. Require that all agencies shall comply--as it states in the first, second section of the Code. Thank you.

CHAIR TAVARES: Thank you, Elliott.

COUNCILMEMBER NISHIKI: Question.

CHAIR TAVARES: Yes. . .uh, Elliott. . .Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah. You know, I think one part that caught me was you were concerned about the make-up of these committees--whether they be pro-development or developers or whatever. And, and I'm not sure. . .correct me. . .those of you that are in the knowledge. . .but I think it was in the selection of the CAC Members, I think that's important--how we go about doing it. Did you discuss that part? I think right now, Charmaine, correct me if I. . .it's nine selected by the Mayor and then each Councilperson has one.

CHAIR TAVARES: I forget what the--

COUNCILMEMBER NISHIKI: Is that what it is?

. . . Can, can someone--

MR. BOTEILHO: Uh--

COUNCILMEMBER NISHIKI: --help me?

MR. BOTEILHO: Madam Chair, the--

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?, FROM THE AUDIENCE: . . .(*inaudible*). . .

COUNCILMEMBER ARAKAWA: Four by the . . .

MR. BOTEILHO: Yeah, the Code says nine by the Council. It doesn't specify that each Council Member has one. It just says nine by the Council and four by the Mayor, for a total of 13.

COUNCILMEMBER NISHIKI: Okay.

MS. KRASH: Mr. Nishiki, to answer your question--to us, no, in neither of those groups did I, did we discuss that, to my knowledge. But. . .knowing that this is, this discussion will continue, I've made a note here to include that. And I'm sure there'll be other points that come out today's meeting.

CHAIR TAVARES: Thank you.

COUNCILMEMBER NISHIKI: All right.

. . . So if you would. . .whether, whether. . .if, if it's going to continue, if you could take that back and see whether your group has any input on how . . .

MS. KRASH: On what should--

COUNCILMEMBER NISHIKI: . . . the selections are made.

MS. KRASH: --be the make-up and how should the selections be made.

COUNCILMEMBER NISHIKI: Right.

MS. KRASH: Okay.

CHAIR TAVARES: Or even if there should be one.

COUNCILMEMBER NISHIKI: Yeah . . .(*laughter*). . .

CHAIR TAVARES: Or should it be totally a community process with no CAC. That's an option, too.

**NOTE:** *Silence.*

CHAIR TAVARES: . . . There are many options, but. . .you know, don't confine yourselves to the existing process.

MS. KRASH: In other words, think--

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CHAIR TAVARES: Right, uh-huh.

MS. KRASH: --beyond the walls.

COUNCILMEMBER NISHIKI: Good.

CHAIR TAVARES: Outside the box--

MS. KRASH: Outside of the box--

COUNCILMEMBER NISHIKI: . . .*(inaudible)*. . .

CHAIR TAVARES: --is good . . .*(laughter)*. . . Thank you.

MS. KRASH: Yes, Madam Chair.

CHAIR TAVARES: Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Yeah, in, in Kihei they actually have a community association. . .planning committee. So. . .the question I had to you, you mentioned open space. . .was there any discussion as . . .

. . . to trying to create open space designations?

MS. KRASH: In the notes that I had from our planning forum--

COUNCILMEMBER ARAKAWA: Yeah.

MS. KRASH: --our MAUCA planning forum, yes, there was discussion of that, but it was just one of several items mentioned and we have not gone into depth on that.

COUNCILMEMBER ARAKAWA: Excuse me for just two seconds. . .Madam Chairman. In the Land Use Committee this year, we're gonna get into definitions--so if your. . .group could look into open space definitions--one that we're gonna be looking into--and let me know? Thank you.

MS. KRASH: I'll be sharing this information with Dick Mayer, who is the Chairman of the--

COUNCILMEMBER ARAKAWA: Uh-huh.

MS. KRASH: --MAUCA group, also. And there's a MAUCA group meeting coming up later this month.

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COUNCILMEMBER ARAKAWA: Right. We're gonna be doing all, almost all the definitions we can. So that's . . . *(inaudible due to interruption)*--

MS. KRASH: In the Land Use Committee?

COUNCILMEMBER ARAKAWA: In Land Use Committee.

CHAIR TAVARES: Thank you. Any others?

. . . Jo Anne?

COUNCILMEMBER JOHNSON: Oh, I just wanted to thank Elliott for coming forward. I, I think--did you mention urban growth boundaries . . .

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER JOHNSON: . . . as one of your items?

CHAIR TAVARES: Yes.

MS. KRASH: Yes, I did.

COUNCILMEMBER JOHNSON: I think it's already in the County Code.

**NOTE: Silence.**

COUNCILMEMBER JOHNSON: . . . But I don't know in what section--

CHAIR TAVARES: It might be mentioned, but I don't think it's on the community plans.

COUNCILMEMBER JOHNSON: Yeah. Thank you.

CHAIR TAVARES: . . . Thank you. Before Patrick starts. . . you know, Members, this is. . . I, I think the . . . *(laughter)*. . . this meeting is, is, really confines us. . . is confining. And what my hope will be is that later we actually get into a dialog and a workshop-type of setting where we can really get into the topics with the members in the . . . community and not say, you know, this three-minute thing. But because we are in a confined time and we needed to bring it out initially, this is why we're doing this format now. But hopefully we'll be doing our others in a workshop format. Thank you. Go ahead, Patrick.

MR. RYAN: Thank you. Good afternoon. My name is Patrick Ryan. Actually, I'd like to address several aspects, actually to forestall what happened in Kihei regarding the proposed five-acre strip mall. Changes--require the resident notification at

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application re, rezoning or actually when the County is officially informed of a proposed change, not two years later. Insure--as stated on the application form--**all provisions** are satisfied. Require **inclusion** in the committee, community plan; not be limited to addendum maps only; changes must agree with the goals and objectives of the community plan. I applaud the provision--CAC review for **all** applications. I'd also love to see inclusion of a provision for support, help for restoration of historic Hawaiian sites. Example would be Ko'ie'ie fishpond at Kalepolepo Park in Kihei which is already listed on the National and State Register of Historic Places; and the nonprofit effort to be underway to restore it. This may be one of the oldest archeological sites in the United States--even older than the Anasazi Mesa Verde. . .structures. If you're interested, check out our web site: [www.formaui.org](http://www.formaui.org). And I thank you kindly for listening to the citizens. Appreciate.

CHAIR TAVARES: Thank you, Patrick. Any questions for him? It's okay, you did your advertisement for your fishponds . . .(laughter). . .

ALL: . . .(laughter). . .

CHAIR TAVARES: Susan Moikeha. . .to be followed by Jim Smith.

**NOTE:** *Pause while Ms. Moikeha approached the podium.*

CHAIR TAVARES: . . . Is Joe Bertram still here?

MR. BOTEILHO: No.

CHAIR TAVARES: Left? Okay, thank you.

MS. MOIKEHA: Good afternoon, my name is Susan Moikeha, and a resident of Kihei--and have been for almost 24 years. Um. . .probably about couple years ago we got involved along with some of the other neighbors in our neighborhood; and we were involved in a opposition to a rezoning issue. And this project has led to us trying to not only look at our personal goals and. . .in what we're going through, but also for me personally, it took me to, maybe, a greater awareness of planning process. And. . .and that's why I'm here today--is, is to address a couple things that I saw happen during a planning process that led to our positioning in opposing a reown, rezoning in our neighborhood. Um. . .one of things that I think that. . .that was so important to us was lack of notification. And during the community plan update. . .there is not a requirement to notify those within 500 feet of a proposed redesignation--as it is under ordinance with a rezoning application, where there is requirement of notification. And so I felt that if we had been given that opportunity, if there was an ordinance that supported that, that we could have been apprised of this project way before it got to the zoning process. So I think that's one of the areas, to me, that needs to be

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addressed in the overall planning process. Is . . . if we are gonna look at redesignation, then let's, let's look at notifying those within that area. You know, I wanna say on a positive note that I've talked to both Mr. Arakawa and to Ms. Tavares, and especially Mr. Arakawa. And my research--he, at the time, was the Land Use Committee during this community update plan. And to me, he went beyond. . . trying to incorporate public knowledge of what was happening. One example of that is he notified 13 associations. However, we were not on that list. And so I, I applaud the efforts that Committee Members make in trying to make sure the public is involved. But I think we need to go a step further. And in this issue, we need to be notified so that we're aware of what's happening. I think the other thing, too, that we found was that the community. . . what is the intent of the, the current community? In our situation, we were sold properties that had documents that were recorded on, in, within the Hawaii State Bureau of Conveyances that indicated that this was a planned residential in the future. And so when we're looking as a whole at--from the government's point of view, from your point of view as to what's happening in this area--what is the intent there? And I don't think that was brought to the, your attention. Is it the responsibility of the applicant to show you what the previous intent, intent was in this area? Is it our responsibility as a public? I think we could work all together in, in seeing that that is accomplished. And so I think we need to look at intent--whether our documents have any legal weight or not, there was still an overall intent that this was a planned residential community. And--

MR. BOTEILHO: Three minutes.

MS. MOIKEHA: --and I think those are two issues that need to look at. One last one deals with community plan and as far as contradiction. I think we found contradictions between map designations with which the Department of Planning holds as priority to contradicting with it, or not having it match up with objectives and policies. And I can't see how a community can, plan can have contradictions. It should all work together. And I thank you for your time.

CHAIR TAVARES: Thank you. Any questions? Thank you, Susan. Okay, Jim Smith, to be followed by Rob Parsons.

**NOTE:** *Pause while Mr. Smith approached the podium.*

MR. SMITH: . . . Madam Chair. . . Members of the Planning Committee, my name is Jim Smith, and I'm a former CAC of the Haiku. . . Paia Community Plan. I would like to ask you, possibly, to . . . shift the direction at which you look at the question. Uh, quite frankly. . . I don't believe that it's a problem with the CAC. I mean, if timing is a problem, I think you could address the timing problem by looking at the difference between planning and land use. And if you do that, the time spent planning is different from land use; and you wouldn't have major landowners coming forward and the planning committees thinking of ways to justify and

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mitigate their developments. Uh. . .from that perspective, if you look upon our activity as a refinement of the activity that's gone before us, then. . .the simplification is there. The nonspecificity which brings in people who want to profit or want certain concrete things done--once you get that, I think you, you've. . .you've eliminated the time problems significantly. You've eliminated controversy. But you have to follow up, follow through. . .with this refinement idea. And that means that **you**, as Members of the Council, have to. . .obey. You, you have to be willing to. . .stand by the plan. For example, today you considered the west. . .the, the health center or whatever it is they wanna do in, in. . .uh. . .Lahaina. In the EA, it's specifically stated that Charlie Jencks approved a final subdivision on August 30<sup>th</sup>; and on October 12<sup>th</sup>. . .the Director of Planning, John Min, specifically wrote that it was inconsistent with the West Maui Community Plan Single-Family designation. And the Subdivision Ordinance specifically says--and it was amended in 1994 to make a clear point--that there must be no inconsistency for there to be a subdivision. And that is very clear. But there was inconsistency. And at the bottom of the letter . . .(end of tape, start 2B). . . in which we let. . .we, we let lower density, agriculture. Okay? Well, who wrote that policy . . .(laughter). . .? Was that a policy that was adopted by the Council that somehow says now if on a Single-Family plan designation you wanna do two-acre lots, you can do it? Well, you see, if the idea is to refine the plan. . .then you're talking about population densities. And on two-acres, you can put seven lots. And that's a population density that theoretically would take and protect your agricultural zoning. But you--

MR. BOTEILHO: Three minutes.

MR. SMITH: --defeated your. . .refinement effort by allowing this to go by without saying oh, wait a minute, this is a final subdivision, it shouldn't have happened. How come we're not, how come we're not interested in that? There are a number of other suggestions I would have. . .uh. . .particularly, I, I'll come back and say them . . .(laughter). . . if, if I may.

CHAIR TAVARES: Okay, afterwards?

MR. SMITH: Yes.

CHAIR TAVARES: Okay, you'll follow Gary Zakian. Okay, Mr. Parsons. . .to be followed by Christina Hemmings.

**NOTE:** *Pause while Mr. Parsons approached the podium.*

MR. PARSONS: . . . Aloha, Madam Chair, Members of the Planning Committee, and Members of the public. My name is Rob Parsons. I'm here as a. . .Board of Director of Maui Tomorrow and as. . .Haiku Community Association

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President--also participated in the MAUCA forum which was a very. . .very good roundtable discussion held in November. Many of you were able to attend. Uh. . .I also have. . .testimony of John Rapacz who participated in this forum. He had hoped to be here. Obviously, he's not here. I will in, introduce that. Hopefully it can wind up in your file next time. It has a number of very clear suggestions, and there's also a couple specific things that I'd like to quote from it. Uh, the, the basic theme of Mr. Rapacz--which I would like to reiterate--is that it is the policy. . .more than the process which has led to a number of. . .of us to come to the conclusion that the, the planning process of. . .adopting community plans is broken. Uh . . .

. . . Mr. Rapacz says the planning and development policies of the Mayor, Planning Director, Planning Commission, and the County Council control the way Maui is developed--far more than the planning and development process do. So policies rather than process. Uh. . .be that as it may, I would like to offer about half-a-dozen points to the community plan revision process. Number one would be that we. . .enforce our community plans as law, requiring congruency between zoning and community plan designation. Otherwise, we'll continue to wind up with inconsistencies such as. . .Palauea Beach which we know is community plan designated Park; and now we got three separate stretchers going up on one parcel at the Lime Kiln property near Baldwin Beach which is designated open space. Secondly, we need to establish some standards for infrastructure concurrency. And I think that language ought to be in all our community plans, if not the General Plan. In order to do that, we'll need to . . .

. . . determine what is our carrying capacity. I know that Councilmember Johnson is working diligently on finding whether or not a community, a, or, a. . .carrying capacity study is mandated by the State and, perhaps, by the County. Whether or not it is, it seems that the time is now to have this base research document to guide all our planning from here on.

. . . Uh. . .it seems to me that, that. . .our community plan process has been development driven. That is, that as we go through the matrix--as we've done here with the Wailuku-Kahului Community Plan--what we see is a developer's shopping list. And this, in large part, has lead to. . .a year-and-a-half of community participating with the Spreckelsville matter as, you know, this, this is their right and entitlement to participate in the process. And yet it--

MR. BOTEILHO: Three minutes.

MR. PARSONS: --uh. . .thank you. I'll come back and finish.

CHAIR TAVARES: Okay.

MR. PARSONS: I've got a few more points to make. Thank you.

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CHAIR TAVARES: Okay. . .Christina Hemmings. . .to be followed--oh, I see she's not here. We'll see if she shows up later. Uh, Buck Buchanan. . .to be followed by DeGray Vanderbilt.

. . . Then Robert Nichols.

**NOTE:** *Pause while Mr. Buchanan approached the podium.*

MR. BUCHANAN: . . . Good afternoon, Chair, Members. Buck Buchanan. . .from Lahaina. Um . . .

. . . I think. . .the first I. . .come to my mind about this topic is that we have to consider, of course, the Charter. And I believe that there's a Charter proposal period coming up. . .either this year or next, I guess, it is. Uh--

?: Next.

MR. BUCHANAN: --so those, that'll have to be kept in sync, I'm sure. I think some of our biggest problems have had to do with implementation. . .at both the community plan level and the General Plan. Just to. . .you know, our General Plan of today went into effect in '91. There's some calls for certain specific actions to be accomplished. To my knowledge. . .none have been accomplished. Perhaps not even seriously started. Um. . .kinda pathetic. Kinda puts the planning process as a whole under, under the mat rather than above us or on a par with our heads. Part of that's due to the fact the Planning Department isn't adequately staffed because it, it has so much. . .reactive duty to things that are coming in. And that'll get worse, in my opinion, before it gets better--because of the. . .interest in building and developing.

. . . I, as far as some of the suggestions that were in your letter to the Committee, I feel that it's important to try to establish that the CAC action comes after the planning commission. And I say this for this reason. . .the CAC, like the planning commission, is appointed. There. . .other things being equal, they're equal with each other, the. . .the two groups. And the, and the CAC **knows** that community. On the planning commission, there **may** be one member and hopefully is a member of that sing, one single member of that community. But in this, on the CAC, they're **all** from that community. So they know that community better than the planning commission does--I guarantee you. They know it a hell of a lot better than the Council knows it. . .*(laughter)*. . . too for that matter. So. . .you, think about that if you will. I think that's an important thought to, to have. Um . . .

. . . I, I, I. . .you know, one of things that bothers me, also, about the lack of implementation is the, is the land thing--you have the conflict between the. . .the . . .

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. . . what am I trying to say, zoning on the one side and . . .the designation by the County or the community plan on the other side.

MR. BOTEILHO: Three minutes.

MR. BUCHANAN: Well. . .thank you. There, there, of course, is, is some language in our codes and so forth that calls for this to be put in sync. Are they? No. Okay, and lastly then, what I, I want you to think about is. . .how, how best to . . .limit--and there's some suggestion in the correspondence--how best to limit the changes that occur or. . .are asked for between the inst, instigation of the process and the community and the final adoption of that community plan. Sometimes, that's years as we all know. And there's been an awful lot of. . .what I consider to be smelly stuff that's occurred in West Maui, for example, between the 1992 CAC and the implement, and the actual passage in 1996. . .as an example. So thank you very much.

CHAIR TAVARES: Thank you, Buck. Any questions for Buck?

. . . Okay, if not. . .Robert Nichols . . .

. . . to be followed by Glenn Shepherd.

**NOTE: Silence.**

COUNCILMEMBER JOHNSON: . . . Didn't, didn't you say DeGray was supposed to be--

?, FROM THE AUDIENCE: Yeah.

MR. NICHOLS: My name is Bob Nichols--

CHAIR TAVARES: Oh, Bob, I'm sorry.

MR. VANDERBILT, FROM THE AUDIENCE: That's okay. I, I'll hang in there.

CHAIR TAVARES: Okay.

MR. NICHOLS: Yeah, I thank you.

MR. BOTEILHO: . . .*(laughter)*. . .

MR. NICHOLS: I got a wife waiting for me. She's gonna cruci--

CHAIR TAVARES: I think I threw your paper away. Wait a minute--

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ALL: . . .(laughter) . . .

CHAIR TAVARES: --oh, no, here it is . . .(laughter) . . .

ALL: . . .(laughter) . . .

MR. NICHOLS: Thank you . . .(laughter) . . . Uh. . .my past includes being a Director and Vice President of a north-eastern Illinois planning commission--which you probably know as the Chicago Metro Planning Commission. Presently, I'm a Director and a Member of the KCA. . .Planning Committee. The. . .the thing all boils down to--what you're talking today--is that the quality of life on Maui. . .and the cost of *living* on Maui are a direct result of the County's planning and development review process. There's no question of that. And I strongly recommend that this Committee or somebody create a blue ribbon committee or commission--whatever you wanna call it--to study current laws, policies, practices, and procedures as they plan, as they pertain to Maui County planning and development review. While this is in process--I don't think you people should have a . . .year off--I'd suggest you study several things. One has already been mentioned. And that is there should be a community plan schedule. The General County Plan and community plans are scheduled for revision, quote, at least every ten years. A fixed schedule for each community to complete its plan for Council review will permit the Council and the Planning Department to work in a more orderly and efficient manner. For example. . .Molokai might be due the second year; Hana the third year; South Maui the fourth; and et cetera, et cetera, et cetera. And updating at five-year interim periods would provide for the fine-tuning of all plans.

. . . Ceasing advisory committees--the selection and number of committee members. . .and I say this again, and *number* of committee members should include direct community input. Plans and legal changes--most community plans do not provide a listing of required zoning and ordinance changes to make, complete the plan recommendations. The result is that you have two separate legal guidelines which create havoc all over the place. Two items, especially, I think you should consider right now . . .

. . . when a site is graded and upgraded in zoning, the changes in assessed valuations and tax levels should be effective with that change or back a couple years. You should collect taxes on that zoning change right away. In reverse, what we do not have is when a site is down-zoned. You have a single-family area and the community says we want this to be a park--there should be a down-zoning procedure for compensation to landowners for lost value in terms of tax relief. . .or other means of doing it. There are ordinances and there are procedures for doing this. We don't have anything like that in, in Maui County. Cost estimates and priorities--plans, if they're going to be talking about public

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improvements, should include rough cost estimates, funding sources, and priorities for proposed public improvements.

MR. BOTEILHO: Three minutes.

MR. NICHOLS: Almost done. Planning versus development review--at best, the current planning commission is a development review board. There should be a public commission or committee that has planning as its prime concern. In addition, various County departments engage in both planning and department review. Identification, separation, and coordination of these important activities should receive the highest priority. And my last recommendation, Federally funded State and County road projects--responsible State officers and officials should meet with each community's representatives to advise them of available Federal funds and determine their area listings and needs, priorities. When these meetings are completed, these State officers should meet with County representatives and set County priorities. I thank you for your time.

CHAIR TAVARES: Jo Anne?

COUNCILMEMBER JOHNSON: Oh, thank you, Mr. Nichols, for coming. I . . . I wanna have your honest assessment of how you think our State is doing in terms of supporting the process that we're going through right now. And you've been through this, obviously, on a much bigger scale--do you think they're doing a good job or not?

MR. NICHOLS: Uh, let me give you an example.

. . . They claim the Department of Transportation. . .has in a float a, a billion dollars of money. The State Legislature asked the State audit department to find out where that money was. Now in my books. . .the way I count, two million, 200 million of that should be Maui County if there's a billion floating around.

. . . After six months, the Auditor came back and says that place is so fouled up . . .

?: . . .(laughter). . .

MR. NICHOLS: . . . I can't read the records, I don't know what the heck is going on. Now, in your business or my business. . .if that happened. . .I, I, I. . .you, it. . .something would happen.

ALL: . . .(laughter). . .

COUNCILMEMBER JOHNSON: That, that gives me a real good indication of your answer . . .(laughter). . .

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MR. NICHOLS: Uh. . .that, that's my illustration. There, there, I could talk for hours and there's, I don't wanna keep you here all night. But. . .we as, as government, and we as, in, at the State level and the County level have considerable problems that if we don't address the. . .there's one consolation, if I can give you this . . .

. . . the way a lot of government problems are solved in other jurisdictions is when they get so fouled up, they go bankrupt. . .and you gotta start from scratch. We may be headed that way both at, both levels.

?: . . .(laughter). . .

**NOTE: Silence.**

COUNCILMEMBER JOHNSON: . . . Thank you.

CHAIR TAVARES: You done, Jo Anne?

COUNCILMEMBER JOHNSON: Yes.

CHAIR TAVARES: Thank you.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR TAVARES: Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah, Mr. Nichols. . .you mentioned planning review. . .versus--

MR. NICHOLS: Development review.

COUNCILMEMBER ARAKAWA: Development review versus planning, and planning review versus development review.

MR. NICHOLS: There, there, there's two different things. It. . .you, you, you. . .the planning commission, if you've, if you go to a planning commission meeting, they're not planning anything. I mean, God bless 'em. I mean, they, they're working hard, but they're reviewing somebody's application for a project. And, and they have to interpret it by the laws that exists. And there's two sets of laws, and they, and, and they do a darn good job of it. But they're. . .they do not have the time or the capacity--or at least it doesn't show. . .in, in public--where they're sitting down and planning the future. We have GIS. And I don't know what you know is available. But. . .we've been working in Kihei with NASA and a couple other people. And they can tell you who owns a piece of property. . .and they can show you. . .on a film; they can show you. . .a picture of the property; they

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can show its valuation; they can show you all the hotels in South Maui and everything else like that. All this sort of information is available. . .but it. . .when you say to them how much water do we have. . .for South Maui. . .nobody will say officially. Another guy will say we might make a year-and-a-half. Well, isn't water an important consideration? Isn't electricity an important consideration? Aren't roads an important consideration?

COUNCILMEMBER ARAKAWA: So how does this planning review work . . .

MR. NICHOLS: Well, no--

COUNCILMEMBER ARAKAWA: . . . in your mind.

MR. NICHOLS: --two separate things.

COUNCILMEMBER ARAKAWA: Right.

MR. NICHOLS: You got one group who's planning for the future. They're worried about tomorrow. And your planning review. . .review or development review group is worrying about the laws that are on the books right now, today.

COUNCILMEMBER ARAKAWA: Oh . . .

MR. NICHOLS: They're two separate functions. If you, if you can hear what I'm saying. They're. . .one, one guy is looking at the future and saying this is what we should do. . .we should have a road, we should have, Piilani Highway should be four lanes by 2000 or you'll have gridlock. You know. . .the guys who's gonna say that. And then you've got a guy over here saying oh, you wanna build a. . .a big subdivision for 10,000 people, we can't. . .we can't do it because we don't have the water or we don't--

COUNCILMEMBER ARAKAWA: I see.

MR. NICHOLS: --have the electricity.

COUNCILMEMBER ARAKAWA: I, I'm just trying to capsulize and trying to understand what you're saying because it seems to me an important concept. And I'm not quite grasping it. So you're gonna have, within the review process, one team that looks at how it fits into the plan and how it needs to be project out; and another team that's looking at what the technicalities are and how to get the zoning or how to get the land use designation.

MR. NICHOLS: I, I'm saying there are two separate processes that need to be coordinated. But, for example, you know, if I asked you today what Maui was gonna be like in ten years. . .could you tell me?

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. . . Right now, the Planning Department can't tell us how many visitors are in South Maui at a time. We've got three different figures at what how many visitors are in South Maui at the time. What's our population? What, what's our--you know, things like that.

COUNCILMEMBER ARAKAWA: Let, let me. . .let me ask you a question because--

MR. NICHOLS: Yeah.

COUNCILMEMBER ARAKAWA: --this is gonna take a long time. Did you put your phone number down on your application?

MR. NICHOLS: I, yeah. I'll put it on there.

COUNCILMEMBER ARAKAWA: You mind if I call you?

MR. NICHOLS: No problem.

COUNCILMEMBER ARAKAWA: Thank you. See the guy sitting over there? He's the one that helped me develop--

MR. NICHOLS: I, I'll give--

COUNCILMEMBER ARAKAWA: --the GIS.

MR. NICHOLS: --him my phone number. And if my wife answers, just tell her I'm . . .(inaudible). . .

COUNCILMEMBER ARAKAWA: He's the guy that started . . .(inaudible). . .

CHAIR TAVARES: We have his phone number, Alan.

MR. NICHOLS: . . .(laughter). . .

COUNCILMEMBER ARAKAWA: Okay.

CHAIR TAVARES: We have the phone number. Thank you.

COUNCILMEMBER ARAKAWA: Okay.

MR. NICHOLS: Thank you. Thank you for your time.

CHAIR TAVARES: Dain?

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COUNCILMEMBER KANE: Yeah, and just one--

CHAIR TAVARES: Mr. Kane. . .uh, wait, Bob, hold on.

COUNCILMEMBER KANE: Hi, Bob.

MR. NICHOLS: Hi.

COUNCILMEMBER KANE: Uh . . .

. . . your very first comment on your written testimony--thank you--strongly recommend a blue ribbon committee to study. . .current laws. And you, and you. . .and you finished that sentence. . .what. . .I, I'm looking for the next sentence now. The next sentence . . .

MR. NICHOLS: Well--

COUNCILMEMBER KANE: . . . what is the objective of that study--

MR. NICHOLS: The--

COUNCILMEMBER KANE: --what are trying to get as far as . . . *(inaudible)*. . .

MR. NICHOLS: If, if, if a blue. . .rib, ribbon community, uh, commission does the job it should, it will come up with recommendations for legal changes in both the planning laws, your practices and procedures. For example, each of your department's plan. . .how do they fit in, how do they fit into it? Uh. . .when, when you consider a project, where's the Water Department fit into it? You know, I, and things like that.

COUNCILMEMBER KANE: Just to clarify--so, recommendation for changes is what you're . . .

MR. NICHOLS: Right.

COUNCILMEMBER KANE: Thank you.

MR. NICHOLS: Right. Right. And I strongly recommend this as fast as you can. . .and not nec, because you guys have got tons of things to do. . .and, and you don't wanna go. . .over the laws with a fine-tooth comb and then you may have representatives on, with that. So, but I think there's, that's. . .that is long overdue.

COUNCILMEMBER KANE: Thank you.

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CHAIR TAVARES: . . . Thank you, Bob.

MR. NICHOLS: Thank you.

CHAIR TAVARES: I hope we will be hearing from you again.

MR. NICHOLS: Well, I'm afraid I'm around, I live here and . . .*(inaudible due to interruption)*--

CHAIR TAVARES: All right--

MR. NICHOLS: . . .*(laughter)*. . .

CHAIR TAVARES: --very good. Okay . . .

. . . I guess. . . Glenn Shepherd?

MR. SHEPHERD: Yes.

. . . My name is Glenn Shepherd. Thank you very much for having the privilege to come here--

?: . . .*(laughter)*. . .

MR. SHEPHERD: --and talk to you. I'm representing a lot of disenchanting people out there. A lot of them are really ticked off. You're liable to see a, a one-term mayor out of this thing unless it's turned around quickly. Business people say 'eh. . . people can't get to my place of business. . . traffic all stuffed up, jammed up, I'm stuck, I can't get there. And they don't like it. Well, that's not the right thing. But, Bob. . . Nichols stole half of my pitch and I wanna re, re, have reconsider this particular thing that we have to do this, called plan ahead. You've probably seen these things elsewhere, but that's what the, where we are right now. We haven't planned ahead. I've been here since 1970 and I have not yet seen any planning done in the Planning Department or the planning commission. All they do is process papers and permits.

. . . What we need. . . and badly need is a master plan. . . one that looks down the road, one that takes into consideration changes and the, the, the changes of the rate of change, too. It's a first derivative of calculus.

. . . Those were the things that get us into the particular pickles we got now, we got people stuffed up here on the roads. Uh. . . can this be done? Let me pass on to you something that I experienced. . . I lived in a little dinky country called Singapore. It's a little island state. It's half the size of, of Maui. It had two million

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people. And if you don't think that isn't a planning nightmare, it was terrific. It was really bad. What did they do?

. . . The country's fathers decided they needed some planning. Where did they go for planning? They came to Hawaii. . .of all places, and had a planning firm lay out the master plan. . .for Singapore that is still ongoing today. And it has done a magnificent job, a really a magni--what did they do? They pulled in all kinds of. . .people, experts. We need experts on this thing. We don't need people like me or whatnot that may know a little something about something, but they need the experts. So this Planning group pulled in all the experts. They brought in demographers and hydrologists and. . .sociologists. . .they went the gamut. They picked. . .traffic engineers. . .traffic experts, all. . .engineers of all kinds--

MR. BOTEILHO: Three minutes.

MR. SHEPHERD: It was really a techno-crat approach. And they turned this Hawaiian firm loose that they came up with a plan. And it is a magnificent thing that they came up with. There's no reason why we couldn't here, on this island, do the same damned thing. How do we do it? Well, that's the problem. You can't have the Planning Department do it. They don't have the expertise to do it. And they got too much political baggage brought, brought along with them into the process. It has to be done by disinterested and expert group to do the job. They've got the tools today--through GIS. . .to speed up this process and come up with things which can help us do the planning. And that's what the problem is--we lack planning. Thank you.

CHAIR TAVARES: Thank you. Jo Anne?

COUNCILMEMBER JOHNSON: Uh, Glenn? Excuse me. . .do you know. . .what, is that firm that did the master plan for Singapore still in existence here? And do you believe--

MR. SHEPHERD: As--

COUNCILMEMBER JOHNSON: --that--

MR. SHEPHERD: As far as I know, it still is. It's called Belt Collins.

COUNCILMEMBER JOHNSON: Belt Collins.

MR. SHEPHERD: And they've done things in other parts of Asia that I've. . .been to also because they saw what a success it was for. . .to, to Singapore. But it takes a, a political. . .directive. . .from above to keep this group in place and doing the job. It's very easy to pull the contract.

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. . . Easy. . .stroke of the pen.

COUNCILMEMBER JOHNSON: Do you think they, you know, if, if we. . .let's say at least enlisted their services to do something along the lines of doing a master plan or assisting us with carrying capacity study, whatever it was, do you think that they could be, given the fact that they live here . . .(laughter). . . they're here in the State of Hawaii, do you think they could be disinterested or removed from the political process--

MR. SHEPHERD: Well, when I say "disinterested", I'm talking about it from a standpoint that they're looking at the outcome or the planning process to be. . .in such a manner that it's gonna benefit everybody instead of some specific interest group. . .which does happen. Happens all the time. . .the way we're doing things now. But, yes, it could, it could be done. Belt Collins is not the only outfit that can do this. There's other regional planners that have the expertise, the tools and the know how to get these people into the process of making the master plan.

. . . And we're, we're, we're constantly changing our plans. Uh. . .it's, it's amazing, I. . .I have to. . .relate to you that I read your. . .little blurb here just recently. And I said it's inadequate. It's, can't do the job. We've got to do something bigger and better. And sooner.

. . . Because this island is just so big. Doesn't get any bigger. Our population has grown 20,000 in the last ten years. Well, that's a, that's a strain on any community to do that. Will that rate of change. . .come, become greater? I don't know. But there's a limit to what you can do. Even the astronauts, when they went to the moon, they came back and they looked down on earth and said, 'eh, wow. . .that earth is just so big, it doesn't get any bigger. And it's the same smell here on this island--it doesn't get any bigger, so you damn well better plan. . .plan ahead and, and. . .let your. . .your political aspects go by the board and look for the general welfare of the people involved that are gonna have to stay here and live here with it, including. . .your, your children and the grandchildren.

COUNCILMEMBER JOHNSON: Thank you very much, Glenn. I appreciate that.

CHAIR TAVARES: Thank you, Glenn. Dan--

MR. SHEPHERD: Oh, one other, one other thing, too, to answer you. I've heard you say about. . .carrying capacity. Big thing. . .it's gotta be looked at. . .how much can we do with this limited amount of land, water. . .and . . .

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. . . Our Planning Department is just a, approving these things and they don't even have the infrastructure in place. It comes later. And it's causing all kinds of problems.

COUNCILMEMBER JOHNSON: Well, I agree with you that we have to, in order to know where we're going, we have to know where we are. And--

MR. SHEPHERD: Yeah.

COUNCILMEMBER JOHNSON: --we don't know that.

MR. SHEPHERD: With no more this.

COUNCILMEMBER JOHNSON: I know . . . *(laughter)*. . . Thank you.

CHAIR TAVARES: Thank you. Daniel Grantham, to be followed by DeGray Vanderbilt.

**NOTE:** *Pause while Mr. Grantham approached the podium.*

MR. SHEPHERD, FROM THE AUDIENCE: . . . *(inaudible)*. . . Bob Nichols

CHAIR TAVARES: . . . *(laughter)*. . .

?: . . . *(laughter)*. . .

CHAIR TAVARES: I heard that . . . *(laughter)*. . .

MR. GRANTHAM: . . . Good afternoon, Madam Chair and Members of the Committee. Uh. . . I speak as a individual. . . long-time observer and taper of meetings. I'd like to pick up on something Mr. Zakian mentioned--and that's having the General Plan and the. . . community plans work together.

CHAIR TAVARES: Daniel?

COUNCILMEMBER KANE: Say your name.

MR. GRANTHAM: Oh. . . I'm sorry . . . *(laughter)*. . .

ALL: . . . *(laughter)*. . .

MR. GRANTHAM: It's not DeGray. It's, it's. . . Daniel Grantham.

CHAIR TAVARES: . . . *(laughter)*. . .

MR. GRANTHAM: And . . .

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. . . let's see where was I here?

COUNCILMEMBER ARAKAWA: Working together.

CHAIR TAVARES: Start over . . . *(laughter)* . . .

MR. GRANTHAM: Um. . . yeah, the plans working together--and in that sense. . . maybe it would be useful to think about the General Plan as providing basic minimum requirements that the community plans could, could build on. And I think it was instructive what happened earlier here where we had the Fire Department saying we don't have the resources to even deal with this, this place that the community is complaining about; the Police Department saying we need five more. . . patrols to be able to deal with drug problems. Now. . . that seems to me that it could be addressed in the planning. You know, that if you're gonna have such and such a community, you know you're gonna have, need such and such amount of services. And. . . you know, it's great to have all this stuff down on paper, but we really need a way to check ourselves, to tell how we're doing. And I think that's where the community plans or their updates could come in very useful and. . . they could come back to us and they could--just as the neighborhood came back, came to us today and said, you know, here's a problem we're having--the community plan process can tell us this is how the plan is working, this is how the neighborhood is doing, this is what's working, this is what isn't working. And it can be a continual feedback. I mean, any process, you have to have feedback to know how you're doing. Uh. . . I mean, whether you're sitting down eating dinner, you know when you're full, you get feedback from your stomach. When you go without eating too long, you get feedback, you know it's time to eat. And, and. . . I'd like to just put a plug in for that--to consider the process of community planning in terms of feedback to adjust the overall planning. And that's probably the way it was originally designed--but make it the official way we check up. You know? Because if we don't have a way to check on how we're doing, we're never gonna know how we're doing. And let me also throw in something that I think is. . . you know important to many of you--and that's public education. Planning is very mysterious to most of the public. In fact, it's a very. . . lucrative field to people who know how to do it. . . just because--

MR. BOTEILHO: Three minutes.

MR. GRANTHAM: --it's so mysterious. So, let me make a plug for. . . use the wonderful service of, you know, the public access here to help educate the public on the public government and help involve 'em. And you've seen, you know, some of the resources, some of the people that we have here that wanna help and. . . let's do it. Thank you.

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CHAIR TAVARES: Thank you, Daniel. Christina Hemmings? Not here? Okay, we'll go back to--

COUNCILMEMBER ARAKAWA: DeGray.

CHAIR TAVARES: --the returnees.

COUNCILMEMBER ARAKAWA: DeGray.

COUNCILMEMBER KANE: DeGray.

?: DeGray.

COUNCILMEMBER JOHNSON: DeGray--

ALL: . . .(laughter) . . .

COUNCILMEMBER JOHNSON: --you keep forgetting him--

CHAIR TAVARES: Well, DeGray, you're not standing up against the wall, I can't see you.

AUDIENCE: . . .(laughter) . . .

CHAIR TAVARES: I'm gonna forget you again . . .(laughter) . . .

MR. VANDERBILT, FROM THE AUDIENCE: . . .(inaudible) . . .

ALL: . . .(laughter) . . .

CHAIR TAVARES: . . . I even have a little note that says "don't forget DeGray".

COUNCILMEMBER JOHNSON: . . .(laughter) . . .

MR. VANDERBILT, FROM THE AUDIENCE: . . .(inaudible) . . .

**NOTE: Pause while Mr. Vanderbilt approached the podium.**

CHAIR TAVARES: . . . DeGray will be followed by Gary Zakian, concluding his testimony.

MR. VANDERBILT: Uh. . . thank you . . .

CHAIR TAVARES: . . .(laughter) . . .

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MR. VANDERBILT: . . . Madam Chairman and Members of the Planning Committee. My name is DeGray Vanderbilt. . .resident of Molokai, former member of the Molokai CAC. Um. . .I did read Chairman Tavares'. . .I read your. . .ideas for improving the General Plan and also the. . .recommended changes to the process submitted by former Councilmember. . .Kalani English and Councilmember Alan Arakawa. And there's some good ideas regarding the process . . .

. . . itself. But I think the key thing here--and that's kind of a sloppy handout I gave you--but I think that the, the key thing here is that . . .

. . . it's a waste of everybody's time to even go through a process unless this Council steps up to the plate--which it has empowered to do--and legislates what the intent of the community plan is. Is it a guideline. . .like Mr. Min and Mr. Moto seem to believe. . .and some people in the Planning Department staff believe? Or is it a law like some people on the Council believe? Or some people on the Council believe it's a guideline? Uh . . .

. . . it's. . .if it's not a law--but it is a law because it's passed into ordinance, the General Plan--then let's. . .and it's gonna be a guideline, then let's repeal the law and just adopt a guideline like you would the design guidelines for Upcountry or Kaunakakai. But don't play both sides. It frustrates staff members. It creates a lot of work. It frustrates the Council. It puts a lot of burden on the communities. And it really wastes a lot of people's time. And. . .you guys can legislate that. You can say what the intent is of the community plan. And what I passed out, basically. . .was there's, there's a bill coming up, there's a draft bill coming up for the Planning. . .Committee. And the bill is to try to legislate what the intent is because although the gen, the ordinance, it's already adopted. . .on the General Plan says **all** agencies of the County shall comply with the provisions of the General Plan. . .all community plans, zoning ordinances, subdivisions, and administration actions by County agencies shall conform to the provisions of the General Plan. It can't be any clearer than that. But somehow. . .certain agencies. . .of the County seem that they don't have to follow the General Plan and the community plan, and their actions don't have to be consistent. There's something, there was some memo by one Corp. Counsel saying that. . .Public Works and Planning don't have to follow the community plans or the general plans when enacting ministerial actions. I don't know what a ministerial action is. But here it says they have to be in compliance with Administrative actions. May--

MR. BOTEILHO: Three minutes.

MR. VANDERBILT: Maybe. . .Mr. Min or Mr. Moto could clear, clarify for you what's the difference between an administrative action and a ministerial action. I'll finish up in just a minute here.

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CHAIR TAVARES: Thank you.

MR. VANDERBILT: But I think. . .you know, there's a lot of. . .just to, as a simple example, there's a lot of things in every community plan saying we wanna preserve these special places. I wonder if somebody buys the land and goes into Planning or Land Use--I don't know who issues it--and asks for demolition permit. They don't feel they're bound by the community plan, and they issue it, and the building's demolished--which has happened. Where does the community get any satisfaction that all the work they've put into that, they shouldn't have to be constantly being the enforcers and the watchdogs and everything? It's not fair. They've gotta work just like everybody else. And if I could, I'd like to just come back after. . .the last person.

COUNCILMEMBER JOHNSON: I had a, I had a question.

. . . But do you wanna wait 'till he comes back again?

CHAIR TAVARES: Yeah.

COUNCILMEMBER JOHNSON: Okay. We'll wait 'till he comes back.

MR. VANDERBILT: Thank you.

CHAIR TAVARES: If I don't forget him again.

ALL: . . .*(laughter)*. . .

CHAIR TAVARES: Okay . . .*(laughter)*. . . Gary Zakian? Gary will be concluding his testimony.

**NOTE: Long pause while Mr. Zakian reapproached the podium.**

MR. ZAKIAN: . . . Thank you. Gary Zakian, again. I mentioned already taking a holistic approach and, and supporting GIS for planning purposes. The third part that I'd like to emphasize under my first major point is for this body to consider adopting ordinances to implement. . .State law that exists on the books. Specifically, there are four State statutes that require you, as the Legislative body, and the Mayor to adopt ordinances to implement them. Uh. . .they are an impact fee statute. We do have an impact fee statute, I believe, that relates to the Kihei Sewer Treatment Plant. To my knowledge, that's the only impact fee statute. I would encourage you to adopt the impact fee statute, do the proper studies, get it adopted. The County, the developers, anyone that wants to do something knows what the cost and expenses will be, and you can plan properly for those impacts. Second. . .is a development agreement statute. I know this is met, not met with a great deal of. . .positive response in the past. But I would encourage this body to

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take a close look at that. And the reason is in the past, developers may have wanted to proceed ahead and were virtually willing to agree with anything in terms of conditions that might be imposed on them for unilateral agreements. Sometimes, it might be getting out there, but because they want to proceed with development, they would agree. A development agreement, basically, is a contract that would allow the government and the developer to work together and coordinate infrastructure plans, things of that nature. And arguably, you can achieve a lot more by an agreement than you could by imposition or exaction. So I'd encourage you to at least take a look at that. Third, under State law, there is a provision for community facilities district financing. This is a way to finance infrastructure improvements where there may have to be a lot of infrastructure done upfront to address drainage issues, sewage issues, things of that nature. The developer may not be able to recoup that right away. This, again, is something that I would encourage you to at least look at and consider. Fourth, a fairly recent law adopted in 1998 by the State Legislature relates to the transfer of development rights. And with the Mayor's recent State of the County speech--allocating or suggesting allocating a million dollars for a beach acquisition, things of that nature--an ordinance that allows for the transfer of development rights might be something to take a good hard look at. When you look at all four of these together, it may provide tools that you as the government officials, as well as developers, can use to achieve some mutually beneficial resolution to development issues. Finally, specific recommendations on the community plan process.

. . . We've gone through ten years now, and all the community plans have not yet been adopted. I think it's two or three that are still out there. One option I'd throw out to you is if a community plan is not adopted within so many years of the start of the process, simply have it for, the proposals drop-dead and perhaps have the existing community plan be re-enacted automatically so it--

MR. BOTEILHO: Three minutes.

MR. ZAKIAN: --starts anew. I'll wrap up in just one minute. Um. . .so we'll have a new effective date. This would force you to place a priority on what needs to be done. And if things don't have a great priority, they can just maybe lapse or pass and the present plan still remains effective. Um. . .the other suggestion is consider, maybe, placing, amending the law with regard to community plan amendments. Right now, the County, the State, and landowners can come in at any time, virtually, and suggest community plan amendments. Uh. . .this may effectively undercut your ten-year review where you're trying to plan ahead for 10 to 20 years. Some alternatives are--I think as Chair Tavares suggested in her memo--is encourage a once-a-year review. All the applications come in and you look at them all enmasse. Some other things I'd like to just throw out for your consideration. . .perhaps require a community plan amendment that's done other than the every ten-year update to be sponsored by an elected official. . .so that

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some person who has been voted into office. . .says yes, I would support this as it goes through the process--whether it be one of you nine Council Members or the Mayor--but there is an elected official standing behind it. Uh. . .and not a Department Head, you know, someone who's truly elected. Perhaps you may consider no community plan amendments except thorough the ten-year process. That way, the plan is locked in--everybody knows what they should be expecting. Um. . .so those are my comments. But I would strongly urge you to take a look at ordinances that possibly should be adopted to provide you with the tools, the Administration with the tools so that you can coordinate infrastructure development as, as we go through it. Thank you.

CHAIR TAVARES: Gary, do you, do you have that all written out?

MR. ZAKIAN: Um. . .just--

CHAIR TAVARES: Do you feel--

MR. ZAKIAN: --just--

CHAIR TAVARES: --comfortable submitting it at this time or . . .

MR. ZAKIAN: I, I would need to revise it. I--

CHAIR TAVARES: Why don't you revise it and then send it, send us something so we have--

MR. ZAKIAN: Sure. Be glad to.

CHAIR TAVARES: --your true words.

. . . Ms. Johnson.

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . . Me, me again.

CHAIR TAVARES: You again. Hello!

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . . Gary, I. . .you've been, you know, around for a long time through the process and what not. I've always been curious, and I've never looked for it myself, I've asked many individuals, but where in the County Code or anywhere in our ordinances does it say that we absolutely must accommodate every development that comes before us?

?: . . .*(laughter)*. . .

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MR. ZAKIAN: I don't know of any place where it says "you must". Um. . .there are, throughout the County Code, it does provide a set of standards. And people can make the application, they need to show how they meet those standards. If they do, then it is within. . .the appropriate body's discretion to grant it. I, I can say that based on one case dealing with a special management area permits on the Big Island, if it shows all the criteria are met. . .then, essentially the body is compelled to grant it. So. . .you need to be real clear on what the standards are. But if they meet all the criteria, it's very difficult to deny it.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR TAVARES: Thank you, Gary.

MR. ZAKIAN: Okay, thank you.

CHAIR TAVARES: Jim Smith. . .with his conclusion, to be followed by Rob Parsons.

**NOTE: Pause while Mr. Smith reapproached the podium.**

MR. SMITH: . . . Madam Chair, thank you for the opportunity, Members of the Committee. As a participant. . .beginning in 1992, I reviewed the old General Plan and the newly adopted one. One thing stuck me is that the word "principle" was replaced by the word "theme".

. . . And I thought, well, that's an odd thing because . . .(gasp). . . must base action upon a principle. We all act from principle, but what, how, how do you. . .how do you deal with the word "theme"? And it, and it dawned on me that possibly the object was that--it wasn't to base things on principle, it was to have an influence rather than a firm spot on which to guide your actions. So in the Paia-Haiku Community Plan, we **specifically** incorporated the word "guide". Okay. . .actions, these, these, these provisions will **guide** actions. That was adopted as an ordinance. That, in effect, satisfied the "shall" parts and all that. But it didn't work because there was no prioritization of the policies and principles. So we missed it . . .(laughter). . . but, we're learning. So this is something that, we have one, it's a democracy. You don't deny rights. This is what we're talking about. This is why we're not Singapore. Okay? Everybody comes forward. We agree to be regulated. . .for the better of all. And that's simple. We don't want mitigation that destroys our plan or destroys our community. It's the result we don't want. What we want is health. We want these things to be protected by law--not the guy with the money. And this is what the plan does. And it can be doing it without a problem if we just look at the simple answers--principle instead of theme, so it's clear; priority. . .is a, adjustments here that will make it simple so that everybody's rights are preserved and we have a lifestyle that's comfortable and, and we can live with. But nobody wants to do that. It's an easy . . .(end of tape, start 3A). . . takes a

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willingness. And the planning process is not going to, to, it, improve by a change if the high, I mean if the, if the mechanism is, is only on the top like a hat. You take the hat off, and then you do what you wanna do anyhow. So you guys have to focus on the simple things. We don't want technocrats. I don't want a technocrat off in a room. . .carving out what my life is going to be like in ten years and be damned if I like it. This is a democracy. We are going to either govern ourselves or not. And so be it. Let's not throw out our process which is unique. . .for something that is a vision. . .of utopia or a vision of some other man's idea.

MR. BOTEILHO: Three minutes.

MR. SMITH: Thank you very much. And. . .and I hope you will proceed.

CHAIR TAVARES: Mr. Kane?

COUNCILMEMBER KANE: Thank you. Jim. . .and the argument to that. . .and, and I'm just looking for. . .as brief as possible, but whatever you need to say. The argument to that would be well, let's look at where we are today, based on the uniqueness of a system that we've been operating under. And I think there's a large, there's a, a significant. . .amount of people out there that will carry that perception of well. . .yeah, we have a, a unique. . .way of doing things, but look what we've ended up with. So. . .how--

MR. SMITH: How would I respond to that?

COUNCILMEMBER KANE: Yes.

MR. SMITH: Well, I, I have some experience--you never got what you really want. And that may not be a bad thing.

. . . Okay? Uh, and then as you grow older, you may say, well, maybe that wasn't as bad as, as it should have been. The part about a democracy is nobody gets everything they **want**. So what you need to do, for example, is you need to do something like the Kula Rule. The Kula Rule says we're limiting. . .meters to three dwellings in Kula. Okay? Everybody called it a moratorium. It was **not** . . .(laughter). . . a moratorium. There was growth--12 percent. But the growth in **Haiku** was maybe 25 percent . . .(laughter). . . Okay? So we're talking about an effect that is, I say no way, I don't want this, I don't want this here, it's obnoxious to me and everything. But somebody else is saying you know. . .I, I have to feed my children, I kinda want this. And then gradually. . .the process melts together and it works. It has to work. That's what our children will inherit. But do we abandon it. . .to technology or technicians? No. Do we. . .one of the things that's scary is this. . .fast-tracking notion, this fast-tracking notion. Because we survive by the slow-track . . .(laughter). . . Okay? Look at the, for example, Spreckelsville

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Mauka. Okay? That was, that bugga would have been gone if it weren't for those haoles who talked in October and went rattling on, and then some haole in January, and then some this and that, and then bang and bing and bang and boom and bong, **and then in October and then oh, it never got**--and then what, an election comes by. . .it's been a year. . .and now we have a fresh outlook and there, there's a new day dawning. Well, the process is working. **Nobody** could have **planned** that. No engineer or, or politician could have, have thought this thing out in the way it happened. But it **happened**. And it validates our process. So don't throw the process out.

COUNCILMEMBER KANE: Thank you--

MR. SMITH: That would--

COUNCILMEMBER KANE: --Jim.

MR. SMITH: --be my answer.

COUNCILMEMBER KANE: Yes, thank you.

CHAIR TAVARES: Thank you. Rob Parsons, to be followed by DeGray.

. . . Did we lose him?

MR. BUCHANAN, FROM THE AUDIENCE: No, he just stepped out.

CHAIR TAVARES: Oh, okay . . .(laughter) . . .

MR. PARSONS: . . . Aloha, again. Rob Parsons. Thanks, again, for the opportunity to conclude my suggestions. . .ways to improve our process here. And thanks, especially, Madam Chair, to your bringing this broader view of what to do with community planning to the collective wisdom--not only of your Committee, but also opening it up to. . .members of the public. I, I think that's real valuable to start this year in this fashion, and I applaud you for doing exactly what you've done here. And, and Councilman Arakawa for bringing forth some very good suggestions--dating back to '98 as well. So to pick up where I left off, I made the point that . . .

. . . that our community plan revision has become sort of a developer's shopping list. And, and to quote Mr. Rapacz again, in bold type and underline, he says do not allow consideration of specific development requests during the planning. . .community plan revision. And correct me if I'm wrong, I think this was a point that you made during your Council campaign. I think it's a--

CHAIR TAVARES: Yes.

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MR. PARSONS: --very important one. As long as development requests are considered, political realities will dictate that the community plans will be development-driven, rather than driven by community interest and universally accepting planning principles. So we've got community. . . plus planning equaling our community plan. Otherwise, we have what. . . Mr. Nichols and others have said--is more of a development review process. Um. . . one of the reasons. . . that. . . that the developers have used the community plan revision in this way is because they. . . have found a large loophole that excludes them of environmental assessment. So that's my fifth point, is that. . . at any time--not withstanding Mr. Zakian's comments about community plan amendments--at any time a developer can bring forth a specific request and it gets the scrutiny it deserves. Of course, that brings us back to carry capacity study--because in order to properly assess things, we need to know where we're at--do we have the water, do we have the roads, do we have the schools, all of these things combined for a baseline study that's valuable and an environmental assessment. And as we've recommended before, this is exactly where we're at in this slowed-down Wailuku-Kahului Community Plan. We say sure. . . the developer ought to have the right to, once this. . . is moved into the Paia-Haiku Plan, resubmit as a community plan amendment. Then we know the potential impacts that we're looking at. Finally, I think we need to be very sparing and judicious in project district designations. I, I know that the intent is a good one--and that is that a large project should receive more scrutiny. But I think in a way--and I can give examples--it, the opposite has happened. What we do is we, we--

MR. BOTEILHO: Three minutes.

MR. PARSONS: --we've got. . . a square peg here and the round hole of, of our regular zoning. . . whether it be agricultural zoning, residential, those categories, and yet the project district allows that. . . particular parcel and development to write their own zoning. And the example that I'll use will be. . . Palauea Mauka--because we've got something that's in the State Ag District. We found a giant loophole where we're now saying if they plant ten percent in Conservation Ag, that it's Ag; however, they can have a swimming pool and a tennis court, and it's all Ag. So, you know, I think we, we've gotta be very. . . very sparing in project district applications. Once again, community plan amendment would work here. Uh. . . as a earlier speaker said. . . if we keep doing what we're doing, we'll keep getting what we're getting. So I. . . I'm excited that we've got lots of good ideas presented here today. Once again. . . it's the policy, not the process. Uh. . . and, unless. . . unless we do something to . . .

. . . change the way that the County. . . Administration is interpreting what we have here as our process, the political will is gonna keep subverting due process for everyone. Thank you--

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CHAIR TAVARES: Thank you.

MR. PARSONS: --very much.

CHAIR TAVARES: Thank you, Rob. DeGray? Oh, I'm sorry. . .Mr. Arakawa?

COUNCILMEMBER ARAKAWA: Yeah, Rob, this. . .project district awareness, I think that's something that's very critical. In. . .how we do it now is, we just take a project district and we allow it to be broken up into segments by the developer working with the department. How would you view doing areas or large developments. . .in this planning process?

MR. PARSONS: That's a good question. Uh. . .uh. . .I, I, I, I. . .I'm not sure that I have the perfect answer to that. I think that's something that collectively we can decide what is the best way to do it. I, I've noticed that there are a lot of things that are effectively sort of landbanked in project district designations right now. Now if nothing is done in five years. . .should it revert to a, a previous. . .land use designation? Perhaps. Otherwise, we. . .you know, we see specific landowners who are landbanking and we, you know, we've got half a dozen project districts but none of them are moving forward. So I'm not sure that that fits in with the overall community plan. . .and general plan.

COUNCILMEMBER ARAKAWA: In. . .in this partic. . .particular process, when we, when we were looking at it, was part of, part of the thing that we discussed earlier was a use it or lose it--if within a specific time you didn't use it, you would lose the designation. Uh. . .could you consider that and then let me know?

MR. PARSONS: Yeah. Absolutely--

COUNCILMEMBER ARAKAWA: . . .*(inaudible)*. . .

MR. PARSONS: --I think that there ought to be some kind of zoning congruency that after something is designated in the community plan, there ought to be. . .in a. . .a reasonable amount of time, a. . .move to bring zoning into congruency with community plan designation. And if not, I mean some people have suggested five years that it revert. . .I think that's in Mr. Rapacz's suggestions here, which I'll submit, and should be in your folder next time around.

CHAIR TAVARES: Thank you.

MR. PARSONS: Thank you.

CHAIR TAVARES: . . . DeGray?

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**NOTE:** *Pause while Mr. Vanderbilt reapproached the podium.*

MR. VANDERBILT: . . . Thank you, again. Um. . .in that handout that I gave you, again, it's. . .this is an ordinance coming up where you're gonna set some legislative intent and you're gonna clear up this discrepancy which seems to be between you, the policy-makers, and. . .the Administration as far as how the. . .community plan and general plans. . .uh. . .are handled when you're dealing with ministerial actions. And I think this'll go a long way to setting the tone for the people as to what you all think. . .the strengths of the community plan and the general plan are. And I really think that's important to be established before you take off into a long process of, of how many times it should be reviewed and everything else. The last page of that handout and something that I had mentioned when the Planning Committee was on Molokai, October 16<sup>th</sup> and 17<sup>th</sup>, was that the. . .Ron Kimball, who was a former member of the CAC. . .Head of Kamehameha Schools over there, and also a Planning Commissioner, had made the statement to the Planning Committee that 90 percent of our 1984 Plan hadn't been implemented. And under our old Plan. . .every policy statement had an implementing action and a timetable for doing it and who was responsible.

. . . In the new format, I had mentioned it had been watered down. And. . .Chairman Tavares had asked me to say how that had been watered down. And I went through the minutes and looked back at the CAC meetings. And this page here, called Implementation Considerations, is in every community plan. In the text of the community plan, it says Implementing Actions. **Actions**, something has to be done. In the implementing matrix, it calls, says Implementing Responsibilities of the Planning Department, Public Works, the Council, whoever. Our CAC did some implementing actions and everything, but we weren't told that you need an implementing action attached to a policy or it would be left out there, that policy would just be out there drifting. This implementing considerations was attached to our plan after the CAC reviewed it. And as you can see. . .nobody is accountable, with the wording that's in this thing. It's very vague. They might address "as appropriate", "might consider". That's a, that's a long way from . . .

. . . what's in, for instance, a zoning ordinance. And I'll just read what the purpose and intent of the ordinance is. And it spells it out very clearly. The purpose and the intent of this comprehensive zoning ordinance is to regulate the utilization of land in a manner encouraging orderly development in accordance with the General Plan and the Community Plans of the County.

MR. BOTEILHO: Three minutes.

MR. VANDERBILT: And it says in here that the purpose, intent of the comprehensive zoning is to. . .is to. . .control future growth with the General Plan and the community plan directives. So the weakness of our community plan, I would

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have to say, would be that it has some conflicting statements and some vague language. . .which was a direct result of the . . .Planning Staff that we had. . .who felt that the community plan was a guideline. We were told we couldn't use words like "prohibit", and it should be more suggestive things like "consider" and everything else. We weren't told to prioritize capital improvement or budget. . .requests--which the community plan is sort of, supposed to be involved with. And I hope that when you come over for the public hearing, that our community will be able to amend some of the text to give more clear direction. And I'm not talking about big words. . .consider, establish. . .maybe change that to establish, and put implementing actions where there are no implementing actions. And so when it comes to you and it's adopted into law, you and people in the Administration will have a clear understanding of where we're coming from. Because our CAC. . .spent 270 days reviewing the plan. We had 21 meetings--which is more frequency than the Council even meets. We did our homework. And in the General Plan, the Molokai community submitted 70 recommendations for changes to the General Plan, or additions. Thirty-six of them were accepted in one form or another by this Council. Whereas, every other community, the most from any community was five. So Molokai really takes pride in its. . .participation. And. . .I hope that be. . .our plan isn't adopted just to get it over with, and that we are given some kind of latitude to. . .make some corrections. . .to some obvious things that we've learned about in the last couple of months when all of this stuff started coming up. And. . .uh. . .I guess that's the, the last thing I have to say because. . .except that I think the community plan needs to be a. . .constant document--like, sort of like the Charter. Whereas, a new Council Member comes up, he can pick up a community plan and he knows what it means, he knows the intent of it and everything else. And. . .it can be amended. Right now it can be amended. And. . .I have some other suggestions on the process. And I, I guess the one is that once the intent is clarified, and everybody knows where it's going, then it's a matter of cutting down all the staff work for all these conditional and special use permits and everything else that come in, either after-the-fact permits--it just creates a tremendous amount of staff time to be involved, both at the Planning Department level and your level. I think you just went through a couple of those. And. . .and if I'm a dev, a developer, landowner out there looking at that and I have some land, I'm gonna say, well, I wanna be part of that wedding industry, that's a billion dollar a year. And you're gonna get a flood of those things. I don't know what you're gonna do, but it's gonna take a lot of your time and it's just gonna turn into the similar reaction as a filibuster--it's just gonna sort of bring you to a halt because you're just gonna have so much to deal with. But, anyway, I have some other thoughts, but it's getting late and. . .I gotta go home and fix dinner for my girlfriend.

ALL: . . .(laughter) . . .

CHAIR TAVARES: Thank you, DeGray.

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MR. VANDERBILT: Yeah, all right. Thank you.

CHAIR TAVARES: I'm sure we'll be seeing you again. I hope we will.

MR. VANDERBILT: Okay.

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

CHAIR TAVARES: Members. . .that concludes the testimony part of the meeting today. Before we adjourn, I just wanted to make one short comment. The memo that I sent out, that's in the binder regarding the planning process, the introduction or the ideas, it was sort of, you know, the first course in a multi-course dinner, or the appetizer, so to speak, for the main meal. And hopefully our dessert will be a, a great process. But it was just to spur some thought and some thinking in this line. I thank you all very much for sticking out . . .*(laughter)*. . . sticking it out with us. And I thank the Administration for being here. I think our next meetings, we'll, we'll try to get more, like I said, a workshop format so we can have some more interaction and nail down some of the points more clearly. So if, anybody have any announcements to make or anything?

**NOTE:** *Silence.*

CHAIR TAVARES: . . . Since Daniel mentioned dinner. . .uh, my stomach is telling me it's time to eat. Or DeGray, whoever that was.

ALL: . . .*(laughter)*. . .

CHAIR TAVARES: Okay, nothing else? This meeting is adjourned . . .*(gavel)*. . . Thank you.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (AA, RC, JJ, DK, PK, MM, WN, CT)

**ACTION:** DEFER pending further discussion.

**ADJOURN:** 5:11 p.m.

APPROVED:

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CHARMAINE TAVARES, Chair  
Planning Committee

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Transcribed by: Camille Sakamoto