

MAUI PLANNING COMMISSION
REGULAR MINUTES
APRIL 14, 2009

Approved: July 14, 2009

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 8:35 a.m., Tuesday, April 14, 2009, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Starr: Welcome to the April 14, 2009 meeting of the Maui Planning Commission. I'd like to welcome everyone who's with us today. So far we have with us, Commissioners Kent Hiranaga, Commissioner Bruce U'u. We have Corp. Counsel James Giroux. I'm Chair, Jonathan Starr. We have Jeffrey Hunt, our Director of Planning. We have Commissioner Donna Domingo and I'd like to certainly welcome our newest member Warren Shibuya and we're really glad to have you on board. Commissioner Lori Sablas and Commissioner Wayne Hedani. We have Carolyn Takayama-Corden, the secretary for our commission and we have a number of our great planners here today, we have – I see Robyn Loudermilk, I see Planner Ann Cua, I see Planner Paul Fasi, I see Planner Thorne Abbott. Am I missing anyone? Clayton Yoshida, who is Administrator. We have Zoe Norcross and I'm sure more folks will be here soon. Anyway, we'd like to move along with our business. I believe J.B. Guard will be us soon as well.

First order of business is an introduction of our new member. I'd like to turn the floor over to our newest member and with great aloha, I'd like to ask Mr. Warren Shibuya to introduce himself and we're really glad to have you with us.

B. INTRODUCTION OF NEW MEMBER - WARREN SHIBUYA

Mr. Warren Shibuya: Thank you Chairman Starr. I'm Warren Shibuya. I'm actually a retired person. I was working with the Space and Missile System Center for many years. We were designing satellites and rockets and doing many of the leading edge type research and development work. It's just not me only. There was a team of individuals. The team comprised of probably about 3,000 members and so it's not just one person.

I'm looking forward to retirement. I came back early in 2002, we had some family members that had health problems and so we decided to make Maui our home and we did, live in Kula and looking forward to serving the county. I completed five years of the Board of Variances and Appeals, two years as the vice chair, and also three years with the General Plan Advisory Committee, the GPAC. Just concluded this past couple months ago and looking forward to serving on the Maui Planning Commission. Thank you.

Mr. Starr: Well, certainly welcome and it's great to have your experience and especially you sat through and participated in the GPAC process and even I know you were very active in the subcommittees as well. So thank you for being willing to serve with us. It's a lot of work but it's really a great group and we have a great staff to help us out.

Mr. Shibuya: Thank you very much.

Mr. Starr: Okay, moving along our first order of business today is election of officers for the coming year. And to do this we usually have nominations from the floor. Actually before we do that we should have public testimony. I don't know if we have members of the public who wants to testify. At our meetings, we allow the members of the public to testify at any one of two points in a meeting either before we start to conduct business at the beginning of the meeting which is now or people are welcome to testify before we do any decision making on a specific item. So, if any members of the public wish to testify on any item on our agenda, welcome to do so. Please make yourself known. Anyone wishing to testify? Seeing none, initial public testimony portion of the meeting is now closed and we'll move onto our first item. Our first action item which is election of officers.

C. ELECTION OF OFFICERS FOR THE 2009-2010 YEAR - CHAIRPERSON AND VICE-CHAIRPERSON

CHAIRPERSON

Mr. Starr: Like to know if anyone who has a nomination would like to nominate someone for the position of Chair for the coming year? Commissioner Hiranaga.

Mr. Hiranaga: I'd like to nominate Wayne Hedani as Chair.

Mr. U'u: Second.

Mr. Starr: Wayne Hedani has been nominated by Commissioner Hiranaga and seconded by Commissioner U'u. Do we have any other nominations? Commissioner Mardfin.

Mr. Mardfin: I'd like to nominate Jonathan Starr.

Mr. Starr: Okay, thank you. Is there a second to that nomination?

Mr. Shibuya: I'll second it.

Mr. Starr: Commissioner Shibuya. So we have a nomination for Jonathan Starr by Commissioner Mardfin, seconded by Commissioner Shibuya. Anyone else would like to nominate anyone? Okay, any not seeing any, we'll close nominations. We'll vote on the two candidates. All in favor – would you like to speak before proceed Commissioner Hedani?

Mr. Hedani: Sure.

Mr. Starr: Yeah, please.

Mr. Hedani: Basically have served as Chairman of the Planning Commission before and I have indicated that if it's the will of the commission to have me serve as Chair that I would. I'll do my best as chairman and try to be as fair and equitable to everyone that comes before the commission as much as possible and do my best. Thank you.

Mr. Starr: Okay, thank you. And I've been serving as Chair and certainly willing to continue and do my best if that's the will. If not, be happy to serve under another chair. Any – hold on. Morning.

Okay, welcome Commissioner Guard. We have two members have been nominated to serve as Chair, Commissioner Wayne Hedani and myself, Jonathan Starr and we're about to take a vote on the choice of Chair for the next year. All in favor of electing Commissioner Hedani as Chair please raise your hand. All in favor of Commissioner Starr please raise your hand.

Wayne Hedani - five votes (K. Hiranaga, B. U'u, D. Domingo, L. Sablas, W. Hedani)
Jonathan Starr - four votes (J. Guard, W. Mardfin, W. Shibuya, J. Starr)

Mr. Starr: Congratulations Chair Hedani.

Mr. Hunt: For the record, that was five for Commissioner Hedani, four for Commissioner Starr.

Mr. Starr: I'll let you take over and chair the rest of the meeting.

VICE CHAIRPERSON

Mr. Hedani: Thank you very much Jonathan. We'll now open nominations for the position of Vice Chairman. Are there any nominations? Commissioner Hiranaga.

Mr. Hiranaga: I'd like to nominate Bruce U'u as Vice Chair.

Mr. Hedani: Bruce U'u has been nominated.

Ms. Domingo: Second.

Mr. Hedani: Seconded by Commissioner Domingo. Are there any other nominations? Commissioner Shibuya.

Mr. Shibuya: I'd like to nominate Mr. Hiranaga for Vice Chair.

Mr. Hedani: Mr. Hiranaga has been nominated by Commissioner Shibuya.

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u.

Mr. Hiranaga: I appreciate the nomination, but at this time, I would like to decline that nomination.

Mr. Hedani: Commissioner Hiranaga has declined the nomination, are there any other nominations for Vice Chair? Commissioner U'u.

Mr. U'u: I'll nominate Jonathan Starr for Vice Chair.

Mr. Starr: I'd like to decline, but thank you for –

Mr. Hedani: Jonathan Starr has been nominated for Vice Chair and has declined. Are there any

other nominations for vice chair? Seeing no other nominations, we'll elect Commissioner U'u as Vice Chair by acclamation. Thank you. Congratulations.

Bruce U'u, became the Vice Chairperson by acclamation.

Mr. U'u: Thank you.

Mr. Hedani: Director.

Mr. Hunt: Your next item involves the orientation workshop which we give annually to all the commissions that we staff. I'll give a brief introduction here. Some of this that we're going to go over this morning will be familiar to a lot of you, but I think it's good for all of us to review it and it also helps inform the public. My personal philosophy on growth and development is that it adds to our quality of life if it's managed, but it has to be managed. And the different planning processes that this body deals with gives various opportunities to interject your personal philosophy. For instance, the environmental review process I believe gives you the greatest opportunity. You virtually can request any information you'd like as long as it's pertinent to that application.

The next greatest opportunity is in legislation. You can pretty much express your own opinion regarding any proposed legislation that comes before this body. However, there are criteria even of the legislation that we have to consider. For instance, a reclassification of an urban area from agriculture to urban we have to comply with state laws that speak to these areas should be proximate to existing urban areas. Community plan amendment speaks to implementing the General Plan. Change in zoning has to be consistent with the community plan. So even though there's a large amount of opportunity for your personal philosophy in legislation, there are some criteria that you still have to meet. The most restrictive process that you folks deal with is the permitting, the quasi judicial and essentially their criteria of law that we have to review those permits against and if we don't make our decisions based on those criteria of law, they can be challenged and potentially overturned. The Planning Department will make a recommendation based on our interpretation of the law and not our personal philosophies. A lot of times we may not necessarily agree with the development but if we believe it meets the criteria that the development is supposed to be reviewed against we have no alternative but to recommend approval.

And so, with that in mind, we are going to go over all the various processes and methodology that this body deals with. We've broken it up into different subject matters and different planners will handle each one. Robyn Loudermilk is going to talk about the planning framework, Paul Fasi, zoning, Zoe Norcross, sea level rise, Thorne Abbott, Coastal Zone Management, Ann Cua will deal with the State laws and she'll also deal with processes for requiring County Council approval. Then we'll get into some more of the administrative issues. Allan DeLima will talk about sexual harassment which you folks are all subject to. Carolyn Cortez will deal with flood districts and the James Giroux your legal counsel will talk about legal issues.

The agenda's somewhat full and staff debated whether we should take questions during, after each element or perhaps every second or third element and what we suggested is that we wait and periodically take questions rather than interrupt the flow and perhaps get sidetracked, but it's up to you folks. It's your meeting. But we do have nine processes and we would suggest you take a break after the second one, after the fourth one, after the sixth one and take questions right before

your break. Unless there's any questions of me, I'll turn it over to Robyn Loudermilk.

D. ORIENTATION WORKSHOP

- 1. County Policy Against Sexual Harassment**
- 2. The Sunshine Law**
- 3. Ex parte Communications**
- 4. Discussion of Boards and Commissions Booklet Distributed by the Office of the Corporation Counsel**
- 5. Ethics**
- 6. Powers and Duties**
- 7. Rules of Practice and Procedures**
- 8. Land Use Regulatory Framework in Maui County**
- 9. Zoning**
- 10. Special Management Area Rules**
- 11. Shoreline Area Rules**
- 12. Country Town Business Design Guidelines - Paia-Haiku, Makawao-Pukalani-Kula, and Hana Community**
- 13. Chapter 343, HRS, The EA/EIS Process**
- 14. Presentation by Sea Grant Agent Zoe Norcross-Nuu on Sea Level Rise**
- 15. Flood Hazard Districts**
- 16. Recent U.S. Supreme Court decisions on takings issues.**
- 17. Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission**
- 18. Hawaii Supreme Court Decision regarding the Topliss case (SMA)**
- 19. Meeting Schedule**

Ms. Robyn Loudermilk: Good morning Commissioners. As Director Hunt indicated we have a full schedule for you this morning. In addition to the various presentations provided by staff, you have been provided with three handouts. One handout is a copy of the power point presentation that we will be going through this morning. The second handout is a power point presentation regarding the flood hazard districts and your third handout is the new board and commissioners orientation document.

As Jeff had indicated, if you could please hold your questions till prior to break and may be suggest that those questions can be written down next to the particular slide. In your handout we've provided some – a space on the right-hand side for you to jot down notes or questions and that way you can not lose the thought.

So again, just framework. I'll be going through the overview. Paul Fasi, Title 19 which is the zoning code. Zoe Norcross-Nu'u for the sea level rise. Coastal Zone Management will be done by Thorne Abbott. Environmental Assessments by Ann Cua who will also be going through an application requiring Council approval. We'd like to note that this is a new item that we've included so it provides you an opportunity to see what happens on our end before a report comes before you. Then we have our sexual harassment policy, flood hazard districts and then James will go through his presentation.

Regarding the planning framework, this morning I'd like to go over the various parts that comprise the planning framework in the State of Hawaii and the County of Maui in particular. This particular slide identifies the various parts of the framework. Starting from the far left we have the Hawaii State Planning Act. Next to the right of it is the Land Use Commission. Chapter 205, we'll go through zoning, Chapter 46, the Coastal Zone Management Program and Environmental Impact Statements. We have in another slide that replicates this. So, we'll highlight it during that time.

Our planning resources. There are a lot of resources available to the department as well as the commission. So I'd like to start off with the Maui Planning Commission and note that you will be in the middle of this portion of the presentation.

Next we have the Urban Design Review Board. The board is advisory and makes recommendations on designs related to projects located within the special management area. Further the board makes recommendation on other areas related to design such as comprehensive signage plans, design guidelines for the country business town zoning district and other areas that the department deems necessary for input. The board is comprised of nine members and four alternates. Four members have an interest in design and the remaining members are from design professions such landscape architect or architect. Additionally, the board is required to have members from the islands of Molokai and Lanai and this board is staffed by the Planning Department.

Our next resource is the Arborist Committee. This is advisory and makes recommendations relating to trees within subdivisions, public right of way and landscaping for parks and other places. They may also nominate exceptional trees for protection. For example, the banyan tree in Lahaina. This board is comprised of nine members and is staffed by the Department of Parks and Recreation.

Next is the Hana Advisory Committee and as indicated, this committee is advisory. All Planning Department applications located in the Hana Community Plan region may be referred to the committee by the Maui Planning Commission to conduct public hearings and make a recommendation to the commission. The committee is comprised of seven members who reside in the Hana Community Plan region and is staffed by the Planning Department.

Next is the Cultural Resources Commission. This commission has final decision making authority within Historic Zoning Districts 1, 2 and 3. This includes approval of uses and architectural design. The CRC also provides advisory comments and recommendations to the appropriate planning commissions, other boards and commissions, departments, County Council and Mayor. The CRC may also prepare nominations to the Hawaii National Register of Historic Places. The committee is comprised of nine members with disciplines of archaeology, planning, architecture, architectural history, Hawaii culture and ethnic history. Additionally, the CRC is also required to have members from the islands of Molokai and Lanai. Lastly, it is also staffed by the Planning Department.

Then we have other Federal, State and County agencies that do provide comments to the department regarding their specific functions. For example, the State Department of Health provides comments on individual wastewater systems.

Now I'd like to take you through the regulations providing the planning framework. First of all, we have the Hawaii State Constitution which sets forth the structure of governance in the State of Hawaii. The Constitution among other things provides for the workings of both State and County government and the enactment of State laws by the Hawaii State Legislature. These laws are known as Hawaii Revised Statutes. So when you see an HRS after a particular number it refers to State Law, Hawaii Revised Statute.

Next we have the Hawaii State Planning Act which is Chapter 226 HRS. It was adopted in 1978 to establish a statewide planning system as well as providing the enabling legislation for the County General Plan and the respective development or community plans that we have today. The Hawaii State Planning Act sets for the required elements of these plans such as desired population and physical development patterns. It also identifies unique problems and needs as well as specific functional areas such as land use, transportation systems and lastly it does provide some priorities for implementation.

Next we have the General Plans and community plans which is Chapter 2.80B of the Maui County Code. The current General Plan was adopted in 1990 with the respective nine community plans being adopted after. What we have on the screen is the cover of the current General Plan. On the island of Maui there are seven community regions, and in addition to the cover of the current General Plan we have a map delineating the community regions on Maui and we've also included Kahoolawe which is a separate community plan region.

What we have up now are the current covers of the existing community plans. At this time, we'd like to note that the Maui County Charter was amended in 2002, to provide further guidance on the General Plan update. Also, at this time, Bill 84 was passed by the Maui County Council to provide further guidance on the current General Plan update process and clarify the role of the completed documents in county governance. So I believe later on this month you folks will be beginning your review of the Maui Island Plan as part of the General Plan update.

The Maui Planning Commission conducts public hearings and then provides recommendations to the Maui Council for community plan amendments located on the island of Maui.

Next we have the State Land Use Commission known as Chapter 205 HRS. It is more commonly known as the State Land Use Law and was adopted in 1961 by Act 187. Basically what the law did was all lands in the State of Hawaii are designated into one of the four categories we have up there. Urban, agricultural, rural, conservation and then we have a map on the bottom right-hand corner showing the designations. The gray area would be conservation district lands. The green area would be agricultural districts. You see some yellowish green, those are urban districts and hard to see but there's some light blue with rural.

The County has jurisdiction over lands located in the agricultural, rural and urban district. Lands located in the State Conservation District are under the jurisdiction of the State Department of Land and Natural Resources.

There are two types of actions that occur under the State Land Use Law. This first action which we have on the screen is known as a land use district boundary amendment which is the

reclassification of land from one district to another district. For example, from the agricultural district to the urban district. And we have an example of the type of map that would be accompanying this type of request. The second type of action is known as a special permit and it allows for the establishment of a use that is not permitted within the State Agricultural and Rural District. This proposed use must be deemed unusual and reasonable based upon the five criteria that is listed. First is that it's not contrary to the objectives of 205. 205A is the Coastal Zone Management Law and Thorne will go into that in more detail. Second criteria, use would not adversely affect surrounding property. Third, the use would not unreasonably burden basically public services and infrastructure. Fourth, unusual conditions or trends or needs have arisen since the establishment of the district boundary in 1961. And lastly, the land upon which the proposed use is sought is unsuited for the uses permitted within the district.

State Land Use District Boundary Amendments greater than 15 acres are processed by the State Land Use Commission. The Maui Planning Department is a mandatory party to any district boundary amendment involving lands located in Maui County.

Land Use Commission Special Permits greater than 15 acres require approval from the State Land Use Commission. However, the processing is done by the Maui Planning Department. It is the Maui Planning Commission who conducts the public hearing and then provides the recommendation to the Land Use Commission.

State Land Use District Boundary Amendments less than 15 acres are processed by the respective counties. The Maui Planning Commission conducts the public hearing and then provides recommendations to the Maui County Council for district boundary amendments located on the island of Maui. The processing of district boundary amendments in Maui County is governed by Chapter 19.68 of the Maui County Code.

Land Use Commission Special Permits less than 15 acres are located in Maui County are acted upon by you after the conducting of a public hearing.

Next we have zoning, Chapter 46, Hawaii Revised Statutes is the enabling legislation that allows for zoning at the county level. This chapter also allows for the creation of planning and traffic commissions in which has morphed now into our respective planning commissioned.

Title 19 of the Maui County Code is the zoning code for Maui. There are two parts to Title 19 and Paul Fasi will go into greater detail on this later on. So this portion of the zoning, Paul Fasi, again, will go into greater detail.

Next we have the Coastal Zone Management Act, Chapter 205A, HRS. Chapter 205A was adopted in 1978 and this chapter is comprised of the special management area, shoreline setback area and the Coastal Zone Management Program. Thorne Abbott will cover this section in greater detail later on in this presentation. So this is the special management area rules, the shoreline setback rules, the types of reviews that come before this body.

And then lastly, we have the Environmental Impact Statement which is Chapter 343, HRS. This was adopted in 1974 by Act 246 and provides a means of information disclosure through a system

of environmental review that will insure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. And Ann Cua will cover this section in greater detail later on in this presentation. Environmental Impact Statement comes into play for two types of actions that come before the commission. The first one would be a community plan amendment and the second would be any shoreline setback variance.

I would now like to turn it over to Paul Fasi who will be covering the zoning.

Mr. Paul Fasi: Thank you Robyn. Good morning. As Robyn mentioned earlier, Chapter 46 of the Hawaii Revised Statute is the enabling legislation for the County to zone lands. Zoning in all counties is accomplished within the framework of a long range comprehensive general plan prepared or being prepared in this case it has been prepared to guide the overall future of the county.

Zoning is one of the many tools available to the County to put the General Plan into effect in an orderly manner and is found in Title 19 of the Maui County Code. There are two parts to Title 19. The first is Article 1 which contains the interim zoning provisions and the second is Article 2 is the comprehensive zoning provisions.

Interim zoning, excuse me, we need to get on the right slide here. Interim zoning was adopted in 1958. It was created for the purpose of providing interim regulations pending the formal adoption of the comprehensive zoning. Although created as a temporary measure, we still have interim zoning in place today. The use variance is a process utilized for interim zoned land in which the strict enforcement of any provision in the interim zoning code would involve practical difficulty or unnecessary hardship and that the desired relief may be granted without being detrimental to the public interest, convenience and welfare. The Board of Variances and Appeals conducts the public hearing on the request and then forwards to the County Council the final action.

The comprehensive zoning was adopted in 1960. It was created to regulate the utilization of land in a manner that encourages orderly development in accordance with the land use directives of the Hawaii Revised Statutes, the revised Charter of the County and the General Plan and the community plans of the county. Comprehensive zoning includes a number of zoning districts which most of you are familiar with such as the residential and apartment districts, commercial and industrial districts and public/quasi-public and park districts. Each of these zoning districts lists permitted uses and standards that regulate development. There are various mechanisms in place to administer comprehensive zoning in which you, as commission members, have direct involvement.

Today, I'll be discussing a number of permits which the Planning Department and planning commission and the County Council review. For a number of these permits, the planning commission has the authority to grant or deny. For others, the planning commission serves as a review body making recommendations to the Maui County Council.

In preparation for this orientation we considered only discussing those permits that you, as commission member will review. However, after further thought we felt it important to give you more of an overall picture of the various land use permits processed by the Planning Department

in part because you may sometimes get asked about these by your constituents and other people.

Change in zoning is a process that is found in Chapter 19.510 of the County Code. It allows for a change in zoning from one zoning district to another. For example, if an individual purchases a property that is zoned residential and the intent to operate a business on the property they are required to legally establish the use before they can operate. If the community plan for that region designates the site for business use, the applicant is able to file for an application to change the zoning from residential to business. The planning commission conducts the public hearing on the application and makes a recommendation to the County Council. The Council is the final authority on changes in zoning. The map you see in this slide is typical of a zoning map for a property that is being rezoned. The map contains information such as location, land area, TMK number, and the existing and proposed zoning of the property.

The conditional permit is found in Chapter 19.40 of the County Code. The intent of the conditional permit is to provide an opportunity to consider establishing uses that are not specifically permitted within a particular zone where the proposed use is similar, related or compatible to those uses already permitted. The planning commission conducts the public hearing on the application and makes a recommendation to the County Council. The Council is the final authority on conditional permits.

The project in this slide is the West Maui Federal Credit Union which was granted a conditional permit to convert a single family residence into a business within the single family residential district. Both the planning commission and the Council found that the business use within an existing single family residence was compatible with the residential zoning district. Under the current law, the conditional permit is the principal zoning approval needed to allow individual transient vacation rentals even though other type of permits are also often necessary.

The County Special Use Permit is found in Section 19.510 of the County Code and allows for certain special uses in a particular zoning district. A public hearing with the planning commission is required and the planning commission is the final authority on county special use permits.

Mr. Hedani: Paul, can you hold the mike closer to you?

Mr. Fasi: I'm sorry. The Planned Development process is found in Chapter 19.32 of the County Code. The planned development is a mechanism that allows reduction of a minimum lot areas, greater building densities and mixed land uses in order to encourage desirable design and land use patterns within existing natural environments. Planned developments involve a three-step process all of which review and approval is by the planning commissions.

Project Districts on the other hand, a project district is found Chapter 19.45 of the County Code. The intent of the project districts is to provide for a flexible and creative planning approach rather than specific land use designations. A typical project will have multiple land uses such as residential, commercial, open space and public/quasi-public. Project districts also involve a three-phase process. The first phase establishes land uses and standards for the project district through an ordinance. The second phase involves approval of a preliminary site plan for the project district and phase three involves the review of the final site plan for the project. The map in this slide is

the Maui Lani project district map that was adopted as part of the Phase 2 Project District Approval. If you can, you can see the multiple land uses within the project district.

Regulations on bed and breakfast homes are found in Chapter 19.64 of the Code with some provisions for B&Bs in the ag district also in Chapter 19.3A . As you know, this has been recently been modified and B&Bs are allowed in the ag district. The process allows for small local business the opportunity to provide visitor accommodations in their residences provided that the character of their neighborhoods are retained. With the recent adoption of ordinance 3611, the three previous types of B&B permits have replaced with the single permit type which the Planning Director is the final approval authority in most cases on Maui Island and Lanai.

The Country Town Business District is found in Chapter 19.15 of the Code and it establishes development standards for businesses in some rural communities. Examples of Country Town Business Districts are Makawao Town, Paia Town and Hana Town. The Maui Planning Commission approved design guidelines for this country town business areas. The Planning Department administers these design guidelines and grants approval of the projects within these districts.

Off Site Parking. Provisions for off site parking are found in 19.36 of the Code. Planning commissioners have the authority to grant off site parking approvals, to allow required parking for a project to be provided on another lot that is within 400 feet.

Lastly we have the Accessory Use Permits and they're identified in various zoning districts within the County Code. If a use is not identified as an accessory use it may be considered for approval by the planning commission. And this concludes the zoning overview and I don't know if we're going to go into a break or turn it over to the next presenter which will be Ann Cua.

Ms. Cua: I guess the commission can decide, do you want to take a break now or would you like to just continue?

Mr. Hedani: Commissioners, are there any questions that you have for the first couple of sections that they went through that you'd like to pose now? Okay, why don't we take a 10-minute recess then?

A recess was called at 9:20 a.m., and the meeting was reconvened at 9:33 a.m.

Mr. Hedani: Director Hunt is monitoring our meeting so if you have any questions for the director, you know, don't be afraid to ask. Clayton, you want to introduce the next session?

Mr. Yoshida: Yes, we have Zoe Norcross, she's the Sea Grant Agent, talking about sea level rise.

Ms. Zoe Norcross-Nu'u: Good morning Commissioners. It's good to be here. Thank you for having me again this year. I think this is the forth year that I have come and spoke about sea level rise and sea level rise planning considerations and every year I try to bring in the most current information that we've got, the most recent data and it seems like every year there are great leaps being made, great leaps forward being made with respect to our understanding of sea level rise and climate

change. So hopefully for those of you who seen this before there is some new material.

This is the Hololani Condominium in Kahana which will eventually, they've got temporary shore protection in place right now but they'll probably be coming forward for permission to build a revetment.

First of all, why am I here as a scientist? Science provides a basis for management tools that exercise avoidance. Basically from our perspective as scientists the best way for you as planners and resource managers to address crisis and erosion problems and sea level rise is to just move out of the way. So what we do is we provide you with tools that you can use on which you can base decisions, planning decisions, tools in the form of maps and sea level rise rates and inundation maps and coastal erosion rates and maps.

Now just in case some of you have been hearing about the latest news about how global warming is a hoax and it's not actually happening because our planet is cooling, I just wanted to clarify some of the information about this. First of all, it would be unusual to expect the temperature of, the global temperature to increase steadily every year without dropping back. As you can see in this graph that shows temperature change from 1960 till currently it's quite normal for temperatures to rise and fall and that's because of a number of natural factors that effect global temperature. You can see that right at the end, we're now in a cooling phase. But the trend is consistently upward. So for those who think that global warming is something we don't have to worry about because this winter was one of the coldest in the last decade, it's important to not confuse weather with climate. They're two very, very different things. Weather is something that happens on a short term basis from year to year or from month to month or from day to day, but climate is the science of long term changes in the earth's temperature.

Couple of reasons for that, why we're currently in a cooling phase, one of them is because we're at a very extreme minimum for solar activity, sun spot activity and this graph is a replication of sun spot activity between 1975 and the current year and when sun spot activity is at a minimum, we have less – we have cooler temperatures on Earth.

In addition, the el niño southern oscillation definitely affects our climate as well on a global level. You can see this plot from 1950 to the present day shows the warming and cooling periods that we go through with el niño. Probably some of you noticed we've had a lot of rain recently but we didn't have so much rain last year, we're in a la niña phrase right now which is a cooling phase as opposed to el niño which is a warming phase. So you can see that again showing up right here that we're in the cooling phase.

Now also, this is where we're at right now between the late 1990's and 2050 global surface temperature may not increase over the next decade as natural climate variations in ocean circulation patterns such as the North Atlantic current and the Tropical Pacific Decadal Oscillation temporarily offset projected anthropogenic warming. So in other words, we projected over the long term, climate is definitely warming, but right now we're in what appears to be a cooler phase. However given our expectation that we're going to have another el niño in the next couple of years it's seems likely that we'll still continue to set new temperature records probably we'll set a new one within the next year or two despite the fact that we have reduced solar radiance. So the bottom line

is global warming is real and our challenge is to adapt and what I'm going to be talking about today is that a major consequence of warming is accelerated sea level rise.

How does global warming effect sea level rise? Well, there's two main ways that does this and the first is thermal expansion of ocean water. The analogy that I commonly use is if you put a full cup of water in the microwave and heat it up, the water will overflow. As you heat up the water, the molecules take up more space and we see the exact same thing happening in our ocean basins.

The addition of fresh water from melting glaciers and ice sheets is the second source. Basically just melting of the ice that's on land as that ice melts the water flows into the land, we get an increase of the volume of water that's in our oceans.

So how and why is global sea level changing? Alpine glaciers are in a state of global collapse. Worldwide Alpine glacier meltings since 1988 has more than doubled. Glacier thickness is also significantly decreasing. In Antarctica, warming covers an area much larger than previously reported. Up until probably five or six years ago, it was debatable as to whether or not the Antarctic was even warming. But this is temperature change, degrees Celsius and so there's been a quarter degree Celsius increase in this area since 1957.

The continent wide average near surface temperature trend is positive. The west Antarctica ice loss has increased by 59% over the last 10 years and the Antarctic peninsula itself ice loss has increased by 140% over the last 10 years. Overall ice loss in Antarctica has increased by 75% in the last 10 years. This is definitely contributing to rising sea levels. In Greenland, – basically I should clarify that the two main sources of ice melt coming into our oceans are the Greenland ice sheet and the west Antarctica ice sheet. We also have ice melting from glaciers around the world but that's a much smaller component.

In the past 20 years melting rose a 150% above the long term average in Greenland. The areas shown here in red and orange are areas where we're getting seasonal ice melt. In the past 11 years, the total mass deficit of Greenland tripled and the amount of ice loss in 2008 is nearly three times what was lost in 2007. And so, this little color-coded thing down here says how many days longer the melting period is taking place and on the far end here it says plus 30 which means there's 30 days more of melting occurring in this area.

Thermal expansion is the other – that's basically the cup of water in the microwave analogy has quadrupled in the shallow ocean. So you can see the areas where – that are red are the areas where thermal expansion is having the greatest impact because of course, the equatorial regions are warmer and so we're getting more expansion of water in those regions. Warming of 2 to 5 degrees Celsius which is predicted by the year 2100 could result in sea level rise of 25 to 70 centimeters for many centuries to come and that's just from thermal expansion.

Melt water from Greenland and Antarctica this is something that's new. A recent model, a computer model that was generated shows that actually we may be spared for a little while over here in the Pacific. The melt water from Greenland takes many decades to make it's way around to the bottom of the Atlantic Ocean and through into the Pacific Basin. So after 10 years, lets say that all the ice in Greenland melted, after 10 years that additional melt water would only have flooded basically the

Atlantic Ocean. After 30 years, you're starting to see an increase in the levels in the Pacific and the Indian Oceans, but mostly still it's confined to the Atlantic Ocean and after 50 years, you're seeing a little bit of an increase here but less here. Basically what this model is showing us is that the basins, specifically the Atlantic Basin is kind of confined and it takes a while, quite a long while for water and a water increase into that basin to make its way out through these tiny little gaps into the Pacific Ocean. So that might be good news for us. We might have our – well, temporarily anyway we might have our sea level rise over here in the Pacific delayed for a little while.

Same thing with Antarctica, the currents that circulate the Antarctic Continent also act to somewhat hold the water in place around the Antarctic Continent according to this model which also shows that after 30 years and after 50 years a lot of that melt water won't have made it out globally. Again, this is just one model that was generated and so this is a fairly new model as well.

The Intergovernmental Panel on Climate Change makes projections for sea level rise and in 2007, they projected sea level rise of 18 to 59 centimeters by the year 2100. So this is 1990 to 2100 projections for sea level rise and what they do is they look at all the models that forecast sea level rise and they create this graph based on the results of all the scientific models that have been published. But what the models do not take into consideration in their 2007 report is there's an unknown contribution that was not accounted for in models at that time from calving, and calving is basically when you have chunks of ice that break off at the bottom of the ice sheets and fall into the ocean. So the scientists have not been able to successfully model that and account for how much that was going to contribute to sea level rise. And before I move onto the next slide which explains this further, I'd like to point out that between 1990 and 2005, this was the IPCC projections for sea level rise. This gray area here. But the blue and brown lines show what actually we measured in this time period and so we measured sea level rise that was at or exceeding the upper most predictions of the IPCC's sea level rise models.

Around the world we have tide gauges and we have several in the Hawaiian Islands. This is a global map of where all the tide gauges are. Tide gauges have been measuring changes in sea level for over a hundred years actually but this particular graph shows global sea level trends since 1960, 1960 to 2000 and what you can see here is that there's an interesting thing that took place in the late 1980's – between 1960 and roughly 1990, the global sea level rise rate was one to two millimeters per year and then after 1990 that spiked, it nearly doubled to three millimeters per year.

Now this graph is particularly interesting. It shows sea level trends between 1992 and 2007, and the hot air is like the dark red represents 10 millimeters per year of sea level rise or basically 1 centimeter which is about like this and anything that's green represents flat, zero, nothing, no sea level rise and when you get into the blues that represents a drop in sea level. So interestingly you can see in the Western Pacific that's an area that's been really hard hit by rising sea levels but interestingly if you look at where Hawaii is, we're at about 1 to 2 millimeters per year, we're kind of in this green band that's stretching across that has very little relative sea level rise, and we don't know why. I can't answer that question, but sufficed to say we're really close to this red area that's right here and should this red area expand that would be very significant for us as far as sea level rise is concerned. We're fortunate to be in this little band here and I'm not sure what it means, but this is confirmed by – if you look at Honolulu's tide gauge over the last century, we haven't seen that change in slope, that spike that the rest, that the global average showed of doubling to 3

millimeters per year. We're still at 1 ½ millimeters per year in the Hawaiian Islands. So our rate of sea level rise is lower than the global average and we can't really explain why that is right now.

Okay so previously I mentioned there's two main ways that sea level is rising. The first is thermal expansion and that's the water in the microwave analogy and the second is ice loss. These two graphs basically show that ocean heat content which is this graph matches up with sea level rise. So the warmer the ocean is, the more, the higher sea level goes. So that just basically shows that thermal expansion is causing sea level rise.

And ice loss, the models that we had in 2007 when the IPCC report was released did account for melting from ice sheets but did not account for calving which is, as you can see these big chunks of ice that break off and fall into the ocean and they're a very significant component to the sea level rise equation. Now last August a very significant paper was published. I think it was in the Journal of Geophysical Research by Pfeffer ...(inaudible)..., they published a paper called Kinematic Constraints on Glacial Contributions to 21st Century Sea Level Rise and they are the first to successfully model that calving component to sea level rise and they showed that – with their models an improved estimate of the range of sea level rise by the year 2100 including increased ice dynamics lays between 1 to 2 meters.

We've been telling everybody that 1 meter was a pretty good number to use for our estimates and this result basically confirms that it's not – that one meter by 2100 is not exorbitant, in fact, it's on the lower end of the range of what is likely.

So what are some of the effects of accelerating sea level rise? Sea level rise has almost doubled in the last 10 years, likely to see at least 1 meter rise by 2100, coastal erosion could get much worse, the water table will rise. Rising water table has a lot of implications. In addition to possible aquifer contamination we'll have the formation of new wetlands and Chip Fletcher coined the term urban estuaries and basically what that means is that as the water table rises we will see water flooding out into areas that have been paved, parking lots, streets, areas that have been developed where homes are and that they will become estuaries but they're already developed and they're urban so that's the term urban estuaries. But as the water rises the water table is directly linked with sea level and as the water table rises, the water table will pop out above the ground surface. Essentially where you see wetlands like Kanaha wetland, that is the water table popping out above the surface of the ground and that will – we will see that taking place in more locations. Coastal lands will become submerged. Storm drains will back up. So when we have periods of heavy rainfall, it's either going to take longer for that to drain off our streets or it may not drain at all. Drainage infrastructure will stop working in low laying areas. As you probably understand, the way the drainage infrastructure works including leach fields for septic systems is that you have perforated pipes and that the treated wastewater seeps out through those holes into the surrounding ground. If the surrounding ground is already saturated because the water table has risen then it will not, the water will not leave the septic pipes and you get a backed up drainage system and that also leads to flooding. I can't emphasize enough how important it is to understand this for you folks that are looking at coastal developments, looking at permits for coastal developments, it's so critical to understand that it's – with sea level rise we're not just worrying about the ocean coming and attacking the coastline and causing erosion, that the water table rise is going to be a really significant problem because the water table is directly connected with sea

level. In fact, all the way across Central Maui, if you go down into the test wells, they rise and fall with the tides and so – and you can see that signal passing all the way through Central Maui. Increased vulnerability to tsunami. That's also very critical and failure of infrastructure such as roads or sewage systems, the wastewater treatment facilities in a critical location.

How much sea level rise is possible? Has it happened before? Well, yes in fact a 125 thousand years ago, sea level was four to six meters higher than it is today and on Oahu, this is a large coral head that is now above the surface of the ocean but was below sea level 125 thousand years ago. So yes, in deed, sea level has been higher than it is today here in the Hawaiian Islands, in fact, not that long ago by geologic standards.

For Maui, unfortunately we do not have high resolution sea level rise inundation maps yet for Maui. This is a very, very rough version just to give an idea of the areas that are at risk. You can see there are areas that are highly developed like Kahului, all the central commercial area, North Kihei, Olowalu, Lahaina, Maalaea, Kaanapali. East Maui is going to be fine.

A little bit closer look into Kahului. This area here, obviously what we're seeing is an expansion of the Kanaha wetland. It's going to basically overflow its boundaries and expand into this area. Next time you drive past that on the Hana Highway were it just before it turns into Kaahumanu Avenue take a look at Kanaha wetland and recognize that it's not going to take that much of a rise in sea level for that wetland expand beyond its current boundaries. And this area here between Wakea or Puunene, Wakea, Kaahumanu and Hana Highway is very much at risk and it's very, very densely developed and got a lot of commercial and Industrial use. In addition, we have the wastewater treatment facility and the power plant and Kahului Harbor all of which are going to require some kind of modification or adaptation.

These are the high resolution inundation maps that I was talking about that we really need here on Maui. They show 1 meter of sea level rise at high tide with a heavy rainfall. This is Honolulu and for reference this is Aloha Tower and this Iolani Palace or something like that, so you can see – oh, that's the Capitol, okay. With 1 meter sea level rise, we're having significant impacts quite a long distance in from the ocean. As water table rises and we'll become, will pop out, this will be a nice little urban estuary here. Waikiki is probably even more significant. This is Ala Wai Canal, Waikiki Beach, Kapiolani Park over here, with 1 meter of sea level rise, we have significant impacts to all of Waikiki and a lot of the residential and commercial area behind Waikiki, quite a far distance in from the shoreline.

So these are the kind of maps that when I spoke in the beginning about planning tools, this is the most critical planning tool that we could possibly have at this time and we don't have it yet. We hopefully we'll have funding in the budget next year to have these maps created for Maui.

In addition, we have – you can see for flat low laying coastal areas as sea level rises these types of storm inundations are going to become far more frequent and hopefully this little, what this model, this is created by the University of Hawaii what it will show is the blue represents where waves come to every single year. The green is every five years we get a little bit higher surf, you might get inundation in this area here. Every 10 years, the yellow area, every 25 years, you might get wave excursions into this area. But as sea level rises and this number is going to tick upwards,

watch how quickly that changes. Okay this is one foot, one foot of sea level rise and all of a sudden we're seeing that the one-year and five-year inundation is already exceeded what it used to be the 25-year inundation area. So basically we're getting now every couple of years we're getting inundation where what now we would consider to be a very rare event.

Sorry this is – it's on Oahu, Waimanalo. Okay, so with 1 meter you're seeing – we have far exceeded every year the amount of inundation that we saw on a 25-year basis today. So basically what we would consider to be a very extreme event, it's going to flood inland much worse with 1 meter of sea level rise every year than we're getting you know, basically never today. So inundation into low laying areas is very critical. We're already seeing in Mapunapuna on Oahu one mile inland flooding that – this is where the storm drains back up, Mapunapuna again is pretty far inland but high tide the storm drains back up and particularly if they're got heavy rainfall, but even on sunny days they get water in the streets and baby hammerhead sharks and tilapia.

Waikiki also, at the highest tide in the summer of 2008, some of my colleagues on Oahu went out to get these photos. This is ocean water from the Ala Wai flooding through the storm drains this is basically sea level has risen to this level. Now it's about to go on the street. It actually is on the street. So with even a couple of inches of sea level rise, the street is going to be flooded at high tide. So it's already happening here on Oahu and you can also see it's got a pretty significant impact on their beaches. On the same day, that same that last photo was taken on the beach at Waikiki you can see there's no dry beach left.

So should sea level rise be considered when siting an engineering coastal development? These are questions you guys need to answer. Should major infrastructure be relocated or reengineered? How will changes in runoff drainage affect Maui? How will rising sea levels affect ground water resources and how will Maui manage its beaches?

The first step that we need to accomplish is to create high accuracy LIDAR base sea level rise inundation maps for low laying coastal areas. And we just found out that, such as this one that exists for Waikiki here, we just found out that the LIDAR data does now exist and is available to the public so that's of I think two months ago. So now we have the tool to make these maps, we just need the money to make it happen. So if anybody has any independent sources of funding they'd like to contribute towards this cause it would be greatly appreciated.

Second step, take sea level into consideration when reviewing development or redevelopment of low laying coastal areas. I use this because it's a pretty classic example. The Kitagawa's scrap metal recycling facility that is being built now I believe is right adjacent to the Kanaha wetland and there's in fact, there's a little piece of wetland right on their property and when I reviewed this SMA, I'm not sure why this SMA was sent to me for a review but I'm glad that it was, the question – the first question that came to my mind was what is the location of the drainage infrastructure for this property with respect to the water table? And that's the kind of thing you guys need to be asking when you see these applications. This is not a coastal property. It's quite, you know, quite a good distance inland from the shore, but the water table here, you can see where the water table is. And so they had proposed to build this with the drainage infrastructure just above the water table and particularly since it's immediately adjacent to the wetland, it need to be extra concerned about the fact that we can be certain that the water table here is going to be linked to rising sea levels and

that it will affect this property. And so after some review the developers agreed to raise the overall grade of the property by one foot which gives them one foot of extra clearance above the water table. And basically they bought themselves a little bit of time. But whether or not this will be adequate for the proposed length of the facility has yet to be seen. But also, you know, there's the question of the existing drainage infrastructure for all these other facilities. What's the location of that drainage infrastructure with respect to the water table. And for those of you who travel this road sometimes, when it rains heavily, this road is flooded and it doesn't drain for a long time.

Identify critical infrastructure at risk of sea level rise inundation, develop relocation or adaptation plans. Classic example is Kahului wastewater treatment facility, Kahului power plant, Kahului Harbor. Now the wastewater treatment facility and the power plant, that's something we can work with as far as relocation is concerned. With the harbor, obviously we cannot relocate the harbor but we can adapt it and modify it so that we can use it if we have sea level rise.

We need to identify communities and developments at risk of sea level rise inundation. Develop long terms to address the associated issues of a rising water table that include drainage failure, flooding, wetland formation, salt water intrusion, coastal erosion. All those things need to be addressed for existing properties and also just plan to address changes in runoff drainage and infrastructure. These kinds of things are going to be happening everywhere, low laying coastal areas particularly Kihei, Kahului, Lahaina.

What are we going to do when this starts to happen and can we start to plan for it now? Why should we address these issues as soon as possible? Well, as with most other similar issues it would cost much less to be proactive than to wait till they've already become a problem. And the current method of addressing coastal erosion is damaging and ineffective.

And finally, our development and management practices currently do not reflect the projected rates of sea level rise. Hopefully this is something that will change. I know that the GPAC has been considering this issue of sea level rise and that hopefully the language that gets adopted will incorporate sea level rise into long range planning.

Bottom line, there are areas where we can harden the shoreline and build sea walls and build revetment and that will slow the rate of erosion for probably several decades but in the end with a meter of sea level rise, we can't hold back the ocean forever and it's not just a matter of building a fortress around the island because the water table will pop up from within. So if we were to hold back sea level rise, we would also need an extensive pumping system to be operating full time to pump the water out from the rising water table and that simply is not economic or practical for us. So we need to adapt and the best time to start thinking about it is right now. It's going to be difficult and some difficult decisions and probably unpopular decisions will need to be made but the longer we wait, the greater the chance that our coastal resource and communities will be irreparably damaged.

I just have one little animation. This is another product that will be created along with the sea level inundation maps for Maui if we get the funding to do so. The blue line represents where 1 meter of sea level rise will be for Waikiki and Honolulu. And even though this is a number that we're predicting will occur by the year 2100, it's not like there will no impact up until 2099, and then we'll

get the flooding in year 2100. This is going to take place gradually and it's already, we're already beginning to see small effects. It is likely that the sea level rise will be more rapid in the second half of this century but it will be taking place. We will be probably seeing about a foot of sea level rise by the year 2050, and hopefully in that global graph that I showed that was all the colors for the whole ocean and where sea level rise is, hopefully that red area won't expand into our territory, but if it does, we're going to have some really urgent issues to deal with very rapidly. Thank you very much.

Mr. Hedani: Jonathan.

Mr. Starr: Thank you Mr. Chair. I have a question whether the department will be making a recommendation as to minimum levels for retention basins and septic systems and other new infrastructure to be built in projects in the future considering that we know that some of the systems that have already been installed are being affected by existing tidal areas. Is there a height, that you know, first of all, you personally feel would be a good height and is there a plan as far as department to recommend a level?

Ms. Norcross-Nu'u: I can't speak on behalf of the department and what their plans are as far as a height. It would probably depend on the expected life span of whatever the development is going to be. But if the expected life time of the area to be developed is you know, 50 to 100 years, I would say that the drainage infrastructure should be at least two meters above the water table.

Mr. Starr: Is there any current limit or recommendation?

Ms. Norcross-Nu'u: I don't know. I don't think so. Is there?

Mr. Thorne Abbott: Thank you Thorne Abbott, Coastal Resource Planner. Thank you Zoe. The question was is there currently limitations? Department of Health requires that any septic system be two foot above the existing water table at any location, but for drainage there is no regulations that I know of.

Mr. Starr: Thank you, great presentation.

Mr. Hedani: Mr. Mardfin, can we hold questions until we finish two sections?

Mr. Mardfin: Is she leaving?

Mr. Hedani: Are you leaving Zoe?

Ms. Norcross-Nu'u: I'll stay till after Thorne's but I gotta go move my car.

Mr. Hedani: Okay, Thorne are you next?

Mr. Abbott: Aloha Commissioners, Thorne Abbott, Coastal Resource and Shoreline Planner. Thank you Zoe for that presentation. I'll try to be very short because I have to – Mr. Taguma might be visiting me here at 11:00 a.m. so I'll try to be fairly brief. I'm going to cover SMAs and shorelines

which are relatively task. Also, I wanted to thank very much Commissioner Starr for his leadership and all the commissioners over the past years as we've made some very huge strides in protecting our shorelines and our beaches and I look forward to serving you in the future as well as with the leadership of Chairman Hedani. Hopefully he'll continue the tradition of donuts every two weeks.

The Coastal Zone Management Act is a State Law. It's Chapter 205A in Hawaii Revised Statutes. Under that, the commission is given authority over Special Management Area Rules and Shoreline Setback Rules. Through that you review SMA permits and Shoreline Setback Variances.

Now the coastal zone includes everything from the mountain down to the sea and out for three miles. So everything's within the coastal zone. Everything is regulated. That came into play in the late '70's and over time by mid '80's, the entire state and all the waters were in the coastal zone and they are subject to HRS 205A, the Coastal Zone Management Act. However, the State Office of Planning is the one that regulates all that area and what they look at is proposed actions by government agencies and they make sure that those proposed actions are consistent with the law.

Now within that whole area from mountain to the sea, is a narrow strip of land called the special management area, and the commission is the authority for that. So the Office of Planning gives over their authority to the Maui Planning Commission for that small band of area. So the law regulates all development within the coastal zone. As I mentioned, all lands and waters are within the coastal zone. The SMA is a small subset of that. Any proposed action within the SMA requires an assessment by the authority. The commission is the authority for SMA major use permits. The Director of the Planning Department is the authority for SMA minor permits, SMA emergency permits and SMA exemptions.

There are goals and objectives. Ten different goals and objectives that you want to achieve in looking over any permit application. You want to provide coastal recreational opportunities to the public. Want to protect, preserve and restore Hawaiian and American cultural and historic resources. You want to conserve aquatic natural resources for sustainable development. You want to reduce risks to new structures and enhance public safety. Protect, preserve and restore coastal views open space and scenery. You want to enhance public beach access and minimize beach loss due to erosion and site hardening. Want to minimize adverse impacts and protect coastal ecosystems. Want to provide and co-located coastal dependent facilities while minimizing negative impacts. So for example, you wouldn't want to put in a whole new harbor somewhere in the middle of Makena. You probably want to use the infrastructure that's already there so that, you know, you keep your coastal dependent things together. Same with Kahului Harbor, you want to have all, just from an economy scale, you want to keep everything kind of together there. We also are required to streamline the permitting process and that includes the commission as well. We need to move these things along and stimulate public awareness, education and participation.

So what is the actual process? Now I mentioned in the coastal zone, the Office of Planning looks at any government agency action, but within the SMA we look at any proposed action whether that be by a government agency or by a private individual or a business. So the first thing we do is we access whether a proposed activity is included in the definition in the law of development. If it is, there's five categories. If it is and it's over a \$125 thousand, then it's a major and this commission approves it. If it's less than a \$125 thousand, the Director can approve it. Why a \$125 thousand?

That's something the Legislature made up a long time ago. They considered changing it many times. They never do. It's an arbitrary number. It's just a number. It's a way to cut the cookie a little bit.

The second thing we do is we assess whether an activity is an excluded use. There's actually a definition of not development and there's 15 exempt categories. The third thing we do is if you're not development and you're an excluded use, then we have to look, see if you have some potential cumulative impact or significant environmental or ecological effect on a coastal resource. Let's say you do have the potential for a negative impact, well then we're going to look at is there the potential to avoid, minimize or mitigate that impact? And let me give you an example, let's say you're going to be building a house, single family residence not part of a larger development, that is exempt. Let's say you're going to be digging a foundation for that and you're on a sand dune, well it's very likely there might be some Hawaiian burials there. So if you have an archaeologist on site and they're going to have their clipboard and looking over this action, they'll stop everybody if they see, you know, a historic remnant or a burial or something like that, they'll stop all the work, but that's a way of mitigating that potential adverse effect.

So if you avoid, minimize and mitigate all your effects, then you're exempt. If you're not, you require a permit. The Director makes a determination of whether you need a permit or not, whether you're a development or not and that's reported to this commission at its regular meeting. If the applicant doesn't like the Director's decision they can contest that by filing a notice within 10 days.

It's important to remember an exemption does not have conditions because it's exempt. It's basically saying the rules of the law doesn't apply to this project. However, proposed action may be exempt if it includes appropriate measures to avoid, mitigate and minimize any adverse impacts. In contrast, a permit can contain conditions. So we can require that you have that archaeologist on site and if you don't, we'll send our inspectors to check then we can fine you and make you stop your project.

So we issue four different permits, as I mentioned SMA major and this requires a public hearing. All owners within 500 feet are notified by certified mail. The commission can impose conditions to avoid, minimize and mitigate any adverse impact. It's for a project that's greater than a \$125 thousand. Now it's important to remember that an applicant when they send certified mail to all the landowners, but the person living in say a condominium may not be the owner of that condominium, the owner might be in California. So some people say oh, I didn't get notice, I didn't get notice, well you may not have technically got noticed but the owner of the property who is the person that's vested with some rights they certainly did get notice because it's sent by certified mail. In addition, we advertise it on the agenda of the commission hearing docket. That's put on the website for Maui County it's also put on the board out here. We also advertise in all the local papers when an application for an SMA major is made. We also advertise when it's going to be at a public hearing. We charge \$550 for an SMA major and it's cost \$800 Clayton for advertising, so there's government at your service. We lose \$350 everyone.

An SMA minor doesn't require a public hearing. It's approved by the director. Again, it can have conditions because it's a permit.

Emergency Permits. I get calls all the time. My roof's leaking, it's an emergency. It's your emergency. It's not our emergency. Our emergencies are things like tsunamis, typhoons, hurricanes, Olowalu where the highway is falling into the ocean, they have Jersey barriers up. So emergencies are about public safety, about public issues where infrastructure or say a sewer line might be exposed and could break and could have a really a really catastrophic effects. The Director can approve that over the phone, by email, through a meeting, eventually it has to come to this commission though for your review and approval.

I also mentioned exemptions. A single family house is not development, but it's not automatic. It's not development if you can show you're not going to have any impacts on those 10 coastal resources we regulate. So for example, drainage, if somebody wanted to put a septic system in, and you know, their site elevation is a foot above sea level and they're going to put their septic 6-foot deep, Zoe suggests maybe that would be a problem.

Finally, we can deny something if it's inconsistent with its State Land Use, General Plan use, community plan or its zoning designation or if it's going to have an adverse impact.

So this is a chart of what we've done over the last couple years. It gives you a sense of – the backside is the assessments. So if somebody makes an application to use and we evaluate it, and decide whether it is development and requires a permit or it's not development and it's exempt. You can see this is the number of exemptions, the number of minor permits and finally your approvals are down here. I know that looks like really small bars, but those are really big projects you have to deal with so, ...(inaudible)... differentiated for that.

There is decision making criteria in your rules, 12 different criteria evaluate. Basically you could have an adverse effect but it has to be minimized in light of some compelling public interest such as public safety or welfare and it has to be consistent with the guidelines, the SMA guidelines. A good example would be the Kahului wastewater facilities has a beach in front of it that's being eroded away and threatening the structure itself. Now that might be a place where you would say okay, a seawall's allowed because this is critical infrastructure, we can't allow this to fail. So you are having a negative impact but it's outweighed by compelling public interest which is we don't want the treatment plant in the ocean.

What are your guidelines? Well, these are the minimum things you have to do every time you look at a SMA major. Adequate access to publicly owned beaches, recreational areas, wildlife and nature reserves, adequately and properly located public recreational facilities, adequately control, manage and minimize impacts of pollution. You have to minimize adverse effects to water resources and scenic and recreational amenities. You have to minimize the risk of the proposed structure failing as a result of coastal hazards, and we'll get into that in a second with shoreline setbacks and the Federal Emergency Management Agency guidelines.

You can put reasonable terms and conditions on any permit, but there has to be some nexus and James will probably talk about this later. You do have to seek to minimize where reasonable any dredging, filling or altering of coastal areas, reductions in beach sizes and impediments ...(inaudible - changing of tape)... so when I say reasonable terms and conditions, there has to be some connection with those 10 goals and objectives that I listed earlier. If I'm building my single family

house in Olowalu, you can't ask me to repave the entire highway because I'm only adding one or two cars. So that wouldn't be a very rational nexus there. That's a bit of overkill.

Finally, it's not just permitting. We actually do manage coastal resources here. So we've made some enhancements. We conducted a couple studies to streamline and improve the effectiveness and efficiency of the SMA process. We are looking to amend the SMA rules hopefully in the future to make them a lot more straightforward and user friendly and readable. James is adept at reading these things. I, on the other hand, am not an attorney, so I'd like something common, layman English.

We also proposed a view plane analysis. This was based on some research I did to get away from kind of a subjective on what's a good view, what's a bad view, how much views should you protect to get to kind of a standardized methodology and we'll be addressing that in the future.

Zoe has helped us by rewriting the Beach Management Plan. She updated that this year. That was included in the General Plan Advisory Committee's recommendations.

We've substantially increased the after-the-fact permit processing fees and we completed several amendments to complete, to clarify the rules and enhance public understanding.

We also implemented Federal Performance Standards. Our money comes from NOAA which goes to the State CZM Office which comes to us. So we have to be accountable to the government for how we spend their money and we actually have performance standards that we have to achieve, not just based on output. Oh, I processed a thousand permits, good on me, it's about what does that mean? What's the outcome of processing those thousand permits? How much beach area did we actually save?

We created a website with some maps, SMA and shoreline permitting process. We have six different publications. That has helped tremendously to educate the public. Someone came up to me yesterday and said, you know, I didn't understand the SMA process, before I still don't really understand it but that little brochure you made, man, now I understand what you guys are looking for and that has really, really helped a lot.

We also have a cross agency team to assist oceanfront property owners. This is between Department of Land and Natural Resources, Sea Grant and the Planning Department. You basically get six to eight coastal consultants for free. We'll give you good advice.

We funded three beach restoration projects and we've restored two sections of shoreline where shoreline hardening was actually removed and the beach was returned and we've obtained over \$140,000 in Federal grants to protect our beaches, improvement their management and restore public coastal resources.

Next I'll talk about the Shoreline Rules but before I go there, I wanted to give an opportunity to comment or ask any questions by the commission.

Mr. Hedani: Questions for Thorne at this point? Okay, Commissioner Shibuya.

Mr. Shibuya: Thorne thank you very much for your information. I just had questions in terms fo the Coastal Zone Management Program and some of your accomplishments.

Mr. Hedani: Warren, can you use the microphone please?

Mr. Shibuya: The implemented Federal Performance Standards, do we have similar standards for the State and for the County and where are these State and County outcomes reported?

Mr. Abbott: That's a excellent question, thank you. And thank you for your contribution and look forward to serving with you. The Federal Performance Standards knows one of the last agencies to actually get their act together and start coming up with these standards. Unfortunately, coastal zone management is very inner disciplinary and most of what we do isn't very measurable. What Zoe has reaffirmed is that we try to avoid, minimize, mitigate, over and over, avoid, minimize, mitigate. So how do you measure that, I had eight houses avoid an erosion prone area. That's kind of difficult to measure. So the Federal Government came up with some measures that we had to report to the State of Office of Planning which reported it to the Federal Office of Coastal Resource Management at NOAA and fortunately we are able to lobby the Feds pretty hard and say look, the standards we're using are national standards and what applies in Mississippi or North Carolina or California isn't really the same as here in Hawaii so we did get them to flex a little bit on that, but it's things like how many miles of public beach access have you created? It's pretty hard to create public access here. How many miles of beach have you protected? How many miles of beach have you bought? So those are all reported every year, July 1st and I'd be glad to get you copies of that report if you want. Public can also get copies through the Office of Coastal Resource Management @ NOAA.gov and make a request. Those are combined for the State, they're not separated out, you know, Maui specific or Molokai specific. They're aggregated. However, we do, I believe the report we give to NOAA is broken out per – highlights each island and then we have an overall standard requirements.

Mr. Hedani: Are you completed with your section Thorne?

Mr. Abbott: I am, yes. Shoreline's next.

Mr. Hedani: Go ahead.

Mr. Abbott: I'll go through this quite briefly since Taguma will get me in 28 minutes. Shorelines here provide for our tourism, our economy, recreation, fishing, food, quality of life and cultural practices and Laura Thielen yesterday had a excellent comment as well as the new NOAA leader Dr. Jane ...(inaudible)... about, you know, our economy is really bad right now and everybody is focusing on economic development and we want to get things going again, but we don't want to sacrifice the goose that laid the golden egg. We don't want to sacrifice our natural assets. That's what we sell here in Hawaii. A lot of shoreline issues, it's all good, feel good stuff, lets hug the reef. It's also about money and if you lose your beach, what are we going to sell? Sure people come to ride down Haleakala on a bicycle, that compared to the other islands, Maui's beaches are really golden and we need to protect those.

Our waves and currents here move a lot of sand very quickly. You can see this is March, this is

July, where'd the beach go?

Now coastal erosion is a natural process of shoreline retreat where the width of the beach is retained over time as you can see here in Paia. Still a nice, wide beach, but beach erosion is the lost of sandy beach width as sand reservoirs are depleted, sand transport is hindered or sand is impounded by manmade structures or seawalls and if you talk to the old timers this is where the beach used to be. They used to come out to the shoreline and it's retreated all the way back here, but we have a nice wide beach. And here's why, seawalls prevent sand held in sand dunes from replenishing the beach. There's a natural shoreline and you can see here's the beach width, here's the dune, there's a little scarp here and as the shoreline retreats inland, see it's retreated inland, the beach width is maintained because it's taking sand out of here. If you put a seawall in the way, there's no where for the sand to replenish the beach and so the beach gets skinnier, goes on a diet and you lose the beach.

So you have two choices. My job is very easy actually. Yes or no. You can have a unstabilized place where the land is lost and beach is preserved. This conserves the beach but you lose the land which would eventually endanger a house, condo or hotel if you left it too close to the ocean. Unbalanced, you can put up a seawall and you can stabilize this beach area and you protect the land but you're going to lose the beach, there's no beach. So that's your choice. Keep the beach, lose the land. Keep the land, lose the beach. Simple.

Here's a good example, it's not from here, thank God. See this nice seawall here? And here we have a nice beach, and this whole area is a beautiful sandy beach. It's all sand. I don't know if you can see that's the result. This person didn't put up a seawall, but their neighbor, here's their seawall right there, that deprived sand from moving up and down this system and as a result, you know the shoreline retreated inland underneath this house. This house has now collapsed and is on the beach, these folks, – two days ago, so there you go. This is in Kauai.

Two facts about our shorelines. We have about 120 linear miles, 56 miles of that is sandy, 16 miles are armored, we've lost about 5 miles of beach since the 1950's or about 10%. We got three miles of road that are about to fall in the ocean, so about 40% of our sand shorelines are impaired. Of those 56 miles we conducted an inventory back in 2003, we found 15.6 miles are hardened with 371 different kinds of shoreline hardening structures. About two-thirds of those are likely to be having an adverse impact on the beach or public access at that site. About 15% might be, 7% probably are not.

What's this result in? Well, we get nice things like here's a nice Kalama Park – Kanaha Park, I'm sorry beachless beach parks. We get beach bags. We protect our lateral access so people can walk back and forth along this next to the ocean, we lose infrastructure. It increases our repair costs. We get seating for ocean recreation and watching sports. We get great picture postcards and I really like this, Zoe took this I think, you know all these nice folks enjoying the scenic beautiful ocean looking mauka instead of makai and construction's not entirely booming but shoreline construction still going pretty strong. So we really needed to take a new direction in how we're dealing with oceanfront issues and coastal erosion. We wanted to guarantee access along the shoreline. We want consistency in our decision making. Here you have one kind of wall with rocks then we have a nice poured concrete seawall, now down here we have a revetment. No

consistency whatsoever between these decisions. We need to really be proactive rather than reactive.

So there is areas in the law that you folks have authority over. First there's coastal hazards. You're supposed to reduce risks to new structures and enhance public safety. You want to enhance public beach access and minimize beach loss due to erosion and site hardening and you want to minimize adverse impacts and protect coastal ecosystems. So really what the goal here is to regulate development so that our shorelines are protected, beach resources are conserved, visual and physical access is preserved and landowners don't incur unnecessary risks or shoreline hardening expenses and you have the authority to do that.

So there's two ways to do that. One is to move out of harm's way. Locate structures away from erosion prone areas based on site history or that location's history of erosion. Avoid flood inundation and storm surge and high surf zones and by moving inland damage to buildings and structures is reduced. In fact, in Florida they've had a 60% reduction on insurance claims from 1996 to 2004 specifically because of their new coastal construction setback line. So this does save money.

The other was is planned obsolescence, that is, as things fall apart don't reinvest in them. So you can repair structures built since 1989 up to 50%. If it's falling down from fire or termites there's no risk of coastal hazards you can repair that. You can't repair old seawalls. You can't go out there and patch up your old seawall. You can't dump some new boulders on your old revetment. You can't enlarge or expand or intensify the use of your structure if it's in the setback area. The fine's \$100,000 per incident and \$10,000 per day and we do fully enforce and there's a logic for that. It's not cause we're being mean, it's that we don't want you to invest – someone complained that there's – they were doing an interior remodel and they said, you know, this is just exempt, why am I even having to get a permit and go through this. This is a half a million dollar remodel, but the house they're remodeling was about 15, 20-foot from the ocean and it's protected by a seawall that was a built maybe 1967. 1967 is a long time ago, that's 50-year-old technology. Wouldn't you want to have certainty from a structural engineer that your seawall is sound? Do you really want to put all of that money behind something that's protected by a band aid? I don't think so. So that's what we want to look at. Get a structural engineer out there, determine if that seawall is in good shape. If it is, okay, do the interior remodel. If it's not, don't be investing in something that's in harm's way and not truly adequate and protected.

Little comment about shoreline access. This is, you know, kind of public information, but shoreline access can be obtained a number of different ways. So first it can be a condition on a SMA permit approval. It's a required at 1,500 foot intervals on all new subdivisions. It can be a condition of a change in zoning. Who's the recipient? Well, it could be Public Works, it could be the Planning Department, it could be the Parks Department, it could be the Department of Land and Natural Resources. It could be their Land Division, they Aquatics Division. But here's the thing, how is it best recorded? Best way, is a unilateral agreement that is recorded on the deed. The reason why, if you make it a condition of approval, a developer gets up and say, we'll guarantee we'll give some shoreline access down there at the ...(inaudible) end of our project and three parking spaces. And you say, okay, we approve that condition. They maybe come back next year and ask this commission to amend their permit to remove that condition. They can do that, but if it's recorded

as a unilateral agreement it never goes away, never goes away. So it's very important to get that unilateral agreement. What's not protected? Easements or leases that have time limitations. We lease Baldwin Beach for a dollar a year. Dollar a year. They can say, sorry tomorrow, we're going to take that way. Baldwin Beach is gone. Fortunately A & B is a good community member and gives that to us for a dollar a year, but that should really be purchased or a conservation easement or something recorded on the deed in perpetuity. In perpetuity is a long time.

Finally historic shoreline access, except for Native Hawaiian with PASH access this happens all the time. You know, I used to walk down that path and cut through the neighbors yard. When I was a kid I used to cut through the yard to go up to my school and went back recently and cut through the yard to go up and play basketball and there's a big fence there and I said, hey, you know, why is this fence here? New owner. He's perfectly entitled to put up a fence. Historic access is just that. It's historic, it was nice, it was good that somebody let you do it. Now there is a caveat in the law, a lot of people claim I don't want people crossing my property, they might fall down and conk their head and sue me, but State law says if somebody crosses your property whether they're invited or not, and for going, purposes of going to the beach, ocean recreation or fishing, that the State's on the hook for the liability. I'm sure a good lawyer would still sue the homeowner, but technically the State is on the hook for that liability.

Okay, finally, Chip Fletcher's ...(inaudible)... University of Hawaii's School of Ocean – Science Technology and Sea Grant came up with a bunch of shoreline erosion maps for us. These are for the north shore, West Maui and Kihei coast. It's very important to update these maps. These areas definitely need updated at this juncture. We put in money to the Council to get these approved. It is by law required to be updated and more importantly we want to give people timely information. We don't want to base it on something 10, 15 years old.

What Chip did is he overlaid the historic shoreline position from all these years on the map and then you run it through a computer and it figures out where are the erosion prone areas and how far is it going to go inland and how quickly and then you put these on a little bar chart like this and you can see up here the erosion's pretty extreme and down here there's not very much erosion. These transects are set at 20 meter intervals. That's very different than – a lot of places use erosion shoreline setback data that for example, North Carolina they might have one erosion rate for a 3, or 5, or 10-mile stretch of beach because their beaches are very different than ours. Ours almost parcel specific.

And from that, you adopted erosion rate based setbacks, and they regulate all use and activities within the shoreline area that protect health, safety and welfare of the public by providing minimum protection from coastal and natural hazards. It also insures public use and enjoyment of shoreline resources or preserve and protected for future generations. There are two methods, the annual erosion hazard rate, the average lot depth.

The way the erosion rate works, you look these maps up on our website or at UH, you look at your little transect, okay, here's my house, here's the transect, I look up – and these little bars represent increments of a half foot of erosion a year and say okay, there's a foot of erosion there at my property. So you use this little formula. Your setback is 50 years times the erosion rate, let's say one foot, plus a buffer of 25 feet. The reason we have that buffer is we're going to have storm

surge and high surf and those kinds of things. You also want some operating area if you do have to come in and do something, you need to get a truck in there to work. Why 50 years? Well, the minimum life span of a coastal structure is 50 years according to Roger and Jones in 2002, the minimum is 50 years. So we're really not giving people a great deal of protection here. We're giving them the minimum. The average life span of a wooden coastal structure is 70 years. If you're getting into steel and concrete or slab on grade construction or something larger than 2,500 the coastal – the Hawaii Coastal Mitigation Guide Book which came out in 2006 and was endorsed by DLNR says you should use a 100-year multiplier. Well, the first thing people are going to yell and scream is oh, that's a takings. You're taking away my land, my right to build. Well, you know, really, no, we're not taking it away, Mother Nature is taking it away and you're not going to stop it very easily. So a potential condition, there's a time component to takings. Takings doesn't last forever. You're allowed reasonable use of your property at some juncture in time. So it is possible to look into in the future the possibility of putting some conditions that require the County to be held harmless if a structure's threatened in the future you can't build a seawall to protect it because of negative impacts on the beach. Or the homeowner has to move it. That's what they do in North Carolina. Everything's post and pier, when the ocean comes up, they pick up the structure, they move it. That's the homeowner's expense.

There's also, always a variance process. For any rule or regulation there's always there's a variance that you can come to this commission and argue that it's reasonable use of your property. And remember, if we put this as a condition, it has to be a permit. Single family residence is an exemption so it doesn't have conditions.

Okay, lastly this is Baldwin Beach before and after. These erosion studies are looking at long term, hundred years. They're not capturing episodic events. They're not going to capture what happens in one season. So that's why we have another setback called the average lot depth which is basically if you have the room to get out of the way, get out of the way please. Don't put your money and investment in harm's way. Please don't put people's lives in harm's way. So if your lots less than a hundred foot deep, the setback's 25-foot. If it's a 100 to 160-foot deep it's 40-foot, and if it's more than 160-foot, it's 25% of the lot up to a 150 feet and basically you measure your left lot line, your right lot line, the center line, you add those together, you divide by three and that's your average lot depth. And this is what it looks like on a site plan. Here we have four transects with erosion and you connect the dots. That's the gold line. The green line is the average lot depth based on parallel. The blue line is perpendicular to the shoreline and then the final setback is the dotted red line which is most conservative overlay of all these.

We have a shoreline setback determination which basically just says what your setback is. It's just showing, it's just the department concurring this. Saying, yep, you figured it out, you laid it out on your site plan okay, you're all good to go. It's not a permit, it's just saying your site plan's appropriate. It's measured from the State certified shoreline survey. This is very confusing. People go to a surveyor and they get a surveyed site plan. That's a surveyed site plan, that is not a State Certified Survey Site Plan. A State Certified Shoreline Survey is something where the State, the Department of Land and Natural Resources actually looks at it and says, yeah, we agree with that and they actually send people out to look at it and they stamp it and the Board of Land and Natural Resources actually looks at it and says, yeah we agree with that and they actually send people out to look at it and they stamp it and the Board of Land and Natural Resources Chairperson

signs it. Okay, that serves as the base line to measure your setback from. Also it decides whether you need a permit from the State or us for mauka of the shoreline, they're makai. Also, captures any encroachments. A lot of times people have built something on the State's property and you know, if you built something on my property and you're my neighbor I'd probably want you to either get it out of there or maybe you could pay me and that's what they usually do is get an easement.

We also have Shoreline Setback Approvals which is what you're proposing to do in the setback area is acceptable or because it's not going to have an adverse impact, or what you're proposing to do is outside the shoreline setback area.

And finally a Shoreline Setback Variance is reviewed by you. It requires a public hearing. It is a SMA major and all abutting landowners are notified of the hearing date.

You can also deny if you cannot prove that the structure is nonconforming built way back before the rules were around. So if it's an illegal seawall, if it hardens the shoreline or prevents sand transport you can deny it. If it blocks public access to beaches or recreation you can deny it or if it encroaches on State lands.

What's permissible? Anything less than \$125,000 that basically doesn't hurt the beach. If you're on a big sea cliff, yeah, okay, there's not likely that you're going to be blocking shoreline access or hurting anything. Any new structures have to be elevated above flood elevation. The County must be held harmless and it cannot harden the shoreline. Now that's for something in the setback area, not something just outside of the setback area and remember we're just providing minimum protection, 50 years. The Director's role, he can approve all these different things, primarily repairs of legal structures up to 50% as long as they don't expand, enlarge or intensify the use or repairs to old structures that are in the setback, again, so long as it doesn't enlarge, expand or intensify the use and most importantly the damage wasn't from coastal hazards. If you're out there slapping some concrete on your seawall, there's a good chance it's not working. Hire a structural engineer to figure out what needs to be done. Don't go out there and throw some concrete or throw some rocks and think that's going to fix the problem. None of us would put our kids in a car without, you know, air bags if we can afford it. That's a new technology. We wouldn't put them in an old Barracuda that didn't even had seatbelts in it, right? So why are you putting your home and your investment and your kid's lives who are probably going to be using these structures in an area protected by an old technology. You don't want that.

Okay, finally your role is to review drainage improvements. You can approve publicly owned boating or water sports recreational facilities, public facilities or repairs or improvements or utilities, private facilities and/or improvements that are clearly in the public interest, protection of a legally habitable structure or public infrastructure and private facilities or improvements as long as they don't adversely affect beach processes. Don't fix the shoreline and it would result in a hardship if they weren't approved. There are mandatory variance conditions. You have to maintain safe lateral access to and along the shoreline. You have to minimize the risk of adverse impacts on beach process. You gotta minimize the risk of structures failing. You can to comply with flood hazard rules and you have to minimize adverse impacts on public views to, from and along the shoreline.

So mahalo nui loa, I appreciate all your time and just so you know, we've only had since you implemented these new rules in 2003, you've had one new seawall in compared to 371 in the past, that's good work and I congratulate you for that. Thank you again.

Mr. Hedani: Okay, we'd like to open it up for questions for either Zoe or Thorne at this point. Commissioner Mardfin.

Mr. Mardfin: Let me ask Thorne because he needs to go quicker. You mentioned that the minimum time we use for figuring erosion rates might be on the low side. Have the erosion rates taken consideration of what Zoe's talking about in terms of sea level rise?

Mr. Abbott: No.

Mr. Mardfin: So if they're going to be revised, they ought to be revised for two things, both the length of time that they operate and for anticipated sea level rise of about at least a half a meter?

Mr. Abbott: Yes. And we have asked – put in our budget to Council to get some funding to that. We need that updated LIDAR data in order to protect sea level rise. That's – Chip's erosion rates are based on movement going inland. Sea level rise is looking at the – you know, the elevation. So you need both those components to do that. We also got some seed money from the State Office of Planning which we competed on a national basis to get from State basis to get that money so start as a project looking at that.

Mr. Mardfin: Are you suggesting that we can't – there's no rational basis to revise the erosion rates, erosion setbacks until that's done?

Mr. Abbott: I think we need to wait till Chip's data is completed and that will hopefully be this year if Council approves our budget. They did on the first review include the updated erosion rate maps and that will be very important.

Mr. Mardfin: Thank you.

Mr. Hedani: Any other questions?

Ms. Norcross-Nu'u: Can I just mention something too? This is Zoe Norcross-Nu'u. The erosion rates maps take into account the sea level rise rate that took place over the last century because they are – they monitor the changes that took place in the last century. So we had in the last century we had eight inches of sea level rise. So if we were only going to have another eight inches of sea level rise in the next century that would be accounted for by the erosion rate maps without any sea level rise inundation maps at all. So there's a little bit of sea level rise incorporated into the erosion maps as is but not as much as we project in the future.

Mr. Abbott: Thank you for correcting me.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, is the State and Chip guys have a plan to fly the LIDAR profile? I understand LIDAR is using a very sensitive radar to measure elevations on the, you know, going both – going inland and out to sea.

Mr. Abbott: There's been quite a bit of LIDAR already flown. The problem is going through that data and then extracting things like clouds, ...(inaudible)... data, trees, leaves, somebody's parked car, you know, that kind of thing and that takes a lot of time and it takes someone trained in doing that. We just don't have the time, the funds and the money to do that. We're hoping to get it from Council maybe this year or next.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I just had a question for Zoe relating with the IPCC projections and this deals with the discrepancies into which the projections were versus the actual rise in the sea levels. The criteria, are there significant differences other than the additional waters from glacier melts? Why is there so much of a difference? What's the criteria?

Ms. Norcross-Nu'u: You mean, why was there so much of a difference between the projected rates and the actual rates?

Mr. Shibuya: That's correct.

Ms. Norcross-Nu'u: Are you referring to why the actual rates we saw over the last decade were upper end.

Mr. Shibuya: That's correct.

Ms. Norcross-Nu'u: Okay. Mainly it's because and they recognize this in the 2007 report that it was a shortcoming. They actually did recognize it in the report itself that they did not have a handle on glacial kinematics which was the calving as well as another process which is the fact that as the ice sheets melt there's kind of these big crevasses that are in the ice sheets and water just flows into these crevasses and down all the way to bedrock. When it hits the bedrock, it flows as a river underneath the ice sheets out to the ocean and that process of water flowing underneath the ice sheets between the rocks and ice sheets accelerates the rate at which the glaciers, sorry, the ice sheets move. So they didn't have – that's another component of glacial kinematics that they didn't have a handle on. And so they – now that we're getting a better handle on those we hope that the projections will be a little bit more realistic and the reason why they couldn't account for that at that time was because since the documentation wasn't there, they said, we recognize this doesn't account for it, but since we don't have the scientific models, we can't make this projection at this time and there could be other factors too that we don't know about. In fact, there probably are.

Mr. Shibuya: Okay, thank you.

Mr. Hedani: Okay, Commissioner Hiranaga.

Mr. Hiranaga: I'm just wondering if the County is making any effort to remove existing rock

revetments on County owned shorelines such as Kalama Park, Montana Beach, Ukumehame so that you can lead by example?

Mr. Abbott: What a novel idea. I think that's brilliant. To my knowledge we are not. We do, however, as things come in to process, we do try to – for a private landowner we can't demand that they remove a revetment or something unless it's unlawful, but we can encourage them to do it through the redevelopment and SMA process and that process gives us an opportunity to do that. We also do that with County projects for example. We just had a meeting with the Wastewater Division about Kahului wastewater treatment plant what are we going to do about it? You know, are we going to move the plant? Are we going to build a new wall? What are we going to do? So Zoe and I certainly encourage that. I can't think of any examples to date where anything's been removed on a County property as of yet. Zoe would you like to comment on that? Anytime that the County has lead by example.

Mr. Hiranaga: I guess the question is, the question is is there any thought to start budgeting for that type of activity?

Mr. Abbott: Commissioner Hiranaga, I think that would be at the Council's discretion as far as budgeting.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I have a question under the SMA guidelines, where there's adequate access to publicly owned beaches and my question would be, is there privately owned beaches and what is adequate? And the reason I ask is when projects come before the planning commission in general they do have beach access but where it falls under the minimum criteria of a minor that's where we see the loss of beach access.

Mr. Abbott: Or exemptions, that can be it too. Neighbor putting up a fence that kind of thing.

Mr. U'u: So under the guidelines what would be adequate and is there is any private beaches?

Mr. Abbott: In relation to adequate, it's subjective that's your call. But I think it has to be reasonable and perceived by a reasonable person on the street and the courts as reasonable and having a nexus. If I wanted to build my house in Maui Meadows and you said sorry we want you to put a beach access all the way down to the ocean that wouldn't be considered reasonable, but asking for more parking spaces when somebody is redeveloping a hotel is absolutely reasonable. Makai of the state certified shoreline is public domain. That may be your private property. In fact, look at Spreckelsville TMK maps, almost all of the properties a third of their land is in the ocean. That's still their land and they still pay taxes on it. They can get those taxes reduced to a buck if they go get a State Certified Shoreline Survey and go down to Real Property Tax. Makai of the shoreline, you are entitled, that's different from any where else in the United States, you are entitled to walk along that shoreline. Mauka of the State certified shoreline is private property and so you may be restricted on that area from crossing private property.

Mr. U'u: My next question would be, when the Planning Director has the authority for the SMA who

do you guys follow up on access because that's what I've been noticing. We have a lack of access to beaches when it comes under the Director. I'm not blaming the Director, it's just part of the process. What can we do to enforce that we have some adequate – and why I bring this up is in the Kuau area. There was more access available prior. Anyway Makena also. You could go through some of the access rights where we thought we had over the given years that used for before my time and now there is gates they put up. So what can we do on our part or the Director can do to insure that we still have access to the ocean?

Mr. Abbott: Well first off, the Director can only enforce the law and the law allows a private citizen, private landowner to develop their property. What you're talking about is historic access and you're right, we've lost a tremendous amount of historic access and that's just nature of development. If that's your private land you can put up a fence, a gate, whatever and block that historic access. Well, maybe not for you Commissioner U'u because you have rights as Hawaiian cultural, traditional, customary practices, but for the general public, you can exclude them from a historic access area. That's why it's very, very important in the early development process when you're looking at subdivision, when you're looking at community plan amendments, when you're looking change of zoning, get it in writing, record it as a unilateral agreement and deed restriction. That's where it has to happen because by the time it gets down, you know, when you're up here in the land development process and it's vacant land, you have a lot of options, but when you get down to oh, we've subdivided it out 20 times and these are private landowners, it's really hard to get some wiggle room. So obviously we work with applicants, encourage them to do that but we cannot demand it.

Mr. Hedani: So the answer is Bruce is, you can break the gate down but I cannot.

Mr. Abbott: That's a bit true.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'll just ask Thorne one quick one. I have others for Zoe. You talked about a lot of money to, some money to do the study. Can you give me a ballpark estimate of what those kinds of funds are?

Mr. Abbott: Sure, we asked Council for \$100,000 to update the annual erosion hazard rate maps that Chip Fletcher provides. He'd be updating the erosion rates, he'd also be, you know, repost all those maps on the website and also provide public education, go have some public community meetings and outreach. Zoe and I in collaboration with local nonprofit as well as University of Hawaii got \$87,500 to implement the Hawaii Ocean Resource Management Plan which is looking at combining all these factors, sea level rise, flood inundation zone, cultural historically important sites and projections of where the shoreline is going to be in the future to assist you folks in your decision.

Mr. Mardfin: And all this for a \$100,000?

Mr. Abbott: Correct, well – we still need another \$100,000 to basically go through the LIDAR data and –

Mr. Mardfin: So we're talking \$200,000 altogether for this?

Mr. Abbott: Yeah. But we've requested \$100,000 so far from Council, but that's just for the erosion rate map updates.

Mr. Mardfin: But we really need \$200,000 if we're going to kind of get up to speed on it.

Mr. Abbott: Do you want to clarify this? The erosion – you can't predict – first thing you gotta do is predict where the shoreline is going to be in 50 years. Then you gotta predict where sea level rise is going to be. Those are two different things that they're really interconnected. So the \$100,000 that we asked for Council this past year is in the fiscal year 2010 budget. It's just to predict where the shoreline's going to be. We have LIDAR data to figure out sea level rise but we have to go through that data and clean it up and that will cost \$100,000. We don't have the money for that.

Mr. Mardfin: Thank you very much.

Mr. Abbott: I hope that clarifies.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Yes, one final question. Sort of a two-part. I just wanted clarification, you said existing shoreline armorment cannot be repaired.

Mr. Abbott: If it was damaged by coastal hazards without a variance approved by this commission.

Mr. Hiranaga: But you said, but then you said, don't just slap cement on it, get a structural engineer, but saying it can't be repaired, why would you get a structural engineer?

Mr. Abbott: The public has a misimpression that you can go out and repair – it used to be your rules allowed repairs up to 50% of replacement cost whether or not it was damaged by coastal hazards. You can repair, you can even build a new seawall as long as this commission approves it and that requires a variance and a variance requires an SMA major permit, public hearing notice, notifying your neighbors. A lot of people don't want to do that. They just want to patch this hole this big. So I'll go out there, I'll get some guy on a three-day weekend, we'll patch it. The fact is, if you have that big hole, something's wrong to start with. So get a structural engineer and figure out what's wrong and what's the best solution. Maybe the best solution isn't putting concrete in it maybe it's putting sand on or doing dune nourishment or maybe it's changing the structure itself. So that's why we want to follow that in a precautionary approach.

Mr. Hiranaga: Just a second follow up question. Does the department have a photo log of existing armorments so that you can document in five years whether someone has in fact repaired it?

Mr. Abbott: I know this will be news to the public, but yes we do. So from that inventory that was done in 2003.

Mr. Hiranaga: And do you periodically review if there are infractions say once every five years?

Mr. Abbott: We don't go looking for them shall we say, if there's a complaint then they'll send the inspectors out to look and we'll seek. You know, we're not interested in fining people and penalizing them. We're interested in compliance. We're interested in making sure people are building and living in a safe place. I had someone say, well I'm down Makena, way down Makena, I don't really have to worry about tsunami or hurricane. I can jump in my car and drive up the road up to Wailea and stay at the hotel there. And I said, you know, the road's probably going to be about six foot under water if that happens. So it's really important that we take a preventive approach, precautionary approach. It's much more time – financially it's smarter to do. You know an ounce of prevention is worth a pound of cure. So that's what we're hoping for people to do, come in.

And the last thing, I'd just say, you know Zoe's presentation is scary and I'm ready to build a boat to get out of here but it's hard sometimes to connect that with what we do here. It's like, oh yeah, 2100 let the kids worry about it. But the truth is, the stuff about drainage is something we can address right now in your rules, in your SMA rules and we don't explicitly address sea level rise but we could change the rules to do that and on a Federal basis I've been told that's coming. We're going to have to address that. Thank you very, very much.

Mr. Hedani: Any other questions for either Zoe or Thorne? Commissioner Mardfin.

Mr. Mardfin: I have a couple for Zoe. Sort of three, but I think they're connected. One is a purely scientific one. You talked about Greenland and how it takes a long time for the freshwater melt to get around to the Pacific. Is it literally freshwater that's getting around because that would seem to me and correct my probably improper science, if you have a lot of melt there, I can see why it would take many hundreds of years for the water to get around, but if you had a whole bunch of water sitting there I would think that would create pressure on the seawater and very quickly result in sea level in the Pacific going up.

Ms. Norcross-Nu'u: That's the way that I kind of used to look at it until I saw this study. I also thought well if there's gravity will just come into play and distribute the water around the planet. And so I was really surprised to see that particular scientific publication that explained that that's not in fact how it's going to play out. So I guess there's the circulation of the currents creates ...(inaudible).. and I guess in itself is strong enough to delay that movement out of the ocean and I'm not the best person to explain it.

Mr. Mardfin: My second scientific question. I understand that what's happening in the Atlantic is a flow that goes clockwise around and I think from the top of the ocean down to the bottom of the ocean as the cold water sinks down and there's these sort of conveyor belt sorts of things and I remember reading several years ago, that could can get interrupted if there's some massive changes I don't know whether it was North Sea or up there and if that happens then things are really going to kind of go kabluay, ... very shaky memory of this.

Ms. Norcross-Nu'u: No, yeah, you're on the right track. The Gulf Stream is a big, huge, warm current that goes basically from the Caribbean all the way up to Europe and it plays a big part in

regulating the climate of Europe because the warm surface water that's carried up there helps the climate up there remain relatively mild and the Gulf Stream has been shut off in the past and it can be shut off again if massive amounts of melt water were to suddenly come into play. But I did read a study recently that suggested that that probably wasn't going to happen any time soon. It was a scientific peer reviewed publication although I read another scientific peer review publication that said that I think it was a couple of years ago the Gulf Stream shut off for 10 days and nobody knows why and then it just started up again. So interruptions can happen and it's possible that a significant influx of fresh, cold melt water from Greenland could cut it off, but it's undetermined as to whether or not that's going to happen.

Mr. Mardfin: And my third question if I may? Dealing with Hawaii, you talked about sea level rise affecting the drainage. Can you explain to me what if anything happens with sea level rise to the fresh water lens under the island from which sometimes we have wells that go down. Will it – explain to me what will happen to the freshwater lens as sea level rises.

Ms. Norcross-Nu'u: I'm not an expert in this area, but I did speak with a recent graduate of the University of Hawaii who did his PhD dissertation on ground water on Maui and he actually conveyed to me that we don't – that sea level rise even though it's connected to the water table is not going to significantly affect our drinking water in itself. He said that what really affects salinity in our drinking water is the fact that we're over pumping because that can drop it by significant amounts every year whereas, the comparable amount of a meter of sea level rise is very small compared to the amount of change that we get from over pumping. So he said it's relatively insignificant.

Mr. Mardfin: Thank you very much.

Mr. Hedani: Okay, any other questions? Keep in mind because this is an orientation for new commissioners, we're not going to solve necessarily sea level rise or climate change, that's not what we're intending to do. We're intending to understand how it relates to all of the decisions that we make in the commission. Commissioner Shibuya.

Mr. Shibuya: This is Zoe. This is more a comment. Two years ago, I went into Northern Hokkaido and on the ice breaker tour there. I asked a crew member out there what has been the thickness, the trend in the thickness of the ice flows that came from Siberia. That is more significant to me because it has been thinner. And so what that means is that the rate in rise in the pacific ocean could possibly less then. Also at the same time the tectonic plates in which Hawaii is on rises only about .6 inches for 10,000 years. So we have two different dynamics working here.

Ms. Norcross-Nu'u: You mean tectonic shifting –

Mr. Shibuya: Of the Earth.

Ms. Norcross-Nu'u: Yeah.

Mr. Shibuya: So there is a rise in the Maui area but it is slower than the amount of water that's coming in in Northern Hokkaido area.

Ms. Norcross-Nu'u: I'm not sure that I'm understanding where –

Mr. Shibuya: It's more of a comment.

Ms. Norcross-Nu'u: Okay.

Mr. Shibuya: Than a question. Thank you.

Ms. Norcross-Nu'u: I think actually that the Big Island is sinking because its mass is increasing as it becomes heavier and that's actually the earthquake that we felt was because of that. It was my understanding also that Maui was kind of being pulled down that tectonic effect as well. So our rate of relative sea level rise on Maui is higher than it is on Oahu but lower than the Big Island.

Mr. Hedani: Any other questions? Clayton, are we ready for a break or commissioners are we ready for break or you want to –

Mr. Yoshida: I guess it's up to the commission. We're about half way through our orientation session and I guess Ann will be covering the Environmental Assessment, EIS and applications requiring County Council approval. So I guess if you want to take a short break.

Mr. Hedani: Take a five minute break at then at this point.

A recess was called at 11:15 a.m., and the meeting was reconvened at 11:20 a.m.

Mr. Yoshida: Bringing us into the lunch hour, we have Ann Cua talking about environmental assessments and environmental impact statements, also processing of applications requiring County Council approval.

Ms. Ann Cua: Good morning Chair, Members of the Commission. This morning I'm going to covering environmental assessments and environmental impact statements and how it relates to the overall planning framework that Robyn talked about.

Chapter 343 was adopted in 1974, and it encourages the conservation of natural resources and enhancement of the quality of life. Chapter 343 is the statutory basis for developing and processing of environmental assessments and environmental impact statements which will be referred to as EAs and EISs throughout my presentation.

Many development projects require the preparation of an EA or EIS. Before these development projects are approved, consideration must be given to environmental, social and economic consequences. The Chapter 343 process assures the public the right to participate. The agency charged with administering Chapter 343 is the Office of Environmental Quality Control or OEQC as you always hear us refer to them as. And then the publications of environmental assessments and EIS documents are found in the Environmental Notice.

How does Chapter 343 apply to project? Well, first of all, not all projects require an EA or an EIS. The law has established nine triggers which require compliance to Chapter 343 and in a few

minutes we'll be going over each of these. These triggers basically apply to two types of actions. Those proposed by an agency or those proposed by a private applicant. There are also 10 exempt classes of action and the exemptions are actions with minimal or no significant effect on the environment and there is an exception though, however. The exemptions are not applicable when the cumulative impact of planned actions in the same place over time is significant and when a normally insignificant action may impact a particular sensitive area. The County does have a comprehensive list of exemptions for all departments and the most recent version of this list was adopted by the Environmental Council in January of 2007.

As I mentioned earlier, there are nine triggers which require compliance with Chapter 343 and they are the use of State or County lands or funds, use within a shoreline area, use within historic sites as designated in the National or Hawaii Register, amendment of County General Plan, proposed wastewater facilities, waste to energy facilities, landfill, oil refinery, power generating facilities, use of conservation district lands, reclassification of conservation district lands, helicopter facilities and the Waikiki area of Oahu.

Being aware of these nine triggers is very important because there are applications that come before this body that do not trigger Chapter 343 compliance and the commission sometimes asks the department, you know, why is there not an environmental assessment associated with this application and this is the reason why. And we always say, well because it's not a trigger. Well, when we say that this is what we mean. This is what we have to look for and if there is a trigger, if one of these things are our trigger, the applicant is required to prepare an environmental assessment or an EIS, but if there is no trigger, then there is no requirement.

So this is a flow chart of the EIS process and as you see at the top of the chart it starts with preconsultation activities. Prior to preparing a draft environmental assessment it is important to consult with governmental agencies and the community regarding the proposed activity. In the preconsultation activity the scope of development is detailed and potential impacts are identified. Now if in the preconsultation period no significant impacts are anticipated then a draft environmental assessment is prepared.

And EA document is an informational document and you've heard – you heard us say that before and we'll continue to say it. It is an informational document that evaluates whether an action may have a significant environmental effect. The draft EA which includes anticipated impacts is filed with OEQC. OEQC publishes the notice of the draft EA and a 30-day public comment period begins.

As planning commissioners you will review many draft environmental documents and this is usually the first time you review a project. Staff planners normally distribute environmental documents to the commission well in advance of the meeting where you will be reviewing the document to allow you adequate time to review it and formulate your comments. And you know, again, the reason why we give it to you early is that we realize that some of these documents are quite voluminous and we understand that in every agenda, you know, you can have a number of staff reports that you have to review. So we give these to you ahead of time in hopes that you review the document and when you come to the meeting where the document is going to be reviewed that you are prepared with questions and comments either for the applicant or the planner.

Now comments received during the comment period are responded to and both the comment letters and the applicant or agency responses are included in the final environmental assessment document. The planning commission reviews the final EA and this is typically the second time you will review the project. And if the final EA anticipates no significant impacts a FONSI, or a Finding of No Significant Impact is issued. The FONSI determination is filed with OEQC and a 30-day challenge period begins. Once the 30-day challenge period ends, permit processing can continue. Now the pertinent applications that accompany the EA or EIS document for instance an SMA, community plan amendment those can then be scheduled for review and for public hearing with the planning commission and this is the third time that you'll review the project. So many of these projects that you review permits for whether you're a recommending agency to the County Council or whether you have authority to grant the permit a lot of times you're going to see these projects three times.

Now if through the preconsultation process and we're up here again, significant impacts are anticipated an environmental impact statement is prepared. And EIS is an informational document that first discloses the environmental effects of a proposed action. Second, proposes measures to minimize the adverse effect, and third, discusses alternatives to the proposed actions and their environmental effects.

And EIS prep notice is issued and a 30-day public comment period begins. A draft EIS is then prepared and filed with OEQC and OEQC publishes the notice of the draft EIS. At that point, there's 45-day public comment period and all comments received during the comment period are responded to and both the comment letters and the applicant or agency responses are included in the final EIS document. This final document is filed with OEQC and if acceptable, a 60-day challenge period begins and once this challenge period is complete and no appeal has been filed, we're back to permit processing being able to continue. If the final EIS document is not acceptable there is a 60-day window whereby an appeal may be filed.

So EIS and EA are similar in structure. However, the EIS is a more detailed disclosure document including a detailed analysis of alternatives and mitigative measures. Both documents must address impacts on the surrounding environment caused by a proposed development. Both documents must also consider mitigative measures which are actions used to prevent, lessen or counteract potential impacts.

And then finally both EAs and EISs must identify alternatives for the proposed action. And if you look at the photos to the right, we see examples of what impacts development may have on wildlife in the environment. The top photo shows potential to sea life with man-made debris and the bottom photo shows the impacts of sedimentation on coastal waters with inadequate land management methods.

An environmental assessment must consider every phase of the proposed action. It must also consider all types of impacts. There are four basic types of impacts. Primary and secondary impacts, regional, site specific impacts, cumulative impacts and short term and long term impacts and I'll go through each of these types of impacts a little later on in my presentation.

Now in order to determine whether a proposed action will have an impact on the environment,

potential impacts are evaluated in relation to significance criteria and it's important to note that there are times when there are going to be unresolved issues and I think that some of you commissioners have seen that. There's many that can be mitigated but sometimes the document is going to state that there's issues that cannot be resolved and one of those is, or an example of that is like traffic impact on the Pali.

So the first impact we'll discuss our primary and secondary impacts. Primary impacts are effects caused by the proposed action and occur at the same time and place. This slide illustrates that construction of a proposed subdivision in forested lands may have a primary impact on wildlife in the area. Now secondary impacts are effects caused by the proposed action and are later in time or farther removed in distance but still reasonably foreseeable. This parking lot shows a secondary impact associated with the construction of the parking lot. A parking lot may increase the potential for petroleum residue and stormwater runoff which would ultimately affect shoreline and marine resources.

Other impacts caused by development include regional and site specific impacts. Regional impacts are effects caused by the proposed action on a larger scale regional basis. An example of a regional impact is a new proposed project district in a community plan region. This action would require the review of regional impacts in the area. This slide shows a number of proposed projects in the West Maui Community Plan region. When a new development is proposed, it must take into consideration other proposed land uses and developments in the area.

Now site specific impact are effects caused by the proposed action in a localized smaller area. So for example, you have a limited building addition to an existing structure. This will likely require review of site specific impacts only as opposed to regional impacts of the area.

Now reviewing a proposed action relative to the regional or site specific impact will often times depend on the type of proposed action and will often be determined by experience.

Primary, secondary, cumulative and regional site and specific impacts can have both short term and long term effects. Short term impacts occur immediately and long term impacts occur over a given period of time. This slide shows an example of a new golf course. A primary impact of the golf course would be the impact on water usage. The short term impact is water usage during construction whereas the long term impact is water usage for continued maintenance of the golf course facility.

Cumulative impact is the impact on the environment resulting from the incremental impact of the action when added to other past, present and reasonable foreseeable future actions regardless of what agency or person undertakes such other actions. An example of a direct cumulative impact is traffic.

Now as we mentioned earlier, when reviewing the potential impacts of a proposed action, an action may have a significant impact on the environment if it meets any of the following significance criteria. Involves an irrevocable commitment to loss or destruction of any natural or cultural resource, curtails the range of beneficial uses of the environment, conflicts with the State long term environmental policies or goals and guidelines. Substantially effects the economic or social welfare

of the community or state, substantially affect public health, involves substantial secondary impacts such as population changes or effects on public facilities, involves a substantial degradation of environmental quality, is individually limited but cumulatively has considerable effects upon the environment or involves a commitment for larger actions, substantially effects a rare, threatened or endangered species or its habitat, detrimentally affects air or water quality or ambient noise levels, affects or is likely to suffer damage by being located in an environmentally sensitive area. Substantially effects scenic vistas and view planes identified in County or State plans or studies and requires substantial energy consumption.

Now in the significance criteria that we just reviewed, we noticed that most of the criteria is qualified as a single effect if the action involves – or a significant effect if the action involves the following key words, irrevocable, destruction, conflicts, substantial, considerable, detrimental. So the question then becomes how do you measure substantial and detrimental? And in some cases an impact can be quantified numerically such as air quality measured in parts per million, traffic measured by levels of service and noise measured by decibels. But there are also areas that are not so easily quantifiable and may have to be reviewed on a case by case basis or qualitatively. An example in this slide, the view corridors of our ocean or mountain vistas, in this situation and considering the immediate surroundings of a proposed action it may be desirable to resite a building or to reduce the height of a multistory structure so as not to create or preserve – as to create or preserve a view corridor and we have done that in the past and you've seen that in the past as well.

In terms of mitigative measures. Is there measures planned to prevent, lessen or counteract potential impacts and there may be one mitigative measure, a series of mitigative measures such as best management practices for erosion control, turning lanes for level of service or preservation plans that could be used or applied in order to counteract a potential impact. Often mitigative measures are identified by agency comments such as the installation of a traffic light, turning lanes, BMPs to reduce runoff or a preservation plan that may be required by the State Historic Preservation Division to protect historic resources.

Mitigative measures can often prevent a potential impact from qualifying as a significant impact. This could be sufficient enough so as not requiring the preparation of an EIS because the proposed mitigative measures has reduced the level of significance.

As I mentioned earlier, EAs and EISs must contain an analysis of alternatives. Each alternative should provide a summary of potential impacts and any mitigative measures proposed to lessen the impacts. An alternative analysis should include input from the community. Often times the community members may be aware of concerns and impacts that make a particular alternative more or less desirable. An alternative analysis can also identify beneficial uses of the property not originally considered. For example, redesigning a site plan to preserve or lessen impacts on scenic vistas.

The preferred alternative should be the alternative with the least detrimental effect on the environment, but this is not always the case. When identifying and discussing alternative methods for a proposed action one should consider first, the different sites or locations. This might include another site on the same property or a completely different property. It should also consider less density or intensity. For example, multi family project holds a significant impacts to traffic and by

moving to less intensive use possibly single family residential development the impacts may be mitigated.

Redesign. Redesigning a site plan so as to preserve those areas where endangered plants or habitats are identified or where cultural, historical resources have been identified.

And finally an alternative is to have no project. This is usually a very unpopular alternative, but it is an alternative. But in an area that is already developed instead of intensifying the project, and alternative may be to remodel the buildings or convert existing vacant buildings into other uses.

At this point, I would like to take you through the new section that we've added to our training for this year before we go into any questions on my two sections. And the reason why we added this, when we do training for the County Council this was one section we added for them because you know, they see applications when it's pretty much at the end of the process. You see applications when it's kind of at the middle of the process and this is also for the public's benefit as well because I think a lot of people do not realize that when an applicant comes in with a development, how the development starts and how the development is finished by the time it's approved is a lot of times very different and in the public's eye, sometimes they think that you know, we may be just be a rubber stamp, the commission or the County Council, but they don't see or they're not aware of all the behind the scenes work that goes on before a project even comes to a commission and then ultimately before it goes to the Council. So we thought that this would be a really important little exercise to go through especially the new commissioners and it's a good refresher course if you will, for those members who have been here a while to see, you know, what actually happens to an application from the time it comes into the Planning Department's doors until the time it gets to Council. What we're doing for this exercise is we're picking a typical application that you are not the authority. It has to go all the way up to the County Council.

So what happens once an application is received by the department it's assigned to a planner. The planner reviews the application for content pursuant to applicable laws and determines if the document submitted contain all the necessary information for us to process the application.

If it does, the application is deemed acceptable and the application is transmitted to governmental agencies for review and comment.

If the application is not acceptable, the planner writes a letter to the applicant stating any deficiencies and gives the applicant a deadline to resolve the deficiencies.

If the applicant is able to resolve the deficiency, the planner then accepts the application and transmits the application to government agencies for review and comment. The department may also request comments from various boards and committees such as the Urban Design Review Board, the Cultural Resources Commission or the Arborist Committee. And when Robyn did her presentation she kind of showed you that, how you were in the middle and there was all these different review agencies that make comments and recommendations to assist you and the County Council in their deliberations.

Now if the deficiencies are not able to be resolved, the application is either returned by the

department or withdrawn by the application.

Each agency is given 30 days to comment on a project application. If all pertinent agency comments have been received by the department and all outstanding agency issues have been addressed the department deems the applications complete and schedules the matter with the respective planning commission for a public hearing.

If there are agency concerns that need to be resolved, the applicant works directly with the respective agency and notifies the department when issues have been resolved. If agency concerns cannot be resolved the applications are usually withdrawn by the applicant or returned by the department. So this body and the Council doesn't see some of the applications that come into the department just because of this process that we've outlined here.

So now if agency issues are resolved, the application is deemed complete and the project is scheduled for public hearing. So at this point, the department prepares a public hearing notice to the applicant, 45 days prior to the public hearing notifying them of the scheduled public hearing date with the respective planning commission. The notice of hearing is published in the Maui News and a Molokai paper for Molokai projects by the Planning Department at least 30 days prior to public hearing date. The applicant sends out the notice of hearing with a location map at least 30 days prior to the hearing to the landowners and lessees within a 500-foot radius of the project site. The applicant also publishes the same notice in the paper once a week for three consecutive weeks.

Another thing that we do that's not a procedural requirement but it's direction that we received from this commission quite a long time ago is we inform applicants that they should hold a meeting with people within the surrounding area. So they can sometimes hold a meeting right on site, they can choose to be a part of a community association meeting, but this is a place where or a venue where they're able to discuss their project and, you know, one on one meet with maybe some interested members in the community and get comments. Sometimes through those meetings and you've seen it, when they come before you there's little changes that have been made in the project from the time that it was submitted, from the time the department went through it and made its comments to the time where they go before the public and there may be concerns that they are able to mitigate you know, maybe make a reduction in the height of one building. I'm not sure what else offhand but you've seen that where there's some minor changes made just as a result of them going out to the community.

So at this point after the notices have been done, the planner prepares a report and recommendation of the facts as well as an analysis of the project based on the criteria for granting of the permit. The respective planning commission then conducts the public hearing on the applications. At this point, this is good time to bring into to discussion that many times we process consolidated applications, community plan amendment, change in zoning, SMA and some applications just require your recommendation to the County Council. Some require your authority and in those cases if we have an application that you are both the recommending body as well as the decision maker what we have to do in those cases, we forward your recommendation onto the Council for lets say a change in zoning and a community plan amendment but lets say there's also a special management area permit that you've just held a public hearing for, in that case what we'd have to do is recommend that you defer action on the SMA permit until the land use is established

by the County Council. Once that's done then we bring the SMA permit back to you for action.

Now, if the commission recommends approval of an application and this is applications that you're recommending approval by the County Council, at that point land use maps are prepared and the Office of Corporation prepares land use ordinances. Once the maps and ordinances are received by the Planning Department they are transmitted to the County Council through the Mayor 90 days to 120 days from the date the Planning Department certifies the application to be complete. Transmitted to the Council are the land use ordinances and maps, the department's report and recommendation, transcripts of the public hearing, letters received at or after the public hearing that were not included as exhibits in the department's report, the application forms and any other information the department deems necessary for the Council to consider in its deliberations. If the Commission recommends denial of an application, it is sent directly up to the Council for appropriate action and at this point, the Council and their Land Use Committee process begins.

So again, we thought that, you know, this would be helpful to especially the new commissioners but even some of the commissioners who have been here for a while just to see, you know, what happens before an application even gets to you and then what happens after you make recommendation on an application that goes up to the County Council. So at this point I'd entertain questions on both the environmental assessment process and the application process.

Mr. Hedani: Questions from the Commission? Commissioner Starr.

Mr. Starr: I have two questions. One is with environmental assessments and EISs if there are impacts. What is the agency and the process for determining who is the reviewing agency? You know, sometimes it's us, sometimes its State Land Use Commission. A lot of more and more I'm seeing it being County or State agencies like the EA that's being done for the new water treatment and storage facility in Central Maui is being prepared by Department of Water Supply, they're the reviewing agency. We had one that was for Hana Landfill. It was actually prepared by the County Department of Waste Management and they were the reviewing agency. How is that decided? I'd also like comment from Corp. Counsel on this.

Ms. Cua: Are you meaning reviewing agency or the agency that has the authority to accept –

Mr. Starr: The accepting.

Ms. Cua: Accepting authority. As I mentioned, there's two types of actions. There's agency actions and there's applicant actions and normally when a government agency is proposing a proposed action that is considered an agency action and they are the accepting authority for their agency action. For applicant actions. Either the Land Use Commission if the district boundary amendment is the first permit. It's usually associated with the first permit and so that's why you don't see some of these environmental assessments if they're associated with a district boundary amendment greater than 15 acres. Now you remember in the original part of your training, you do review and make recommendations to County Council for district boundary amendments less than 15 acres. But any district boundary amendments greater than 15 acres, the sole responsibility is with the State Land Use Commission and the Planning Department, the County is a party through the Planning Department but the planning commission has – does not have any review in that

process. Does that answer your question?

Mr. Starr: Yeah. And to Corp. Counsel, you know the issue of an agency preparing an environmental document and being the reviewing and accepting agency for the document that is prepared, is that –

Mr. Giroux: That's according to the Statute 343, you know, it foresees that that's what's going to happen. The rules itself, there's 343 and then there's also I believe administrative rules that are promulgated by OEQC and so within those rules then the authority as established the – was just I believe in the last couple of years, just amended to allow the administrator of OEQC to actually if there's – if the agency thinks that they're the reviewer but there's also discretionary permits that they need to go and get outside of their agency then they've got what's called a, you know, a conflict or multiple agencies could possibly be authority then they could just petition to OEQC and then they would make that determination just to make it easier. Because there's a lot of situations where this commission would be, you know, the logical choice, but the agency by following the rules would also be able to do it themselves. And so that then becomes, you know, a policy decision on how they're going to do it. But you see the State Highways Division, they'll build a big road and we never see the EA and you're wondering why it wasn't an EIS. Those are all the things that happen and there is internal ability for the public to you know, file an appeal of that or file an appeal on sufficiency or you know, go to court and try to force the department to actually do an EIS rather than an EA or if the department absolutely fails to do, you know, they say it's exempt or whatever, and we've seen that. You know, the Superferry and a lot of other State projects where they've just said, oh, yeah, if it's exempt. But you know, looking at its totality you're saying, well, how could you? And that's why it ends up in the court and ultimately the courts have to look at the project in its totality, look at the law in its totality and say, well yeah, I don't see how a reasonable agency could see that this huge project was exempt. You have to do an EA at least.

Mr. Starr: Okay, one more follow up on that if I may?

Mr. Hedani: Okay, go ahead.

Mr. Starr: You know, it's an excellent presentation. I know it's a very complicated process and I have a lot of respect for the planners who really are diligent in trying to cross every T and dot every I. You know, I do know though in the past there have been times when projects have come before us that had an underlying EA or EIS done sometimes specifically for that project, sometimes for an overall larger project that that's part of. Can we get an assurance that when something comes before us where the EA or EIS was done that we can have access to it. I know for me, I'd be happy to have it even on computer so it doesn't make it difficult to copy it. But I would like assurance that we are going to get those in the future.

Ms. Cua: I think this request has come before and the department does try and do that. In this age, we'd like to be able to give you electronic versions just because you know, we also help with the Arborist Committee and we are very sensitive to trees and sometimes you know, some of these EAs or EISs they're two volumes and they're three inches thick. So we do try and remember and sometimes there's EAs and EISs that are very old and we may not remember. But we are trying, we know it's a concern and we try and make the EAs and EISs available to the commission when

there is one.

Mr. Hedani: Any other questions for Ann? Commissioner Mardfin.

Mr. Mardfin: I just wanted to sort of – two things. One I wanted to echo Jonathan's concerns that, you know, if an EA was done particularly if the agency itself was the accepting agency that's proposing, we really – I really want to see it because not that there would be self interest involved by any agency of course, but it would be really helpful if we could kind of second guess it. I don't know whether it's for you or for counsel, suppose the accepting agency said, well, it's a FONSI and we look at the thing and we say, no it isn't. What is our ability to act?

Mr. Giroux: Usually you're going to see it in two arenas. You're going to see an EA done by an agency because you might be a commenting agency. So there's one opportunity that you actually see it and say, you know what, we do SMAs, this project might end up in the SMA, I'm looking at why don't you guys look at shoreline issues, blah, blah, blah, blah, blah, and then you make all these comments and then they go back and they have to address those comments.

Mr. Mardfin: But we may not see it, if somebody else is the accepting agency.

Mr. Giroux: Well, in the situation where you may be the commenting agency I'm talking about is one scenario. The other scenario is, is that lets say it was done already. The public, you know, they have their ability to appeal and they have their I think 90-day appeal time. But when you see yourself in a situation where you get an environmental packet and you're doing a discretionary permit and you didn't get to see or you didn't get a chance to participate in the environmental document. It's an informational document. If something is missing from that document that you need to do your job at the SMA level, you specifically just tell the applicant because they have the preponderance of the evidence to show that their development will not have – will be contrary to, you know, your SMA or whatever the contested case arena is and that burden is put on the developer to go and get that study.

I think we saw one where we were doing an SMA and there was not an erosion calculation and so you don't have to go and say, oh go do an EIS. All you say is, you know what, we're looking at your EA document, it didn't do one. We are doing an SMA review right now. We don't know whether your project's in within this erosion area. We can't approve it without this information. Can you go and go do your certified shoreline? That's something is within your purview of doing a contested case especially if you're the final authority. So that's how you know, you don't have to worry about we didn't get to do the – you know, participate in the EIS. If you're final authority in the area using the statutory parameters of what they need to prove to you, you can ask for that specific information because you don't want to going oh, go do the EIS. Well, that's a whole other law, that's 343.

We advise the same thing with Council when they're doing zoning. You know, the Land Use Commission was the accepting authority for the land use change. It came in front of Council. Council was like well, there wasn't this, and this, and this, and this, and this, and this and they didn't even look at this and this. Well, you're the authority. Say, hey, where's your fauna report, where's your cultural impact report? Where's this? Where's that? You don't have to go and ask for an EIS. EIS is just a process. When you're the final authority, you can ask for relevant information within

the purview of your powers and the burden is on the applicant. If they cannot dispel that they're not going to have an impact on this area, then that's their problem. They haven't met their burden.

Mr. Hedani: Okay, we're going to have one more section before we break for lunch.

Mr. Mardfin: One more. This is relevant to what Ann just covered.

Mr. Hedani: Why don't we just generally, let me toss this out for you. Generally when asking questions, why don't we have a question, a follow up question and then yield if there's other that might to question and if there's none then we'll come back to you. But go ahead Ward.

Mr. Mardfin: Ann, this is the second area. In your diagram you show that basically if they haven't – the applicant hasn't met the requirements that basically you send it back to them. But I know there have been – on your first slide, the slide –

Ms. Cua: Yeah, I have it up.

Mr. Mardfin: That you have there.

Ms. Cua: You're talking about when we send the letter.

Mr. Mardfin: Right and you send it back –

Ms. Cua: Well, we're not sending it back. We are – at this point, if this is what you're talking about right here.

Mr. Mardfin: Right.

Ms. Cua: We're not sending the project back. We're sending a letter saying we've received your project, we've reviewed it and we find the following, for one, you need a traffic study. Number two, you need this, this and this and this and we give them a date to respond. Please respond in 30 days. If we don't hear from you in 30 days, we're going to close your application. Well, we almost always hear from them within the 30 days. They may be asking us for more time, but we normally hear from them. Where we get to the application may be returned or withdrawn, that usually comes if you know, there's issues that or we send out a letter to them and we've asked them to you know, respond to all these issues that we've raised and they don't respond within the time we've allotted and they haven't asked for an extension, we will return the application.

Mr. Mardfin: But that's not quite my point. My point is, we have had stuff come usually it's Paul Fasi's where they haven't – because they've sort of insisted that it come to us and you don't have an arrow showing that. You basically have the department agreeing, this is on the assumption that you're going to give a positive recommendation but we have gotten things. I'm actually glad to see them where the department is recommending against it. So at some point there's a line where they can insist that it come to us.

Ms. Cua: Right. And that, yeah, that has happened to me before also. We cannot – if an applicant

wants to pursue an application, and schedule it before the commission, we cannot not do that. But what we will do and the situation I had maybe 15 years ago, I sent a letter back and I had said that, you talked about traffic in one paragraph and what you're saying in your application is that you're only going to get a change in zoning and you really don't know what you're going to do in the future and what you need to do is your traffic analysis has to address the highest and best use that you could do under this zoning. And the applicant at that time felt that, you know, no, because they really only wanted to do this and they said, and we want to go to the commission that way and we want to get sent out to agencies that way. I wasn't even going to send it out to agencies yet because I said, you know, I can't decide if a traffic report is adequate or not, but I can kind of know if you don't even have a traffic report, I think you're going to need one and so why waste the time. Well, in that instance they said, we want to go anyway. So the Planning Department in that case, we'd made sure that we document somewhere that we told you that you need this and if you want us to go ahead and send it to agencies or you want us to send it to the commission we will, but we're going to let them know that we told you, you probably should had this and then it going to be either the agency and the applicant or you and the applicant. Does that answer your question?

Mr. Mardfin: Yeah, it does. And so there's some sort of hidden line here where it comes to us even above your recommendation, negative recommendation and I can't recall a time we've ever approved something the department's recommended against.

Ms. Cua: Yes, you have.

Mr. Mardfin: Have we?

Ms. Cua: Yes, you have and it was my project. It wasn't – you didn't have final authority but this was on a resolution and it's still not resolved. It's a resolution that came from Council and it was on the Kainani Street issue with that Maui Lani Safeway project and the Council sent down a resolution to restrict complete access on Kainani Street. The department through getting input –

Mr. Mardfin: I remember that. I voted with you.

Ms. Cua: You did, that's right. You came up to the board and you were pointing stuff, but anyway, it happens.

Mr. Hedani: Okay, any other questions for Ann? Lori. Commissioner Sablas.

Ms. Sablas: Thank you. I have a comment for Ann and I think this is just, I remember when the Grand Wailea first opened I heard a comment true or not that I guess it refers that significance criteria and the word substantial and considerable and all of those which can be gray and the reason why I say that is because I remember a comment was made true or not that when the Grand Wailea opened it used or consumed or resources for energy than the entire Island of Molokai which I found wow? You know, but that's what I heard. And then I also was aware of a group that almost refused an environmental group that didn't want to stay at the hotel for the very reason that hotel consumed a lot of energy. And from what I understand this group said no. Instead of doing that I'll bring my group of experts to help the property look at how they can use, better use the resources in which they did. The only reason why I was involved with this is because this particular group

invited several, Hawaiian, Native Hawaiian groups to come to one of their meetings, to be a part of the meetings because they wanted to give back to the community. So my question again, is when you have these substantial and you know, all these – how, as a planner, how do you quantify that? What is enough and what is not enough? And I use that Grand Wailea as an example when it first opened.

Ms. Cua: Well, couple things come to mind when you say the Grand Wailea and I didn't do that permit at that time but I believe they came in for an SMA permit and the thing you have to – because what you're talking about right now when you're talking about all those key words. You're talking about the environmental assessment law. Now remember we have to talk about triggers. Remember I said triggers? A special management area permit in and of itself is not a trigger for compliance with Chapter 343. That doesn't say that you don't look at environmental impacts, but your question as I understand it is asking about the Chapter 343 law. Probably not the best example to use the Grand Wailea because my understanding is they came in for an SMA permit which is not a trigger. But if we were to use or apply that same question to a project that did have that trigger, it falls back on mitigation of the impacts and it also falls back on alternatives to the project and through that process, that's how we get to a point where we have a complete disclosure document. Again, it is a disclosure document that you utilize as commissioners to make, help you make a decision on lets say maybe an SMA permit or community plan amendment. So there are instances where something may have a significant impact if they do not apply mitigative measures. If they don't put a traffic light or if they don't do a cultural preservation plan as State Historic Preservation Division have recommended. So again, through this whole process, through agency reviews, through the public, through the commission in its review of the document, you know, comments are going to come forth. Why don't you do this, why don't you lower your building? You know, we need a traffic light when warranted. We want you to do best management practices. All these are mitigative impacts that if they were not there, it would be a substantial impact. So that's kind of how we get around those key words. You have to address it. You have to try and mitigate it and then you have to also discuss alternatives.

Mr. Hedani: Okay, thank you. Any other questions for Ann? I'm glad you offered that last slide Ann because back in 2004 when I first came on board the commission I asked have you guys ever turned down a project and if not, why have a commission, but I'm glad you answered it. Thank you. Okay, Clayton.

Mr. Yoshida: I would suggest if we can quickly transition over to the next module on the policy against sexual harassment that we do that one and then we take a lunch break and come back for the last two modules on the flood hazard district and Mr. Giroux with legal issues.

Mr. Hedani: Okay, go ahead, Al.

Mr. Allan DeLima: Good afternoon. My name is Allan DeLima and I'm the Administrative Officer for the Planning Department and this afternoon I'll be giving you a mercifully brief overview of the County's Policy on Sexual Harassment since I realize at this point lunch is probably on the forefront of your minds.

Mr. Hedani: Allan, you have our undivided attention because we need to get through this for lunch.

Mr. DeLima: Thank you, I appreciate that. Now this is a copy of the County's Policy on Sexual Harassment which you should all have in your binders.

The formal definition for sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to another officer, employee or private individual.

Now the following is the listing of the conduct that personnel should refrain from. Making unwelcome sexual advances or requests for sexual favors. Making remarks of a sexual nature. Using gender based or sexually abusive language and sexual innuendos. Visually displaying materials of a sexual nature. Physical contact of a sexual nature and the general catch all phrase, "all similar actions."

Now it's important to note that the County of Maui has a zero tolerance policy against sexual harassment and will not condone or tolerate sexual harassment in the workplace. Now this policy it's important to note is applicable to board and commission members as well as it is applicable to county officers and employees.

Now the process for filing a complaint. An individual who feels subjected to sexual harassment should immediately make a complaint to his or her supervisor.

For board or commission members who feel subjected to sexual harassment they should make the complaint to his or her chairperson. Now in the case that the chairperson is the alleged offender, the report should be made to the Equal Employment Opportunity Officer which in this case is the County's Director of Personnel Services.

But you do have other options for filing a complaint. It can be taken to the Planning Director, the Planning Deputy Director, and unless it's the alleged offender, you can take it your board or commission chairperson, the Director of Personnel Services which again, is also the County's EEO Officers, the Hawaii Civil Rights Commission or the Federal Equal Employment Opportunity Commission, but you are encouraged to first seek the internal remedies before you go to outside agencies as, you know, we would like to keep our own house clean.

Now you have a couple of other formats for making the complaint. It can be an informal complaint which is verbal or written, unsigned allegation or it can be a formal written and signed allegation.

And as far as the investigation process goes, the investigation will be conducted in an unbiased, fair and discreet manner. There will be all of the appropriate safeguards to maintain confidentiality and protection from embarrassment that the law allows.

Now an individual who is found after an investigation to be an offender shall receive the appropriate warning or discipline. Any disciplinary action prior to implementation will be reviewed by the Director of Personnel Services and approved by the County's EEO Officer. And there shall be no retaliation or discrimination against an individual who has made a complaint, conducted an investigation or acted as a witness. Now retaliatory conduct is illegal and in itself constitutes a separate violation.

And I told you this was going to be mercifully brief, and I would be happy to entertain any questions that you might have.

Mr. Hedani: Any questions from the Commission?

Mr. DeLima: Thank you very much for your attention.

Mr. Hedani: Thank you Allan.

Mr. Yoshida: I guess at this time, we can recess.

Mr. Hedani: Okay, why don't we go ahead and take a break for lunch. We'll reconvene at 1:20 p.m.

A recess was called 12:20 p.m., and the meeting was reconvened at 1:20 p.m.

Mr. Hedani: ... continue with the orientation workshop, Director.

Mr. Hunt: Your next item involves flood districts discussion with Carolyn Cortez being the lead planner on this topic.

Ms. Carolyn Cortez: Good afternoon, my session will cover the Flood Hazard Ordinance, flood maps, community rating system and the planning commission rule. This picture was taken after a hurricane in Louisiana in 1995. It is a coastal property subject to coastal flooding with high velocities.

These are the current FEMA flood insurance rate and floodway maps that are in effect. These were first effected in 1981, when the County of Maui joined the National Flood Insurance Program. The purpose of the National Flood Insurance Program is the protection of life and property and the reduction of public cost for flood control, rescue and relief efforts. In 1992, Hurricane Iniki caused \$2.8 billion in damage and affected approximately 90% of the structures on the Island of Kauai. In 2005, Hurricane Katrina caused \$100 billion in losses.

This is a typical flood insurance rate map. These are – Okay, this area here is the A Zone. You see that white line right there, everything mauka of that is the A Zone which is coastal and riverine – I'm sorry, riverine and coastal run up. This here next to the shoreline, this is the V Zone which designate coastal flooding with velocity. This area here is C Zone which is areas of minimal flooding and the B Zone right here, these are areas of 500-year or the half percent chance of flood. No critical facilities are to be located within the B Zones. Okay, these squiggly lines, they delineate the base flood elevations which show the water surface elevations at the time of flooding. All of the elevations shown are relative to 1929 National Geodetic Vertical Datum and where you have major streams you will have floodways.

Okay now this is what a floodway boundary map looks like. The floodway is delineated by the long dash lines that run here and these lines with the alphabets, these are cross sections of the floodway area. So if you can imagine standing in a floodway and looking out towards the river, the cross sections look like this. Okay, this is a typical flood way section. This is the 100-year flood plain and

this right here is the floodway. So no construction to be done in the floodway – well, you can, but you have to have a no rise. You have to show FEMA that there will be no rise in the elevation of the water.

Okay, when a project is being reviewed in the flood zone, there are components of the project that may affect the flood plain. The placement of fill, the construction of houses and roads, these types of improvements can raise or lower the base flood elevations. Depending on the grading and construction improvements areas are leveled creating uniform and hard surfaces which affect the storm flow characteristics and the base flood elevations. Maui County Code requires any changes in the base flood elevations to go through the Letter of Map Revision process.

This area right here is Kalanihakoi Gulch, and this is the FIRM map before the letter of map revision and you can see that the flood plain is much larger here than here. What happened was they channelized the gulch here which created higher base flood elevations within the channel but it contained the flooding within the channel so the outlined areas there, they reduced the flood in the outlined areas. It's all channelized now.

So there are two types of flood zones. Flood Zone A which is riverine flooding and Flood Zone V which is coastal. The standards in the Flood Zone A are number one, to elevate structures to base flood elevations. Number two, to design structures to withstand flood forces and number three, to protect the utilities from damage. We promote residential dwellings and commercial structures to be elevated at least a foot above the BFE or base flood elevation. This provides additional protection to development in the flood plain and watersheds.

V Zones are coastal flooding with velocity. Typically they are created by tsunamis and hurricanes. In some instances they could be caused by a storm system in combination with unusually high tides as you can see in the photo on the right.

This is a picture of South Kihei Road across from Suda Store being inundated with waves that resulted from unusually high tides coupled with a storm system that was 100 miles away. You can't really tell here but the skies are blue actually here. So it was nice weather but they had all this high tide that was going across the road.

Okay, coastal flooding standards are: 1. Elevating structures where the lowest horizontal member is at or above the BFE whereas the riverine standards require the top of the floor to be at or above the BFE; 2. To design structures to withstand flood forces from storm and wave surges; and 3. To protect utilities from damage.

So this is a comparison of flood standards for construction within the A and V Zones. If you remember the A Zones are riverine and coastal ... (inaudible)... and V Zones are the coastal flooding which is right next to the shoreline. So you can see the higher standards, here where the – it has to be the bottom of the lowest horizontal member at or above the BFE. This one in the Zone A it can be at the top of the floor. For V Zone construction it's elevation, no fill. You cannot fill. And here you can, anything below the BFE needs to be vented so that the flood waters can escape.

Okay, the County of Maui is the only county in the State of Hawaii participating in FEMA's community rating system. The community rating system is a voluntary program which when a county adopts higher building and development standards flood insurance policy holders receive a discount on their flood insurance premiums. We are currently a Class A community and we receive a 10% discount.

The planning commission's role. As commissioners what is your role with regards to flood plain development, in preventing flood damages, in protecting life and property and in reducing the public cost for flood control, rescue and relief efforts? One way you can do this is to create open spaces for properties that are subject to flood hazards caused by riverine and coastal flooding. Open space, this use is intended to limit development on certain urban and non urban lands which may be inappropriate for intensive development due to environmental and physical constraints such as shoreline buffer areas, drainageways, flood plains and tsunami areas.

This is a good example of an open space designation which is – this is Iao Stream. This is Wailuku-Kahului Community Plan on the left and this is the corresponding flood map. You can see that open space designation here along Iao Stream corresponds to the flood plain here along, you know, Iao Stream. So you'll notice that this open space area here, if there is limited development here it mirrors, you know, the flood plain here. So limiting development here is a good thing. Keeping this open space so that there's no loss of if they had structures or any kind of development here. But many large streams are not protected by the open space designation, for example, Waiakoa Stream, Kalanihako'i Stream, Waipuilani Stream, Kamaole Stream just to name a few.

And then as Thorne talked about, the commission also reviews development within the special management areas. This gives you an opportunity to review the project's impacts on flood plains and coastal areas. Your rules require that an evaluation on the potential adverse impacts on flood plains, shorelines, tsunami areas and erosion prone areas be done.

When you review an application that is located within or adjacent to a flood hazard area, the applicant's application and the department's staff report should describe the existing flooding that occurs and what the impacts of the new development will be on the flood plain. Will there be an increase or decrease in the flood elevations? Will there be filling? How are increases in the base flood elevations mitigated? Is there an analysis that includes the full build out of the development? And that does it include all structures including walls or fences, future accessory dwellings, etc.? These are the things that you should be looking at.

With proper adherence to flood plain development and building standards structures like this one can survive flood events. This was the only structure along this portion of coastline that survived the 1995 coastal flooding event in Pensacola, Florida. That's the end of my presentation. Any questions?

Mr. Hedani: Commissioners, any questions for Planner Cortez? Commissioner Starr.

Mr. Starr: Yeah, how do these maps and designations change as time goes by? We're certainly seeing you know, sea level rise changing the effect that storms have on the shoreline.

Ms. Cortez: Actually FEMA produces these maps and they don't do restudies until their funds become available or if we're up for remapping which we are actually. We have digital FIRM maps which will be released in September of this year and they include the tsunami inundation and restudies on Iao Stream, Kalanihakoi and the Kamaole Gulches.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: When you first started out you talked about the flood rate map, is that for insurance purposes?

Ms. Cortez: Yes, flood insurance rate maps or FIRMs those are the flood maps that are produced by FEMA and those are for insurance purposes.

Mr. Mardfin: And then you referred to Katrina and Iniki, and most of the damage wasn't done by flood in those cases, it was done by wind wasn't it?

Ms. Cortez: Yes, in combination with the waves, the winds and the flooding.

Mr. Mardfin: And did the insurance – a lot of policies don't cover wind.

Ms. Cortez: Yes, I think the hurricane there's a component for that coverage, but that was flooding losses.

Mr. Mardfin: Okay.

Mr. Hedani: Any other questions? Commissioner Shibuya.

Mr. Shibuya: Mrs. Cortez, thank you for your briefing. I just wanted to find out if the county had any provisions to mitigate some of the problems if you build homes in the upper elevations in Maui there is an impermeability, water does not soak into the ground because you're now converted agriculture and conservation lands to home urban areas. The runoff of the water now, now causes the gulches who are dry now to now become wet and it causes low land flooding. Are there any restrictions or provisions to prevent this or somehow mitigate some of this problem?

Ms. Cortez: Actually I believe the review with Building Permits, DSA, there is for development that you have to retain all the runoff or you cannot have more runoff from your property than before the development. It's part of the building permit review so that the water has to be taken care of on site. So whether it's through, I'm not exactly sure what their review entails but it's supposed to be that all development they take care of the water runoff on site somehow.

Mr. Shibuya: I understand that part and don't want to be argumentative, but there are problems that result from it and even though you have accommodated for some of these runoffs there are actually damages that result from this and then we start talking in terms of protecting the coastal ecology and we feel we have all the opala coming down from the higher elevations into these shorelines and that's my bigger concern. Thank you.

Mr. Hedani: Any other questions for the staff? If not, thank you very much Carolyn. Director.

Mr. Hunt: The next presenter is James Giroux to discuss the legal issues with you folks.

Mr. James Giroux: Hello, I'm James Giroux, I'm the Corporation Counsel that's assigned to give you advice during your meetings. I also advise the Board of Variance, once in a while the Urban Design Review Board, the Lanai Planning Commission and I was advising also the General Plan Advisory Commission. So as far as what I'm going to do for you today, I have two handouts. I have the New Board and Commission Member Orientation. This is brand new. Remember we had the old one. Everybody was complaining about the old one. So we have that and within that we cover really quickly ethics and some of the Sunshine Law issues. So it has a nice summary of both of those and also part of our orientation I want to highlight the open meetings, a guide to the Sunshine Law. This is a packet that's supplied from OIP and it contains not only the law itself but a lot of questions that are asked by board members about the Sunshine Law. So I just want to highlight those two for you and you can read it on your leisure.

As far as the Sunshine Law what I want to just highlight right now is that it's a law coming out of the Hawaii Revised Statute and all of you have all been on boards and commissions before so I know that you're familiar with it. The Office of Information Practices is the state agency that basically administrates that and it's – the main point is that, this is to keep the decisions of the board to be done in open and to allow the public a chance to observe your deliberations and to actually participate by giving testimony and submitting written testimony. And your rules basically incorporate these rules in order to allow the public to participate in the decision making processes. So a lot of times the issues that come up that I have to get involved in is if something was not noticed or agenda item is not properly on the agenda sometimes you'll hear me interject and I'll have to either say we need to postpone this because it hasn't been properly agendaed or we need to postpone an item because members of the public hadn't been given proper notice and this is the law that basically I'm referring to is Chapter 91.

The other issue is about what is a meeting. When members discuss matters together it has to be at an open meeting. Board matters or anything that is possibly or most likely to become on our agendas in the future. So what the Sunshine Law does allow is it allows two members to actually talk to each other. You can talk to each other, but you can't discuss board matters in the sense that you cannot be trying to lobby the other person for a position. But you can call somebody up and say, was the meeting going to start at 9:00 a.m. or 9:30 a.m.? It's not a violation. But if you say, hey, is such and such project on the agenda for Monday and you know what, that project I really don't like it and did you look at this and you know, are you going to vote against it? That's a violation. That's what's going to get you into trouble. Those types of discussions the law wants you to do in public and after you've heard all the information about the project.

And if there is any questions, you know, if there's anything you want to ask me after you read the packet and if it doesn't clearly explain the situation that you're thinking of, you can always call me up and we can talk about whether or not something may or may not be a violation of the Sunshine Law.

The other thing that comes out a lot is about e-mails. I really want to caution you about the use of

your e-mails to communicate with other board members because what you don't know is that if the other person e-mails a third person and it's batched or you know, sometimes people have a batching and it goes to everybody. That can be at times construed as a communication that would violate the Sunshine Law. If there's any information that you think that the board should get, it should probably come to staff and then staff would distribute and then everybody can get that information.

The other thing that I was asked to talk about is the ethics. This board is – comes under the Maui County Charter, Article 10 and the two areas that I want to talk about is one is gifts. If somebody offers you something that should raise a red flag. The test is whether or not it was given if it can be construed to mean, be given to influence your decision making. So you have to be careful when people offer you things especially if it's something that's obviously having to do with something that may come up in the future in front of you. If you have a question about that, you can call me or you can call the Board of Ethics about whether or not you should receive that gift. In Hawaii, we do have that thing, you know, called "gifts of aloha" and the Ethics Boards have looked at that. As far as like the donuts sitting over there, and I don't know who brought those, but every once in a while sometimes it's from a developer or something, nobody is going to sell out for a donut, right. So as far as that goes, you know, if it arises and you are concerned about it, you can bring it up to me, we can talk about it and if I can't you know, give you a clear answer, then you can, you know, try to get a opinion from the Board of Ethics. I think in the past, plan rides, hotel stays, things like that usually should kind of ring your bell a little bit.

The other thing is, conflicts of interests. Your rules have a thing in it about conflicts. If there's a – if you feel that there's a conflict, you should disclose it as early as possible. If you think that it's on the fence, again, you can get an opinion from the Board of Ethics. If, again, you can talk to me about it. If I can't give you a clear answer, I'll probably tell you well, this is probably something we should get an opinion on.

If you do recuse yourself because of a conflict, just notify the board, you know, I worked on this project and I still am, I still give advice or whatever to these developers because I used to work for such and such program. You can recuse yourself. You can still, as long as you've made it clear what your conflict is, you can still discuss the merits of the project with everybody while you're in discussion, but you can't vote. And if you don't vote, that vote would be seen as just a recusal. So a non vote. If you don't have a conflict and you abstain, that vote according to your rules would be seen as an affirmative vote. So this would be the difference of voting, abstaining and not abstaining. And it comes up a lot. People say, oh so and so abstained and then the discussion is, okay, was there was conflict. So that would be the discussion.

And again, if there's anything that comes up, and I really encourage you with the Charter, I think you have a copy of it is to read Article 10 because it does have a list of things that officers should and should not do.

I was also asked to go over some cases with you. The recent U.S. Supreme Court decisions on taking issues and right now that's I think everybody's familiar with the Nolan, Dolan cases. Nolan and Dolan were two supreme cases that went up to the Supreme Court that dealt with exactions, what we call exactions where a agency requested a private owner to give land while they were

trying to get a permit. The Supreme Court in both cases found that there was a takings and what we need to learn from this is that there was a test that came out after both of these cases came out, basically the lawyers put the two cases together and said, oh okay this is the test. First of all, if the agency is going to take land or make an exaction that there's got to be a nexus to what that agency does. The biggest thing you guys do is your SMA stuff. You guys are the ultimate authority in special management area. So there has to be some kind of impact that the reason you're asking for this exaction is that it would mitigate that impact and it has to be related to the objectives and policies of special management area.

The second part of the test is proportionality and it's rough proportionality. It doesn't have to be to a scientific exactness but the amount of what you take as an exaction has to be proportional to what the impact is. Meaning that, that amount of impact that that one person causes would be satisfied by that amount that you take. And in Dolan, the Supreme Court was really clear when it found that there was a takings one of the instructions that it gave to the lower courts when it remanded was that there needed to be findings.

Findings are really important because what it does, the agency does the analysis for the courts if it's appealed. It's your duty to put down in writing what the impacts were and what you saw as being the impact that was being mitigated by your exaction. And a lot of times it will come up where you're making conditions and somebody will say, well, why don't you give \$500,000 to the Kihei School. Well, we know the Kihei School needs \$500,000 for their infrastructure but is that whole burden to be passed onto that one developer? And so that's where I really caution you and I instruct you okay, first of all we need to know what impact this subdivision is going to do to the neighborhood school. How many children are they going to increase? We need the numbers, we need something, and like I said, it doesn't need to be a scientific exact, but there's got to be some type of study or measure that we need to start putting into the record and we usually do.

This board for the last three years have done a pretty good job of at least trying to look at what the impact is and trying to create an exaction that would mitigate that into proportionality that the developer was causing that impact. In this sense, it's also very, very important when you are looking at the environmental assessments because it's in the environmental assessments that you see the major studies that you're going to rely on to create the exactions or the mitigating factors. And in the EA there should be options for the next administrative agency who's going to have to make these decisions. There should be suggestions on what kind of mitigating factors can be added on as conditions to these types of permits. And also, when you're reading the EAs, the draft EAs that's something that to actually have a discussion on whether or not this study has been done or you know, have you guys looked this type of impact or have you, you've run the numbers on this impact.

The next case that I was asked to talk about is the Public Access Shoreline Hawaii also known as PASH and it's PASH v. Hawaii County Planning Commission. There was subsequent case that I'm actually going to talk about just to wrap that issue up, it Kapaakai v. Land Use Commission case and it actually – that came subsequent to PASH and what PASH said was that, the agencies, any agency in Hawaii has to look at preserving the Native Hawaiian cultural and traditional rights when making land use decisions and then it left it at that. So the agencies were kind of perplexed and said, well, how do we do that? Kapaakai came along and in doing the analysis and looking through

Article 7, Constitution, they basically set down a pretty clear test for us and that we can readily follow. I'm just going to read it into the record, it says:

In order to fulfill its duty, to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, the agency in its review of a petition for a reclassification of district boundaries," or in our case, SMAs, "must at a minimum make a specific finding and conclusions as the following:

1. The identity and scope of valued cultural, historic or natural resources in the petition area or in the permit area including the extent to which traditional and customary Native Hawaiian rights are exercised in the petition area.

This is something that when you look at EA or EIS that it would be addressed. That's one thing that should be addressed and if it's not it's the – the burden is on the developer to show you whether there is or there is not. I believe we get comments from OHA and we also get comments from SHPD and so those are the areas to look at in order to see if we're in compliance with that.

And the second part is:

2. The extent to which those resources including traditional and customary Native Hawaiian rights will be affected or impaired by the proposed action.

And then three:

3. The feasible action, if any, to be taken by the agency to reasonably protect Native Hawaiian rights if they are found to exist.

So if those things are done, you've complied with Article 7 of the Constitution in giving out a permit that affect Native Hawaiian rights.

The last case I was asked to talk about is the Topliss case. This case is important because it's one of – it's a Supreme Court case, Hawaii Supreme Court, well, actually no, it's Intermediate Court of Appeals, and it basically sets out what the standard is if you are ever to deny an SMA permit. And in this case, on Big Island, a project came before the planning commission and at that stage, it was found that the project would cause a lot of traffic and the commission found well, we're going to deny the SMA permit based on that. It went to – it was appealed and the Appellate Court did an analysis and the first thing that they found, they found that the permit was denied illegally. Their analysis included that first of all, there wasn't enough facts and this is why again, I go back to the findings of facts and your conclusions of law are very important because the court not only did it rule against the commission, but it was basing it on because it didn't have enough sufficient findings of fact to see that they had met their mandate. And their mandate was that they needed to show not only that there was a traffic impact but that there was a substantial adverse environmental or ecological effect or that there something that rendered the development inconsistent with the objectives, policies and guidelines of the CZMA. So that was the first hurdle that they needed to make and their facts were absent any of that.

And the second part was that if they did find that, if they did make that finding, they had to find some way to practically minimize that impact. They couldn't just say oh, there's an impact, denied. They had to say, well, is there some way to mitigate that impact?

And the third part is when it was – when minimized, it says, “whether the effect is clearly outweighed by the public health, safety or compelling public interest.” So if you don't work through that, if you don't have those findings on record, somebody could appeal if their permit's denied and this is the analysis that the Supreme Court would use in order to see if you did your job correctly and that's why it's very important.

The thing to remember in this agency is that whenever you're dealing with a land use issue, an applicant is coming before you to try to get an entitlement or a permit, we're dealing with his or hers private rights. Now, the law, which we're using allows you to make conditions and it also allows you to ask for certain exactions if necessary and also, you can affect the nature and scope of projects.

The thing to remember is that if you have final authority, if this agency has final authority then we're looking at what we call a contested case, an adjudicatory board and so you're wearing basically the robe of a judge, you're listening to evidence and the other person or the applicant has the burden of preponderance of the evidence to show you that he meets the criteria in order to get that permit or entitlement.

It was the – we just had a case the E and J Lounge which was recently ruled on July 29, 2008, and it's relating to a Liquor Board agency hearing, but in – you can see how thick it is, in the Supreme Court's analysis of what is and what is not contested case, basically everything that you deal with that has a final – that you have final authority you can bet that it's a contested case. The court said it doesn't care if you treat it like a contested case if the rights of the individual are going to be affected and you're the final authority they're going to look at it as it's a contested case. This is tricky because in our rules, it's not until there's an intervenor that we actually put a label of contested case but the Supreme Court says they don't care. If somebody comes in with an SMA application and nobody intervenes and they're standing there, we still have a duty to give that person the due process that a contested case allows. That means they're allowed to you know, present their project, they have an expectation of neutrality from the members, they expect that the members have not gone and done their own investigations that they're only going to make a decision based on what is presented on the record. And so it's very important that you understand that because sometimes we have stuff comes through us that we're not the final authority, lets say it's a zoning or you know, a conditional permit or something like that. But you have to fully understand that if you are the final authority you cannot make your decision based on anything else but what's on the record, and you can't go out and do your own investigation that's going to taint the decision. All the information should be either given from the applicant or the board or the staff and if there is further information, you should ask that the developer or the board staff go out and get that information so everybody gets the same information.

And also, again, I'm going to reiterate because every such application is a contested case, findings of fact and conclusions of law are mandatory. It's a must. And the easiest way is to hear the recommendation from staff and you can either adopt the recommendation of staff because in their recommendation they usually say that you will adopt the recommendation as your findings of facts

and conclusions of law and furthermore, if there's something that's outside, that came up during the meeting that needs to be like if somebody makes a condition that wasn't recommended by staff, that there has to be discussion and a record that's reflected during the meeting that would support the making of that condition. And so you'll probably hear me you know, if things get kind of, off, out of the box, you'll hear me state, could you please just have a discussion amongst yourselves on why you're going to do this or can you please point to something in the record that shows that nexus or can you look or can you state something in the SMA that's in its policies or objectives that would help that condition have a nexus and then you have to have your proportionality discussion. Is this an amount that is fair for this applicant as a burden to carry in order to have that mitigation on his project or that exaction come out of this project? So those are kind of a framework on things, why you hear your lawyer talking during your meeting.

Other than that I'm here just to field questions from you and to hopefully, you know, in my binder I can find the law that you are trying grapple with and to look at in order to come up with the decisions that you make. And it is important to understand when you have something on your agenda, whether it's for, are you a commenting agency, are you making recommendations to Council or are you making recommendations to the Land Use Commission or are you the final authority? And if you are the final authority, it's very, very important that you maintain the integrity of the process in waiting for that to come up on the agenda and to get the information you need that in a way that it's presented to the full board. Other than that I'm open to questions.

Mr. Hedani: Questions from the commission? Commissioner Starr.

Mr. Starr: I have one. This is, I'm going to give these to you to take a look at. They're representative of things that we, as members, get from time to time and believe Commissioner Mardfin was a little upset when this one arrived. I did not attend. Did not think it was right to attend. But I'm wondering what your opinion is. This is for the Ritz-Carlton which had come before us several times and was an invitation for a very fancy dinner and then also since you're coming from a great distance to stay in one of their new hotel rooms and have the full hospitality. I don't know if you want to read it out loud, but I was just curious if you might have an opinion on that?

Mr. Giroux: What I have it looks like an invitation to a dinner and a room at the Ritz-Carlton and yeah, we did review the SMA I believe on the renovation. Yeah, it's things like this that you know, if they come they should be brought to the attention of the board. Again, if there's any question if this was meant to influence your decision, and again, not only influence your decision or if it can be perceived to reward you for a job well done that also can raise an issue. So it's things like this that you have to be cautious about.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Jonathan is right. When I first got on last year maybe it's a year and quarter ago now, I was getting a bunch of these things and I complained at this meeting. I say I don't want to hear from the developers. I want to hear from them only when they're up here answering questions about a specific project. I was advised to, because we were getting it being forwarded on by the Planning Department and so what I did was, I mean, I don't know if they knew what was inside or not, I mean, you get six letters and it appeared here. And what I did was at least for one of the groups,

I found out who was sending them out, I called them in Honolulu, I said take my name off your list, I do not want to get this stuff. It's none of my business whether you're a good community members or not. I don't care whether you're a great community member. I care about what your project does and they removed me from the list and I don't get bothered by them much anymore.

Mr. Hedani: Any other questions for counsel? Commissioner Hiranaga.

Mr. Hiranaga: ...(inaudible - not speaking into microphone)... can I be held personally liable for decisions made by the board. Can you expand on that?

Mr. Giroux: Yeah, this is under the liability section and basically because you're dealing with, you know, property rights usually, sometimes people don't like the decision the board makes, so they'll file a lawsuit and again, the most common one is your takings lawsuit. If somebody thinks that you've over regulated their land or you've taken their land or you've, you know, rendered their property useless for any economic viability they can file a suit in circuit court or in federal court for takings. Sometimes they'll raise a due process issue and sometimes they'll raise the takings issue and if they feel that the decision was made based on sex, religion, gender, these constitutionally protected distinctions then they can file what's called a 1983 action. And what that would be is they could name you personally if they can show some type of malice in your decision making. And that – the type of evidence that they usually use is comments made during the meeting. And so, you know, you have to be very aware of what you're saying as far as any type of comments towards the developer or his project in the sense that it has to be based on what the standards are of your review. If it gets personal, if somebody raises a race issue or sexual orientation issue or is just being vindictive on the record towards a developer or their representation they could raise an issue if they don't get the permit they want that there was some type of actual malice going on. And that's the type of evidence they would use on is what was said on the record or if they get a hold of some email or some letter or something that, you know, raises that type of thing. If you're in that type of situation, yeah, if you could start raising yourself to a level of being held, you know, personally liable for violating that person's due process rights. And so, that's what that's talking about.

Usually, well, if you're within the bounds of your decision making and if it's clear within your findings and the decision and order that the decision was based on the legal parameters then if they do try to list you personally, our lawyers would most likely file a summary judgement based on that there was no issues of constitutional reason that would expose you to personal liability. There would be a certain level of immunity that being on a board or agency you would have. But if you go outside the ...(inaudible)... then you're exposing yourself to personal liability.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: More specifically, when would the county, what circumstance would the county determine that they would not indemnify us based upon a certain suit?

Mr. Giroux: Yeah, well, again, it's going to depend, you know, a lot of times I mean, I usually will not say something unless I feel it's absolutely egregious. You know, which probably isn't always the best. But you know, I will, you know, I mean, if something comes up and if you hear your attorney going hey guys you know, wait a second, we need to go into executive session, I think

that's when you – you know, people should realize that I shouldn't be ringing the bell more than twice and give you a clue that we're getting somewhere that we don't need to be. You know, because I really respect the openness and discussion of the board. You know, I don't base me interjecting on any policy. I really look at the far pales of the law which gives an agency a lot of room. So as far as to answer your question is, the decision whether to indemnify you or not would most likely go to the Council. The Council would probably ask for a review of the transcript, maybe an analysis from the attorney of whether or not that this is the type of case that we would actually indemnify a board for. And so that's why it really is important you know, to listen to your attorney and to – I fully respect open discussion and I will explain my position as far as whether I feel that we're going into an area that will either expose this board to liability just as a lawsuit and you know, that's something that comes with the territory. Sometimes people just sue you. But also, there's the area of wow, we really gotta watch it, you know. I mean, I've heard commissioners say things on the record that I know if we had gotten sued, that would have exposed us and that person to liability. And I have told people, you know, I think we need to watch our language, we need to go back to the permit, look at the permit, you know, we need to stop, you know, verbalizing certain opinions that are not within the realm of what our job is. So that's what's going to determine whether or not you're indemnified. If you're within the purview of what the duties and responsibilities of the board are, that's what really determines whether or not you're indemnified. And the same thing goes with police officers. You know, they have to go through the Police Commission review and the Police Commission would actually decide whether or not the person should be indemnified or not. But in your case it would most likely be the Council.

Mr. Hedani: Any other questions? Commissioner U'u.

Mr. U'u: Actually two questions? I forgot the first one. The first one was has it happened before is my first question, well, for the Maui Planning Commission?

Mr. Giroux: Well, you know, in my short tenure and that's I think running on four years with you guys, I don't believe I've seen any in personal capacity. If anything had come up with the lawsuit had mentioned personal capacity I think it was dealt with right a way as a summary judgement. That it was for official capacity only. And I think the one that I did see I think the lawyer said, oh, I was just doing that out of caution. You know, I didn't want to waive my – and then the judge, yeah, dismissed. And so, but what you need – I think the most egregious thing I've seen is that when we got challenged on our special use permit where we denied or it was in the process of denying a church a use, special use on ag property and I think the most egregious thing that happened during that process was that people's professional licenses were put on hold because there's a disclosure if you hold a professional license that you need to tell your governing board that you, you know, I have a lawsuit pending and that's all they ask you. And that can stop you from receiving further licenses or it kind of puts your professional work on hold. I know some people were in the process of getting their brokers license, they weren't allowed to take the brokers test because the suit was pending. So that's the kind of stuff. And really it's not really personal liability but it does affect your personal – once there is a lawsuit there is personal jeopardy I guess.

Mr. U'u: Second part to that question. When it comes down to some of the approves on the SMA level and the Planning Department recommends approval and we recommend denial or defer because we hold applicants to one higher standards like the drainage, is that going above and

beyond and are we liable because it is done in good intention.

Mr. Giroux: The important thing is, like I said is, is to create the record. You know, because if during the conversations or during the hearing that questions about whether or not water is going to go into the nearshore water, whether that water is going to be contaminated, you know, is there a showing that there's a connection between that contamination damaging the nearshore waters? As long as that's in the record, then there's a foot to stand on. It does help that if the, you know, if the staff can look at that and help you through that analysis as far as looking at you know, what are the mitigating factors. And again, it's looking at the law, the law says is there a nexus, and is your mitigative, you know, approach, is that proportional to what that developer should be handling as far as to mitigate the impact that he's going to cause. So as long as that analysis is there, it's defensible.

Mr. Hedani: Any other questions for James? Commissioner Shibuya.

Mr. Shibuya: I just have a couple points that I'd like to perhaps have James comment on, and this deals with when I was first interviewed for this job, for this position as a commissioner on Maui Planning Commissioner. I had worked intensively with the General Plan Advisory Committee and I was a member on various investigative review committees, helped draft and even come up with many of the discussions in various topics. I know this committee is going to be looking at, this commission will be looking at the General Plan proposal. But the proposal is actually prepared and finalized by the Long Range Planning Division it is not I who did that. I may have provided the inputs to it. Now there's several parts to it, this group can comment, can make recommendations or has the final approval. In this particular case, this commission does not have the final approval authority, it just has recommendations to the County Council. So I feel that I don't have any conflict and Director Hunt and I discussed this and even with the Council members we discussed this and I just wanted the public who's watching on Akaku to fully understand this that there's no conflict of interest even though that I was intimately involved in doing personal research as well as reading the technical reports and studies. These conclusions came out and were provided to the Long Range Division and the Long Range Division did the finalizing. I did not do the finalizing. So with that, I just leave that with you. Thank you.

Mr. Giroux: Warren, was our office asked to make a legal opinion about that or anything?

Mr. Shibuya: None. I did not ask, but I just thought I'd air this before the public.

Mr. Hedani: Director.

Mr. Hunt: When it was – James in answer to your question, when it was discussed at the Committee of the Whole I believe there was legal counsel there representing the committee and they suggested they didn't see any conflict as long as there was impartiality I think was the word used by the legal counsel.

Mr. Giroux: Yeah, I have the same take on it. As long as you don't give any more weight to – nah.

Mr. Hedani: Any other questions for counsel? Commissioner Starr.

Mr. Starr: I just want to comment that Mr. Giroux it's really, you know, it's an ongoing a pleasure to work with you and you know, I've been on a number of commissions and worked with a number of different counsels and you've been really good in not trying to effect the discussion or the decision but to keep us knowledgeable and out of hot water, so I want to thank you for that.

Mr. Giroux: Thank you.

Mr. Hedani: Any other questions? I think you've actually already answered this James, but if you could put it in Mr. Potato Head language for me? The interpretation that I had before on liability was that if we concur with the department's recommendation we would be covered automatically in terms of indemnity. If we went opposed to the staff's recommendation we would not. And in that case we would be defending ourselves essentially. There's been a change to that?

Mr. Giroux: Well, I think there's...(inaudible)... there in that if you go against the recommendation, and you don't have a nexus and proportionality and your findings aren't in order then that would expose you to that type of lawsuit and I wouldn't even say that you would be even in that situation to be held personally liable. I think it's when you're really outside the pail, you know, of if a decision is made and there's just absolutely nothing on the record that would support it then yeah then you've got a problem. I think a good attorney could make an assumption that it was malice and could at least get to the level of pass summary judgement in front of a circuit court judge that you know, there was overwhelming evidence and the staff supported that it met the standard and yet the board on its face rejected the permit. That's pretty, you know, egregious.

But I think what we're talking about is that, you know, if the board or if there's a recommendation and you find in their premise they were wrong – you know, the board or the staff – the staff or the developer or the representative their premise is completely wrong. You know, if they're making statements that aren't even supported by the evidence before you then yeah, you do have that, but you have to solidify that decision in your findings and your conclusions and you know, once you make that decision, the staff should be willing to help you in the drafting of that. We've had the situation where I think it was Doug White situation some of you might have been here where the hearings officer actually came back and said, okay, here's my decision and everybody's mouth dropped and said, how? What? And so we held further – you know, we got further testimony and sure enough when we got our experts up there or you know, the County's experts it was clear that, yeah, there was a decision that you could make that was absolutely diametrically opposed to the hearing officer because the evidence you took supported it. It supported your decision. And so as long as that was there but the evidence was there, you had people testifying to what they as professionals, what they saw as being the facts of the case. So you can, you know, but I caution you that you have to do the work and you have to do the analysis if you are going to not go along. Because the Planning Department is using their best shot. They're using their best planners, they're using their best tools. And so if you find something that you don't agree with then you have to back it up with something. You can't just say I disagree, that's my decision. You have to say, I disagree because I don't agree with this shoreline analysis. I think this was using the wrong methodology. There's a new methodology and we can get a better one and this is what it is, and we can get somebody in here to testify to that. Then that's how you're going to get to where you need to go.

Mr. Hedani: Thank you. That was long for Mr. Potato Head, but thank you. Any other questions for Corp. Counsel. Okay, seeing none, thank you very much. Director.

Mr. Hunt: The last item under orientation involves a meeting schedule discussion not to be confused with another item on your agenda. This is more just overall discussion on your meetings and Clayton Yoshida will address this topic.

Mr. Yoshida: Your regular meetings of the commission are held on the second and fourth Tuesdays of the month from 8:30 to 5:00 except for the month of December. My experience with the commission, it's difficult to get commissioners to come out on December 24th or December 26th. If we have special meetings and typically they're held here from 8:30 to 5:00 plus or minus. If we have special meetings such as Mr. Fasi talked about project district one of the requirements is that the hearing be held in the community plan area. We will consult with the commission as to a date. If we have site inspections we will consult with the commission as to a date. Depending on how the commission votes you know, starting from today, the commission is going to have a meeting every week for the next six months. But the commission has committed to that because they feel that the Maui Island Plan is a very important document.

Attendance is important because Corp. Counsel will remind of the simple fact of no quorum, no meeting or no quorum, no site inspection. So it's important that if you can't make it that you call in because the commission in the context of the Maui Island Plan may be traveling to other, going out into the community and hearing from people in their communities. So it's important that we communicate and we ascertain if we have quorum or not. Are there any questions?

Mr. Hedani: Any questions for Clayton? For the new commissioners, if that's a big surprise to you, we'll understand if you don't make every single meeting for the next six months. But that was a decision that was made by the commission to hold those additional meetings for outreach. Commissioner Mardfin.

Mr. Mardfin: Technically Clayton said every Tuesday and there are two months with five Tuesdays in them. I have no problem being here for the fifth Tuesday but we haven't technically agreed to that. I think it's June and September an extra Tuesday in them.

Mr. Hedani: Clayton.

Mr. Yoshida: I think we've reserved this room for the fifth, on those months that have the fifth Tuesday, we've reserved the room. Depending on how much progress the commission has made on the island plan if they find themselves having to meet more than twice a month on the island plan we have reserved the fifth Tuesday.

Mr. Hedani: So that's reserved but that's basically something that we can make a decision on independently?

Mr. Yoshida: Yeah, depending on your progress.

Mr. Hedani: Okay. Any other questions for Clayton? Thank you Mr. Yoshida.

Mr. Hunt: That concludes the orientation of the workshop. At this point, before we move onto other communications we'd just open it up to any questions or any issues that weren't addressed fully we've got a lot of staff here. We got Ann Cua, Senior Planner, we've got some other staff here. We've got Clayton Yoshida the division head and the director. I was monitoring the discussion up above and it sounded like most of your questions seemed to be answered satisfactorily but if not, this is I guess last call. With that, we're going to the next agenda item.

Mr. Hedani: Okay, lets go ahead.

Mr. Hunt: The next item is an agenda item is a Communications item, changing of the Maui Planning Commission regular meeting start time from 9:00 a.m. beginning with the June 9, 2009 meeting. The commission may take action on this item.

E. COMMUNICATIONS

1. Changing of the Maui Planning Commission Regular Meeting Start Time to 9:00 a.m. beginning with the June 9, 2009 meeting.

Mr. Hunt: The issue before you is right now your meetings are scheduled to begin at 8:30 a.m. As was previously noted, there's been a commitment to hold special meetings to review the Maui Island Plan on your off Tuesdays and perhaps even the fifth Tuesday. In discussions with the Long Range staff they have indicated it's difficult for them to get set up and prepare a meeting at 8:30 a.m. in the morning. They have a lot of technical equipment that they need to set up. They've got a very elaborate GIS. Before the GPAC and Warren can attest to this, we actually had two computers going at certain times, lots of graphics and computer generated images that we use to help you folk's discussions and deliberate over the plan. So the Long Range Division would prefer to start at 9:00 a.m. That presents a dilemma, do we change your regular meetings from 8:30 to 9:00? The argument would be for consistency sake which is a good argument. The public doesn't get confused that way. The other argument is well, it used to be 9:00, and we just changed to 8:30 about six months ago. So I guess at this point we would ask that at least the off Tuesday meetings, the special meetings start at 9:00 and we get an okay on that and then it's up to you folks whether you want to start your regular meetings at 9:00 to be consistent or to keep them at 8:30.

Mr. Hedani: Commissioners what's your pleasure? Commissioner U'u.

Mr. U'u: Personally I would rather start at 8:00. That's mine, it's me and if it takes the guys to come in an hour earlier and set up or a half hour or day before, I don't understand the difference between a half hour of a day when we're giving up once a week. It's just my ...(inaudible)... my manao. I cannot see that. I cannot see – I understand it's a huge job, and no take it personal, but if you gotta wake up half hour earlier, wake up half hour earlier.

Mr. Hedani: Any other comments? Commissioner Starr.

Mr. Starr: I would prefer to start at 9:00. I believe the reason for starting earlier was because we did have a backlog at one time and needed to catch up. You know, a lot of times I come from Wailuku, but there are also times I come from Kaupo. You know, I have that option, Commissioner

Mardfin doesn't have the option, he comes from Hana. And I really, you know, respect and appreciate that, especially in consideration for that, I think a 9:00 start time would be preferable and you know, after discussion I'd be happy to make a motion to that effect when it's in order.

Mr. Hedani: Any other discussion? Commissioner Hiranaga.

Mr. Hiranaga: Yeah, just to echo what Commissioner Starr said. You know, we've caught up on our backlog. I have no objection to returning to the 9:00 start time. If there's any comment from the director if in fact we've caught up with the backlog.

Mr. Hunt: I don't think we can say you've caught up with the backlog. Right now, our agendas aren't as full as they have been in the past. You do have several trends emerging. One is a downturn in the number of private development applications. However, at the same time we're having an upturn in public sector applications for several reasons. One because the public sectors are finally being able to catch their breath after the explosive growth we experienced over the last seven prior years. There's also a emphasis or prioritization on stimulating the economy and there's a lot of Federal and State dollars coming in or public sector dollars coming in. The other issue that you need to be aware of is we still have a backlog on conditional permits. Again, the previous administration held off on processing conditional permits for TVRs and they've just built up and we at one point we had a stack of 70 of them. I think we're down to about 40 now. The other issue that you need to be aware of is with the new B&B ordinance, any B&B on agricultural land has to come before the commission. If it's not on ag land it can go to the Planning Department for approval for the most part. There's other triggers. If it's within 500 feet of a second one, it comes to you folks. At this point, it's averaging about a third of the B&B applications are on ag land and I think we're almost up to 50, so perhaps 16 or 17 of them will have to come before you folks for a public hearing on the state special use permit. So right now we have a lull. I'm not sure we can say it's going to continue.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Since my name was mentioned.

Mr. Hedani: Since you drive the longest distance.

Mr. Mardfin: I drive the longest distance. I was up at 5:00 a.m., talking about earlier, I'm not real intent on going earlier, but that was in part because I had seen a notice that said at mile marker 21, they're intermittently closing Hana Highway today while they work on the landslide area. Normally I wake up at 5:30 on Tuesdays to come here. I can live with 8:30, 9:00 would be much easier for me and more convenient but I recognize we have a lot of work to do and I can live with 8:30, 8:00 would be extreme hardship as far as I'm concerned. No problem my friend. I can live with either one. If it comes to a vote, I'll probably go for 9:00 because it's more convenient.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I'd like to split this issue up into two parts, and I'll just make a motion on the first part and that would be that we start at 9:00 a.m. only during the review of the GPAC item.

Mr. Hedani: Okay, that's a motion to start meetings on the GPAC sections at 9:00 a.m. Is there a second.

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u, discussion? Commissioner Hiranaga.

Mr. Hiranaga: I wanted to know if the director supports his division's request for that start time?

Mr. Hunt: Yes.

Mr. Hiranaga: Thank you.

Mr. Hedani: Any other discussion? Commissioner Mardfin.

Mr. Mardfin: Did the motion have the word, "only on the GPAC days."

Mr. Shibuya: That's correct.

Mr. Hedani: He's splitting it into two parts.

Mr. Mardfin: Then it shouldn't say "only." I would urge that he phrase it so that it's on GPAC days we meet at 9:00 a.m. instead of only on GPAC days because only GPAC implies something for the other days.

Mr. Shibuya: It meant primarily when we take up the issue to review the GPAC General Plan.

Mr. Hedani: Commissioner U'u.

Mr. U'u: But that would just fall on that one meeting per month because the next GPAC meeting will be held at 1:30.

Mr. Hunt: According to your tentative schedule that was approved.

Mr. Hedani: Okay, any other discussion? Director.

Mr. Hunt: Just an item of schematics. Technically we shouldn't refer to it as reviewing the GPAC. The GPAC is a committee. The GPAC had a product and you're not just reviewing that. You're reviewing the draft Maui Island Plan. There's a GPAC version, there's the department version. So lets try and call it the Maui Island Plan.

Mr. Hedani: Okay, any additional discussion? Commissioner Sablas.

Ms. Sablas: I'm for consistency...(inaudible - changing of tape)... but to split it, it might cause some confusion with the general public which we are serving.

Mr. Hedani: Okay. Any other discussion? Motion on the floor is to set the General Plan meeting dates at 9:00 except for that one time that we're already set it at 1:30.

Mr. Mardfin: Mr. Chairman.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: It's the third and perhaps fifth Tuesdays that we're talking about. The first Tuesday of every month will be in a different location so it's not just one time it's also six times in a different place as I understand it.

Mr. Hedani: Director.

Mr. Hunt: That's how the department understands it.

Mr. Hedani: Are we thoroughly confused? Commissioner Sablas.

Ms. Sablas: So exactly how many meetings are we going to have supposedly at 9:00 from now until?

Mr. Giroux: Six to eight.

Ms. Sablas: Six to eight meetings at 9:00, that's a lot.

Mr. Hedani: Any other discussion? You ready for the question? All those in favor of the motion to start the General Plan meetings at 9:00 signify by saying aye. Oppose nay.

It was moved by Mr. Shibuya, seconded by Mr. U'u, then

**VOTED: To Have the Meetings Regarding the Maui Island Plan Begin at 9:00 a.m.
(Assenting - W. Shibuya, B. U'u, K. Hiranaga, J. Guard, W. Mardfin, L. Sablas, J. Starr)
(Excused - D. Domingo)**

Mr. Hedani: Carried. Thank you. Any other discussion on our regular meeting times? Commissioner Starr.

Mr. Starr: Yeah, I move that our regular meeting times be moved up from 8:30 up to 9:00.

Mr. Mardfin: Second.

Mr. Hedani: It's moved by Commissioner Starr, seconded by Commissioner Mardfin to move our regular meeting times to 9:00 a.m. Is there any discussion? Commissioner Starr.

Mr. Starr: Yeah, just that if we do find that more projects are ready than we're able to take we can move it back to 8:30. Right now I believe we've taken everything that the planners have ready for us.

Mr. Hedani: Director.

Mr. Hunt: Because of the lead time for public hearings, we've already advertised through May for an 8:30 start. So it would have to be starting with the June 9th meeting.

Mr. Starr: That would be consistent with the motion.

Mr. Hedani: Any other discussion? All those in favor of the motion signify by saying aye. Opposed nay.

It was moved by Mr. Starr, seconded by Mr. Mardfin, then

VOTED: To Have the Regular Meetings Begin at 9:00 a.m. Starting with the June Meetings.
(Assenting - J. Starr, W. Mardfin, K. Hiranaga, B. U'u, J. Guard, W. Shibuya, L. Sablas)
(Excused - D. Domingo)

Mr Hedani: Carried. Thank you.

Mr. Hunt: For the record, we'll record that as unanimous in support of both motions. The next item involves a communication item. Discussion on meeting protocol for Chair and Commission Members.

2. Discussion on Meeting Protocol for Chair and Commission Members

Mr. Hunt: I believe this was suggested by the former Chair of the commission.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Just to give the Chair an opportunity to discuss any mechanisms they want to use in terms of how they hold meetings if there's such a desire or there's desire by members to comment.

Mr. Hedani: I'm sorry, I didn't catch that.

Mr. Starr: Basically if you want to explain any changes you want to make about the way you hold meetings or anyone wants to make any comments or suggestions that was the intent for this. Not for any specific agenda.

Mr. Hedani: I see. Okay. Well, are there any comments from any of the commission members about how we run our meetings or protocol that you'd like to review at this point or rules of the

commission I guess? Commissioner Mardfin.

Mr. Mardfin: I don't know if this what Jonathan was getting, Commissioner Starr was getting at or not, but one of the things I have liked is that we've kind of gotten similar proposals on the same day. I find that extremely helpful to me if I'm dealing with three B&Bs on the same day I can start to make nice distinctions among them and between them instead of having to remember well, what did I say four weeks ago and am I consistent with that? And I think we can process faster too actually, we'll spend a lot of time on the first one and then other four or five may go fairly easily once we figured out what the issues are. So, I'd like if it's possible for the Chair to work with Clayton or whoever to bundle issues together. That tends to be a nice thing to do. I know it can't be perfect and you have to have other exceptions but it was useful to me at least.

Mr. Hedani: Director, do you have any comments on that?

Mr. Hunt: We think it's beneficial too. It's beneficial for staff, beneficial for you, even the public especially on the items where it's worthy of some discussion and analysis. The downside and I don't think it's worthy of a banning it but there is a downside is that somebody may, their application may be held up a little bit in order to group it with some others, but I think it's worth it myself.

Mr. Hedani: Any other discussion? Okay, thank you very much. Your comment will be noted. Director.

Mr. Hunt: Your next item involves discussion on using the following conditions as project specific conditions on appropriate SMA permits based on its March 24, 2009 discussion on the Wailea MF-10 project and they're lengthy but for legal requirements I'll read it:

That all irrigation for landscaping shall be drip irrigation with the exception of the presently established grass areas and newly proposed grass areas only as presented to the Commission on that date.

That the Applicant shall meet with appropriate Department of Water Supply and Planning Department personnel to appraise the Applicant's water consumption usage and to make any necessary adjustments in order to be in compliance with the Department of Water Supply consumption figures. The suggested review may include but not be limited to the following categories:

- 1) Anchor Tenants/ Retail & Commercial
- 2) Retail & Commercial - Others
- 3) Two-Story Business Buildings
- 4) Restaurants
- 5) Recreation Center
- 6) Landscaping & Courtyards
- 7) Service
- 8) Apartment Units
- 9) Grand Total of Categories 1-8

The Applicant shall meet with the Department of Water Supply one (1) year from the date of the certificate of occupancy and for two(2) consecutive years on the anniversary date thereafter.

The action before the commission is you may have a discussion and provide guidance on what types of projects these proposed conditions should be incorporated as project specific conditions. I believe we have Paul Fasi and Clayton Yoshida here to help with this discussion.

3. Discussion on using the following conditions as project specific conditions on appropriate SMA Permits based on its March 24, 2009 discussion on the Wailea MF-10 project:

- a. That all irrigation for landscaping shall be drip irrigation with the exception of the presently established grass areas and newly proposed grass areas only as presented to the Commission on that date.**
- b. That the Applicant shall meet with appropriate Department of Water Supply and Planning Department personnel to appraise the Applicant's water consumption usage and to make any necessary adjustments in order to be in compliance with the Department of Water Supply consumption figures. The suggested review may include but not be limited to the following categories:**
 - 1) Anchor Tenants/ Retail & Commercial**
 - 2) Retail & Commercial - Others**
 - 3) Two-Story Business Buildings**
 - 4) Restaurants**
 - 5) Recreation Center**
 - 6) Landscaping & Courtyards**
 - 7) Service**
 - 8) Apartment Units**
 - 9) Grand Total of Categories 1-8**

The Applicant shall meet with the Department of Water Supply one (1) year from the date of the certificate of occupancy and for two(2) consecutive years on the anniversary date thereafter.

Mr. Hedani: Commissioners, any discussion on this matter? I guess Corp. Counsel this relates to creating a nexus between what we do and what we say?

Mr. Giroux: Yeah, it's important that you look at every application separately. However, I think that what the department's asking you to do is look possible mitigative measures that would be consistent with actually meeting the mitigation that you're trying to and I think this stems out of the fact that we want to leave actual water enforcement issues to the proper departments but there is

creative ways that you can look at ways of possibly trying to limit water use in areas that are possibly using water in ways that are not most efficient.

Mr. Hedani: Okay, Director what type of guidance is the department looking at, looking for at this point?

Mr. Hunt: I believe we're proposing that these be used or be conditions of approval that we could use in the future on projects. Essentially the first one is all landscaping would be drip irrigation except for new or existing grass areas. The discussion on the Wailea project was initially they had non drip irrigation and after talking with Mr. Fasi, they agreed that they could reduce their irrigation consumption and still achieve irrigation for the landscaping through drip irrigation. So it seemed to be a win-win situation. So what we tried to do is be consistent with our recommendations and almost set defacto policy with the commission if this is a condition that you folks are comfortable with, we'll start bringing it forward on a routine basis. Paul is there anything you want to add to that?

Mr. Hedani: Discussion? Commissioner Mardfin.

Mr. Mardfin: I agree that I think this comes out – I think comes out of what we were talking about the other day that we shouldn't be taking water out of families pipes to water plants to a Hana style of watering. And I see these project specific conditions as standard conditions that we put on specific projects is that? These would turn into – standards conditions we'd attach to projects where it was applicable?

Mr. Hunt: Yes, technically there would be a specific, project specific condition, but we would use them routinely on projects.

Mr. Mardfin: Okay. In that case, this is something I'm highly in favor of if we can reduce water usage on ...(inaudible)... use.

Mr. Hedani: Any other discussion? Commissioner Guard.

Mr. Guard: Does the Department of Water Supply knows this is coming for these I guess three meetings for each project?

Mr. Hedani: Mr. Fasi.

Mr. Paul Fasi: The Department of Water Supply is aware of this condition and they support the condition.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: I guess this is a very small baby step in the right direction, but I don't really see it's going to limit water use much because it doesn't affect grass areas which, you know, can still be sprinklered. It doesn't affect the types of things that will be planted that doesn't make sure that there's adequate top soil to retain moisture and so on. There is some other wording in our standard

conditions, but I do feel that this better than not having anything. But I don't this is a very – the type of very strong language that this project originally started with which I thought was very exemplary, but anyway, I guess it's better than none.

Mr. Hedani: Any further discussion? Commissioner Shibuya.

Mr. Shibuya: I'm a little troubled here because we're talking about how the water is actually distributed. I'm more concerned in terms of how do we reuse the water, how do we use the catchment type water, how do we treat the laundry water, how do we treat the septic type water that we can be reused or sewage water? I think that is a bigger issue than it is how we water the plants.

Mr. Hedani: Further discussion? Commissioner Hiranaga.

Mr. Hiranaga: Just kind of a hybrid from Commissioner Shibuya's comments. I'm not sure if dictating the distribution system for the water is as important as how much water a property is using. So I'm not exactly sure this is the right process to try to control actual water usage versus being how the water gets to the plants.

Mr. Hedani: Further discussion? Commissioner Mardfin.

Mr. Mardfin: I agree with both points that with Jonathan's, Commissioner Starr's point that this is just a – and Commissioner Shibuya's point that this is just a little piece of the puzzle, it's still something. I also agree with Commissioner Shibuya and Commissioner Hiranaga that I'm not wild about mandating particular ways of doing things. I also am more concerned with the ultimate outcome of using much less water. This is a way to do it.

I also think it makes a difference whether they're using non potable water or not. If they are, and it would just wash into the sea anyway, use all you want sort of. So maybe we should take this as discussion today and maybe not vote on it now but we work this through to get kind of the ideas that we're talking about involved so that it's specified as to the – certainly the potable water, I really think we ought to limit how much that gets put onto the ground rather into people's mouths so–

Mr. Hedani: Any other discussion? Staff Member Fasi.

Mr. Fasi: I think we're getting a little sidetracked. Commissioner Shibuya's points are well-taken and they're all very valid excellent points, but it's not related directly to this proposed condition. The intent of this condition is to have the applicant be self monitoring of the water usage that they're using and the water budget that is allocated to them from the Water Department to make sure that they are within their water budget and maintain that water budget for the three consecutive years. That's the intent and the drive behind us. I understand Commissioner Starr's comments which are very valid that this is indeed a, no pun intended, a watered down version of the original condition, but we have to start somewhere and I applaud A&B for stepping up to the plate and volunteering their three years which they didn't have to do. And so they set a precedent and I was hoping this would be a guideline and a project specific condition wouldn't apply to all projects just those that are heavy water users.

Mr. Hedani: Commissioner Starr.

Mr. Starr: I think it will support it because it is a step in the right direction, but you know, it is a small step and I think that moving forward we really need to change the culture of developing in the driest places on the island and developing in a way to make it look like Nahiku or Hana, you know, when you have a place that rains five or ten inches a year and you're basically putting in planting that would, you know, live in a place that has a 100 to 200 inches of rain a year. It's really not going to work for all that long. So while I do support it, I think we need to find mechanisms and I do want to compliment Mr. Fasi's attempts in this direction and it is a good step.

Mr. Hedani: Any other discussion? Commissioner Mardfin.

Mr. Mardfin: This may even be a point of information. I think we were discussing Condition A, but from Mr. Fasi's comments it sounds like we're discussing A & B. And if we are, I'm totally with him on Condition B. I don't have any problem with that. It was Condition A where we're specifying the particular kind of irrigation that we thought we ought to discuss potable versus non potable and with Commissioner Hiranaga's idea that it's the total usage I would say, potable water usage that's important not the way they do it. So maybe it's Condition A that I think needs maybe a little bit more work. Condition B looks, I like it, my only question would be if the department, once we've given a certificate of occupancy, how do we enforce two consecutive years of consultation?

Mr. Fasi: If I could answer that.

Mr. Hedani: Planner Fasi.

Mr. Fasi: The department will monitor these reports that get submitted to the Planning Department and they will be required to meet with appropriate Water Department personnel to review and perhaps tweak their water usage and how they're using the water to be in conformance with what the condition requires.

As far as your concern about Condition A, that the irrigation shall be, you know, all drip and whether they use potable water or non potable water of course, the option of using non potable would be preferable. I would assume that that would be met and reviewed when that project comes before this commission.

Mr. Hedani: Okay, Commissioner Hiranaga.

Mr. Hiranaga: I guess I'm a little confused why we need A. I mean, it seems B is to control the actual water consumption. So what is – why do we need A?

Mr. Fasi: Condition A was meant specifically for the A&B MF-10 project after reviewing their landscaping. They were heavily dependent on spraying. I thought that it could be changed and their water consumption, you know, greatly reduced by taking the spraying element out of their irrigation plans and switching it over to drip and more drought tolerant plants which they did and agreed to. The reason we limit, we want to take a look at the grass areas because the grass areas are spray, are heavily dependent on water and we want to eliminate as much of that as possible.

Mr. Hiranaga: I guess my concern is if someone wanted to kind of a xeriscape landscaping but they wanted to create a rainforest within a 20-foot, 20-square foot area and do spray, but their consumption is way below levels that the Department of Water Supply are asking, shouldn't that there be their right that that's what they want to do? So why worry about delivery systems? I mean, we're looking at what's being consumed?

Mr. Fasi: Well, that would be a perfect example of what we want to steer the applicants into going in that direction is to be below the Department of Water – budget that they're allocated. And if it encompasses you know, such that it has a water feature and yet remain below the water that's allocated. I don't see that this commission would have a problem with that. Remember this is just a guideline. These are your conditions and during the particular application review process before this commission, you do have the right to make fine changes to it or eliminate all together, what have you. But I think it's important to just have this in there as a starting point so you have a basis from which to start and then you can fine tune it based on the particulars of the project.

Mr. Hedani: Any other discussion? Commissioner Shibuya.

Mr. Shibuya: I'm just in support with Commissioner Hiranaga in a sense that we're talking about the quantity of potable water that's being used and somehow, I think if you're going to have a consultation with the Water Department how it's actually used I think is really up to the applicant. The bottom line is that you have reduction in the potable water that is consumed and they can actually produce laundry water, reuse that. They could use the septic process or they can even desalinate some of the salt water if that's what they want. But I'm in favor of allowing them to have this alternatives. They can develop the alternatives however they wish to do but the bottom line would be that the potable water that they consume is reduced.

Mr. Hedani: Okay, any other discussion? I'm told that we don't need to make a motion on this particular issue. What they're looking for is comments and guidance relative to a standard that may or may not apply to all projects in the future or specific projects. So given that, I would think maybe we need to take a further look at this at some point, possible refinements of it if we were to establish it as a standard condition. Director. Is that sufficiently vague enough?

Mr. Hunt: Paul or Clayton do you need any more direction beyond that at this time?

Mr. Yoshida: That's sufficient for today.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'd just like to say, thank you for bringing this forward. I think we're all headed in the right direction and it's just tweaking before we vote to approve it or not. But I'm really, really, really happy that you guys are going forward on this and as Jonathan says if we can go even further, we'd like to go even further.

Mr. Hedani: Okay, Director.

Mr. Hunt: Your next item involves New Business, Chief Tom Phillips, Maui Police Department and

the Planning Director requesting comments on the Draft Environmental Assessment for the proposed Kihei Police Station prepared in support of the Community Plan Amendment from Agriculture to Public/Quasi Public for property located or situated in the State Agricultural District at TMK: 2-2-024: portion of 070 in Kihei. The file number is CPA 2009/0002. The planner assigned to this project is Jeffrey Dack who is on leave to the mainland because of a family health issue. The planner substituting for him, so you might cut him a little slack is Joe Prutch.

F. NEW BUSINESS

- 1. CHIEF TOM PHILLIPS, MAUI POLICE DEPARTMENT and JEFFREY HUNT, Director, DEPARTMENT OF PLANNING requesting comments on the Draft Environmental Assessment (EA) for the proposed Kihei Police Station prepared in support of the Community Plan Amendment from Agriculture to Public/Quasi Public for property situated in the State Agricultural District at TMK: 2-2-024: portion of 070, Kihei, Island of Maui. (CPA 2009/0002) (J. Dack)**

The accepting authority for the Environmental Assessment is the Maui Police Department.

The EA triggers are the use of County funds and the community plan amendment.

The project needs a community plan amendment, State land use district boundary amendment less than 15 acres, and a change in zoning. The public hearing on these applications will be conducted by the Maui Planning Commission after the Chapter 343 process has been completed.

Mr. Joe Prutch: Thank you Director. Welcome new Commissioners. Boy, between GPAC and regular stuff, you're going to hit the ground running.

Mr. Hiranaga: It's not GPAC, it's Maui Island Plan.

Mr. Prutch: Oh, I'm sorry. So used to GPAC stuff. Anyway, and congratulations on your appointments Hedani and U'u, the Chair and Vice.

This before you today is the Kihei Police Department. It's a draft EA document that was delivered to you in the past for your review. We're asking today that you make comments. I will take all the comments down. I'll forward them on to Jeffrey when he returns and he will forward the letter on to the applicant to place their responses in the final EA.

The project involves a district boundary amendment from State Ag to State Urban, a community plan amendment from Park and Ag to Public/Quasi-Public and a change in zoning from Ag to P-1 Public/Quasi-Public. The CPA is the trigger for the environmental. The environmental was drafted by Munekiyo and Hiraga on behalf of the County Police Department. I'd like to say on this one that normally the Maui Planning Commission or a lot of times you guys are the accepting authority on

an EA. In this case, since it's a Police Department, the Police Department will be the accepting authority of the environmental. So they're simply asking for comments from you guys and from us as the Planning Department to forward all this on to them so that they can respond. When the final EA is accepted and the project comes back before you guys in the future as a DBA, CPA and change in zoning, at that time you'll be able to use the final EA as supporting document for your review and discussion of that project.

And for the project, I've got Rowena Dagdag-Andaya back here from Munekiyo and Hiraga. She'll make a presentation on the project and she has a team of people behind her that can help answer any questions you guys have. I'm sorry, she does need to set up, take a couple of minutes to allow her to set up the projector?

Mr. Hedani: Okay, why don't we take a five-minute break?

A recess was called at 3:03 p.m., and the meeting was reconvened at 3:08 p.m.

Ms. Rowena Dagdag-Andaya: Good afternoon, Chairman Hedani, Vice-Chair U'u and Members of the Maui Planning Commission. My name is Rowena Dagdag-Andaya and I'm a planner with the firm of Munekiyo and Hiranaga. I'm here today as part of the project team representing the applicant, the County of Maui, Police Department for the proposed Kihei Police Station in South Maui.

We'd like to thank all of you, the members of the Maui Planning Commission for providing us with this opportunity to do a presentation on the proposed Kihei Police Station and also to obtain your comments on the draft environmental assessment and I believe that the draft EA was provided to you as part of your agenda packet.

Joining me this afternoon, and also available for questions are Aaron Fujii of Mitsunaga and Associates. He is the architect. We also have Chad MacDonald, also of Mitsunaga and Associates, he's the civil engineer. Myself, Rowena Dagdag-Andaya and Karlynn Fukuda, the planning consultants of Munekiyo and Hiraga. We also have this afternoon, the Deputy Chief of Police, Gary Yabuta, Assistant Chief Clayton Tom and Captain Lawrence Hudson of the Maui Police Department.

Just to give you a background of the project, the applicant is the County of Maui, Police Department and we bring before you the proposed Kihei Police Station. The tax map key or the project area site encompasses two project parcels approximately 10 acres combined. They are portions 2-2-02:070 and 2-2-02:069. Later on in the presentation we're refer to them as parcel 70 and parcel 69. The location is in Kihei and we bring before you the draft environmental assessment which we will be obtaining comments within this 30-day comment period.

The applicable environmental assessment review trigger is the use of county and state lands and also the use of county funds. The approving agency as Joe had mentioned earlier is the County of Maui, Police Department and the agency determination is the anticipated Finding of No Significant Impact.

The proposed project is located mauka or east of Piilani Highway in the vicinity of Kamalii Elementary School. Currently the Kihei Police District Office is located in the Kihei Town Center across from Kalama Park and it's located currently in this area here. It's within a special management area. The proposed site, the site for the proposed Kihei Police Station is mauka of Piilani Highway. And in your draft environmental assessment we refer to it as Figure 1.

We also have here the site location map which is Figure 2 in your draft EA and the parcel is located in this area. There is, this is Kanani Road and this will currently provide access to the project site. Kanani Road is a existing and currently signalized intersection. It will veer into Parcel 69 which Parcel 69 provides an easement and then veers off into Parcel 70. So that's the reason for the use of both parcels for the project site.

The proposed project, well, let me just begin with, the estimated population projection suggests that the resident population of Kihei is estimated to grow to approximately 28,114 residents in the year 2010. The reason for this the region has experience growth in both residential as well as visitor populations. Also, growth in the tech industry as well or the tech sector with the Kihei Research and technology park.

The current Police District Office is housed in a 2,400 square foot space located within the special management area and is currently – it's incompatible with the surround commercial usage. In the Kihei Town Center we have Foodland, other restaurants and also as mentioned before, it's in the SMA, the special management area and it's also located within the flood district. The office space at the current station does not contain adequate space to accommodate the staff and the functional requirements of the Kihei Police District and does not have the adequate safety and security measures that are incorporated or are basic in other police stations as well.

Here before you is the site plan and I'd like to note that the site plan is slightly different from the one that is in your draft EA. The site plan in your draft EA is considered as Figure 4 and at a later time we will formally transmit the new site plan to the Planning Department and that way they can provide you with a copy of this revised plan.

The proposed police station will be a two-story building with a total flood area of approximately 46,934 square feet on approximately 10 acres of land. The facility has been designed to accommodate the functional aspects of the Kihei Police District including office, meeting and training areas, hold cells and a record storage. The police station will be operational 24-hours a day, 7-days a week.

Related improvements will include site grading and landscaping, installation of underground utilities, detention basin, roadway access and vehicle parking. So here in our site plan we have public parking located in the front. This is the entrance to the building. This itself is the main office building which will be two stories. Employee parking is located in the back of the police station with a vehicle impound and then an equipment building as well. And this entire area is approximately 10 acres. This is also the detention basin.

In order to implement the project land use entitlements will be required. The County of Maui, Planning Department will be initiating changes to the state land use classification, the community

plan designation and Maui County zoning so as to permit the proposed Kihei Police Station. The property is currently designated agricultural by the State Land Use Commission, park by the Kihei-Makena Community Plan and agricultural by Maui County zoning. State land use reclassification and County rezoning actions will cover approximately 10 acres where a reclassification to the urban designation is required for state land use. We're also requesting for public/quasi-public designation for the Kihei-Makena Community Plan and public/quasi-public for the change in zoning. Again, we'd like to note that the applicants will come before the Maui Planning Commission at a later time for the review of the request for the land use changes.

The next steps or our follow up actions items is to prepare and file the final EA and the Finding of No Significant Impact with the Office of Environmental Quality Control. This will be prepared after we have received comments from the public and all reviewing agencies. After that has been completed, we will return back to the Maui Planning Commission for a request of a review for the draft land use ordinances and at time we also request a recommendation to the Maui County Council who will review and take action on the proposed district boundary amendment, community plan amendment and change in zoning request.

I'd like to again, thank you, the planning commission for this opportunity and also for the comments on the draft environment assessment. And as I mentioned before we have here in the audience or with me, the planning consultants, myself and Karlynn and also Aaron and Chad of Mitsunaga and Associates who can answer any architectural or civil engineering questions and also we have Captain Hudson, Deputy Chief Yabuta and Assistant Chief Tom for any operational questions of the proposed Kihei Police Station.

Mr. Hedani: Okay, for today's meeting Rowena what you're asking for is comments on the EA?

Ms. Dagdag-Andaya: That's correct.

Mr. Hedani: Okay, Commissioners? Commissioner Starr.

Mr. Starr: I would like to request that energy saving, energy efficiency measures be utilized to the maximum extent feasible, for you to look at that including perhaps making it LEED certified and especially in light that the County will be maintaining and will be able to get the cost back pretty quickly.

Ms. Dagdag-Andaya: This has been something that we've been discussing and we have Aaron Fujii who can kind of answer some of those questions or maybe discuss some of the energy saving techniques that we propose for the Kihei Police Station. Aaron.

Mr. Aaron Fujii: Good afternoon Director, Commissioners. Yes, we will design to the maximum possible using energy efficient type of we'll say air conditioning, electricity, but you got to remember this is a very specialized building, it is a Police Department that will be operating 24/7. It has backup generators or redundancy in backup. In cases of emergency this building is designed to remain open. I can get back to you but I think we got a one-week capacity of backup generation should there not be power. So when you do talk about energy efficient, we'll try to design this to the maximum capable, possibility. And I know we're going LEED certified. Again, this is a

speciality building, windows would be very limited. So natural lighting into the building, again, will be limited but we do and we will come back to you later and we'll discuss with you any energy efficient design we come up with, but it is being highly considered.

Mr. Hedani: Thank you. Any additional comments? Commissioner Shibuya.

Mr. Shibuya: I was wanting couple items in terms of communications this would be disaster preparedness type of, readiness type of facility I presume and that it would be able to support the community. Also that it would very visible and very open for community involvement. I would like to see something of a police station that is integrated within the community and not sort of separated by a highway and not surrounded by any kind of development. So I don't know what's planning to be around it.

The other issue that I have is agriculture. Converting agriculture land, you know, as long as you put water it will produce and so that's my take on it. That's my comments. Thanks.

Mr. Hedani: Additional comments? Commissioner Starr.

Mr. Starr: Yeah, first of all I want to say that I'm glad that it doesn't look like a bunker like the last one and others around the country. It actually looks like it will be fairly pleasant, so I want to complement you on that and encourage you to keep making it kind of community friendly. You know, of course it has to have the security aspects and, you know, to continue in that frame, I was thinking a little bit along the same lines as Commissioner Shibuya which is that there's a multi-purpose room outside of the secure area by the entrance and I was wondering if you could examine the possibility of expanding the size of that and opening that to community because I think it would be in the benefit of the community relations with the Police which I know is a very important part of the Maui Police program to welcome community groups into the station to utilize that room. You know, it will be open around the clock and maybe be able to create some ongoing contacts by doing so. But it looks like that room might be a little small for that at this point.

Mr. Fujii: Okay, let me explain. We've got the floor plan and you're talking about that light green--

Mr. Starr: That other light green next to the lobby.

Mr. Fujii: Light green right here. We did take that into consideration. Can you flip to the next slide, next floor plan? Okay, we do have one within the secured area which is a controlled public area, then we have another conference room, training room that it's twice the size of the room below. This could be used as a, part as a new recruit training if they do – if the Police Department decides to use that down there and this could be used also as a high– sort of high tech presentation type of facility.

Mr. Starr: Yeah, but I don't think you want to invite the public into there whereas the one below, you know, it looks like it's outside.

Mr. Fujii: Right correct. It is separate, that you could use that without getting into the secure area. We'll take a definite look into that, into developed that size and I really appreciate the general

comment. We did work very hard with the people of Maui, within the district. Police Department did a great job of bringing in comments. This project has actually been out there for a little while and we did get a lot of positive input and we try to incorporate as much as we can within the budget constraints that you have and to incorporate a lot, is to make it user friendly for not Kihei today, but for Kihei in the future which I mean, is right around the corner. You can see the population growth.

Mr. Hedani: Okay, additional comments? Commissioner Mardfin.

Mr. Mardfin: I've got a couple things. One, you refer, you're going to be working on this so this comments on the EA itself. There was mention of the resident population. I would suggest that you also get the defacto population. In other words, bring in the number of visitors because the police station is serving one way or another both visitors and the residents. So I think you ought to incorporate those kinds of numbers and I don't think they're too difficult to get,

Secondly, a question. How many employee parking spots are there?

Ms. Dagdag-Andaya: I will ask Aaron to.

Mr. Mardfin: It looks like a big area now.

Ms. Dagdag-Andaya: It is. In fact, my understanding is, I think we're over the required amount, but I'll have him expand on that.

Mr. Fujii: Right now the square footage of the building would require about 100 somewhat parking stalls. Right now as designed as shown, we're well over 200 something stalls. So right now we have the area. This is a design in progress and that's why I do apologize that there is a difference in site plan. We're getting pretty close to finalize this and we're working a more functional plan. So what you see here is about the maximum amount of parking stalls that we would be able to get on site. What you actually, what we actually build out there might be a little less, but again, this is all up to discussion. So what you see there is well over 200 parking stalls.

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: Since it's so much cover, you might think about permeable surfaces.

Mr. Fujii: We are definitely looking into that right now.

Mr. Mardfin: What's going to happen to the existing building?

Captain Lawrence Hudson: The existing building is in the shopping, the strip mall by Foodland and so it will return to the –

Mr. Hedani: Captain, can you introduce yourself please?

Captain Hudson: Captain Larry Hudson with the Maui Police Department. So it will just go back to the managing agency. We've been leasing that building since 2000.

Mr. Mardfin: So there'll be a savings on lease rent? I mean, the total thing may cost more but you'll have lease rent savings at least to offset.

Captain Hudson: Yes, we'll have some rent savings on that, yes.

Mr. Hedani: Any other questions? Commissioner Mardfin.

Mr. Mardfin: It got raised earlier, this struck me as a good place for an evacuation site. So you planning to have FEMA. I know with Hana School, they've got some big conex containers filled with blankets and stuff like that in case of evacuation. Is there any plans to use that in this capacity?

Captain Hudson: Lets talk just a little bit about the building and address some other concerns. The building's on mauka of the highway. Kihei needs a police station. We opened that station by Foodland in 2000 with the known realization it's an ad hoc measure. Now 10 years later we're still in the storefront property, we need to get out.

Okay, that being the case we had to look for a place for a police station. It's got to be Kihei, makes sense to build a station outside of Kihei to service Kihei. So we came up with the minimum qualifications. It has to be out of the SMA. You don't want to build a police station in a flood zone. Okay. It has to be on state or county property because we don't have money to buy the property and it has to be big enough. It has to be a minimum of 10 acres. The current station sits on six acres, about six acres and we're busting at the seams. There's no parking. We have to build on top of our roof. In case you guys noticed we're actually building another office on our roof. We've converted a flair room into an office. We've taken away break rooms. So we're literally busting at the seams.

So we came up with mauka of the highway. Gotta be mauka of the highway. Gotta be county property or state. State didn't have any. And it has to be big enough. This is the only site that fit the bill. And so when we did the site assessment, this was it. So we could narrow it down to one. This is the only place.

Now we talk a little bit about the building. The building is a hardened building. It has to be hurricane proof, it has to be tsunami proof, it has to be able to withstand a natural disaster at a minimum. When everything else fails, the building still has to be up and running. So it has a lot of redundant systems. Lets talk about one of the redundant systems is its generator. The generator is going to run no matter what because if one breaks then the redundant one will kick in.

Getting back to a question that you brought up earlier, will it have dispatching capabilities? Yes. If something happens to the Wailuku station, this station will be able to take over the functions of the Wailuku station. So you're getting a good size station in the Kihei area that will have a lot of the capabilities that the current Wailuku station has. It's good size so, if people might say it's a little large. It's built right now and 30 years from now we're going to be happy we built it this way because this building has to stand around for at least 30 to 50 years. This is something we're not going to revisit I don't think so, not in Kihei.

Mr. Hedani: Any other questions, comments? Commissioner Mardfin.

Mr. Mardfin: My question had to do with are you going to be serving as a FEMA evacuation area in case of disaster on the Kihei Coast?

Captain Hudson: I can't answer that. We have storage capabilities. Nice, direct answer, I can't answer that. We have storage capabilities to store FEMA stuff. As far as that, that is going to be definitely given some consideration. I'll be speaking with my administration.

Mr. Hedani: Additional comments? Commissioner Shibuya.

Mr. Shibuya: I just had, from a police standpoint are you connected communication wise with Civil Defense?

Captain Hudson: Yes.

Mr. Shibuya: Thank you.

Mr. Hedani: Other comments? Commissioner Mardfin.

Mr. Mardfin: This is going to be for the planner or maybe your architect. On page 37, estimate Table 2 at the top of page 37, estimated project potable water demands, first line, average daily demand, 8,550 gallons per day. On the next page, Table 4, estimated project wastewater demand, average flow, 600 gallons per day. Can somebody explain to me what's happening to some, almost 8,000 gallons of water? Is it going into the ground or?

Ms. Dagdag-Andaya: Commissioner Mardfin, I'll ask Chad MacDonald of Mitsunaga and Associates.

Mr. Mardfin: Okay.

Mr. Chad MacDonald: Good afternoon Planning Director, Chairperson and Commissioner Members. My name is Chad MacDonald with Mitsunaga and Associates, civil engineer. In reference to your question regarding potable demands, I'm looking at my ...(inaudible)... of design not at the EA, but I'm just going through my ...(inaudible)... of design. The potable water demand is estimated to be for average daily demand 8,550 gallons per day. Wastewater demand is 600 gallons per day. These estimated demands are based on the for instance, the water demand is based on the water system standards. So there's certain criteria based on the building type, land area and such, whereas the wastewater demands are based on the wastewater criteria.

Mr. Mardfin: Somehow 8,000 gallons per day is evaporating or?

Mr. MacDonald: No, it's based on land area usage. So –

Mr. Hedani: Does that include the irrigation?

Mr. MacDonald: That does include irrigation.

Mr. Mardfin: Irrigation, they're saying is an additional 3,000 gallons per day of nonpotable water.

Mr. MacDonald: I understand the concern. We broke out the irrigation, the fact being that we're looking at the possible use as nonpotable water. So we kind of broke out that, we had that line itemed separately but as far as the potable water demand usage and the criteria for the water system standards, there is a factor of irrigation usage built into that use, the water demand. It's different criteria.

Mr. Mardfin: I know the criteria is different. I'm just wondering what's happening to the extra 8,000 gallons per day of water. It's either going into the air, going into the ground or going into the wastewater system and I'm just trying to figure out where it's going.

Mr. MacDonald: Well, it could be contributing to washdown areas outside, we have carwash. We have a carwash facility at this facility as well. So that's not directly attributed into the wastewater system.

Mr. Mardfin: So you're putting water out into the ground but not going into the wastewater system.

Mr. MacDonald: That is correct.

Mr. Hedani: Any additional comments? Commissioner Starr.

Mr. Starr: Yeah, I think the comment to that should be, they should define the actual water utilization that will be done for irrigation and for domestic use.

Mr. MacDonald: Sure thing. We'll get more specific on the breakdown to address your concern.

Mr. Hedani: Thank you.

Mr. Starr: And on drainage, I was happy to see that in the draft there seems to be quite a bit of additional retainage beyond the delta increase.

Mr. MacDonald: That is correct.

Mr. Starr: Which is good. I just want to be sure that that is maintained – that is maintained as you change this design. It looks like there's a little more harder area so pervious surfacing and other methods of retaining as much as possible in keeping that off– runoff that ends up on the reef is a good thing and like to have a comment that that should be maintained.

Mr. MacDonald: Understood.

Mr. Hedani: Any other comments? Commissioner Sablas.

Ms. Sablas: As a long time resident of Kihei I am looking forward to this new addition to our community. As a commuter I polled our Kihei commuters and they were 100% supportive of the – the question was when is it going to be done? Thank you. But I just wanted you to talk a little

bit about landscaping, if anything, because I share Commissioner Starr's comment about the bunker style in Wailuku and how we're going to be able to – we didn't address landscaping, trees or –

Mr. MacDonald: To be honest with you, we haven't really looked at the landscaping part of the site element at this time. However, we are planning to meet with the Urban Design group, I believe May 5th, and by that time we should have a conceptual level landscape plan to present.

Mr. Hedani: Additional comments from the commission? Commissioner Shibuya.

Mr. Shibuya: I got a couple of items. One is the view plane from the highway. Would that have any impact, the structure have any impact to seeing Haleakala or the slopes of Haleakala and the second would be renewable energy that Commissioner Starr mentioned. Are you folks planning to have photovoltaic systems mounted on the top of that structure to both generate electricity as well as to shade the structure or keep it cooler?

Mr. Aaron Fujii: All of those items are under consideration.

Mr. Hedani: Aaron Fujii.

Mr. Fujii: Yes, Aaron Fujii, Mitsunaga and Associates. If we get to an elevation that we have. Okay, the very top of these roofs are flat. Okay, the reason it's flat and it doesn't look flat to you because it's a long building, we did that to lower the structure a bit, so it did lower the structure considerably and still looks pretty good, well, my personal opinion. Please submit your comments. But this is basically what we think the building would look like. On the very top of that flat area we do have quite a large flat area that if, again the budget allows us to put in photovoltaic because it's quite an expensive system though you have energy savings that would pay itself back over the years, but again, you got to remember that this is a building that will remain open 24-hours a day. So we need to really evaluate that system to see if the cost to install that system would meet the demand of the needs of the station and meeting those demands would pay back for an expensive system. But it is a considered item. We flattened the roof for the purpose of hiding those panels. That you would not be able to see that from the highway. Again, we strongly feel that you won't be able to see that. But we will study that again.

We situated the building at an angle off of the highway. So when you do see that building, yes you will see that building and it is a Police Department you want to show some presence but you're not seeing the full length of that building. So whichever direction you come down that highway, you'll be seeing portions of that building and if, you know, you just buzz by we think that you could possibly miss that. It will be sitting on top of a hill, we lowered that hill so that the impact, the sight impact – well there should be no sight impact is what I'm trying to say, but we did take that into consideration because of just the area that we're putting this police station in. So this is what we think it will look like. Again, the colors is what we think the colors should be.

Landscaping, it's a design in progress. So right now we're adjusting the site. Once we feel that we have the number of parking stalls that is needed then we'll start to come in with landscaping. Again, that is up in the air. Water is an issue so we want low maintenance? Do we want lush green

oasis type? We're open and that's our next phase. So yes, we want to soften this building up a little bit more with I guess more shade trees if that is allowed. Then if the budget doesn't allow that and water doesn't allow that then some sort of natural hardscape that matches the area. Of course, it's all dry, kind of make it look decent, yeah.

Mr. Hedani: Any other comments from the commission? If not, we'd like to take the opportunity to open it up to comments from the public because this is a public meeting. Are there any members of the public that would like to offer comments on this agenda item at this time? Seeing none, the public testimony is closed.

My one personal comment is that I believe that's a very attractive building and the design is well done. If you're going to enclose your restricted impound area with chainlink fences, I suggest that it be screened from view with landscaping.

Are there any other comments from any other members of the commission? If not, thank you very much.

Ms. Dagdag-Andaya: Thank you very much.

Mr. Hedani: Director.

Mr. Hunt: The commission's next item involves the Department of Planning's Long Range Division transmitting a conceptual schedule for the review of the Maui Island Plan by the Planning Commission. The proposed schedule was distributed – Sorry, your next item actually involves Dwight and Cynthia Weiding requesting a determination of the rear lot lines for double frontage lots pursuant to the provision of Section 12.08.100G of the Maui County Code for property situated at TMK; 3-5-004: 087 in Waikapu. The file number is RFC 2009/0008 and Paul Fasi is the planner assigned to this.

G. COMMUNICATIONS

- 1. DWIGHT and CYNTHIA WEIDING requesting a determination of the rear lot lines for double frontage lots pursuant to the provision of Section 12.08.100G of the Maui County Code for property situated at TMK: 3-5-004: 087, Waikapu, Island of Maui. (RFC 2009/0008) (P. Fasi)**

Mr. Paul Fasi: Thank you Director Hunt. What we're doing today is the planning commission has the authority to determine rear lot line determination on double frontage lots. A double frontage lot is basically a lot that has county streets on both sides of it. Technically this lot does not have county streets on both sides of it but it does have an easement granted to it coming off a second street. So according to Zoning and Enforcement they made a determination that this easement qualifies and so therefore, this lot is a double frontage lot. The applicant is before you today and he would like to get a determination on the rear lot line so he can move his driveway location where it presently exists to what we would consider the rear lot line and move it to the rear which then becomes the front.

I'm going to pass out some pictures here and you'll see the severity of the problem. After much discussion, the Planning Department, I'm sorry, the Current Planning Division in consultation with Zoning, we finally came to the conclusion that it does qualify as a double frontage lot and therefore, does qualify for consideration before this commission as a double frontage lot. The applicant is here if you have any questions.

Mr. Hedani: Commissioners? Seeing no questions, is there a recommendation from the department?

Mr. Fasi: Yes, the department recommends approval for the rear lot line determination be approved.

Mr. Hedani: Commissioners, what's your pleasure? Lets see till they see the photograph first. This is not something that could be handled administratively Paul?

Mr. Fasi: well, originally I thought it could be handled administratively and I actually drafted up the memorandum and apparently Zoning thought otherwise and they thought that because the easement makes it a double frontage lot that the proper method would be to bring it before this commission and get a final determination from the commission. I would have much rather had seen it done administratively but apparently the rules don't allow it.

Mr. Hedani: Any discussions? Mr. Shibuya.

Mr. Shibuya: I have a question Mr. Fasi. Because you have double frontage that increases the liability that this county or this body would have or would incur if we approved it would it not?

Mr. Fasi: I don't believe it would be cause there's a specific title here in the County Code that specifically states double frontage lots shall be determined by the Commission. It is an approval by the County Planning Department. So if anyone is held responsible decision, it would be the county itself and not this commission. You're just making a determination. You're not granting any permits, you're not – really don't have really the final approval authority, you're just kind of making a recommendation on it for this double frontage lot.

Mr. Shibuya: Because I'd hate to have the county held liable for this action if it was approved.

Mr. Fasi: This particular Title 12, Chapter 12.08.100 is specifically designed for this. It's specially written for this type of situation to give some consideration to odd designed lots where driveways cannot be accommodated.

Mr. Hedani: Any questions? Commissioner Hiranaga.

Mr. Hiranaga: The applicant would be waiving their right to use the current driveway?

Mr. Fasi: Yes, that would be correct.

Mr. Hiranaga: So he's giving up something to get something?

Mr. Fasi: Yes.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Based on your photos the existing driveway hasn't really been built. Is that correct?

Mr. Fasi: That's correct.

Mr. Mardfin: You have the arrows going up from somebody else's driveway onto some land.

Mr. Fasi: Yeah, it's a shared entrance right there, but yes, that would be where the driveway would be.

Mr. Mardfin: But he doesn't want to do it there. He wants to come off the other side.

Mr. Fasi: He wants to come off the rear end of the lot which would actually make it safer for both pedestrians and the neighborhood immediately around that driveway.

Mr. Mardfin: Is lot 2-3-5-004:086, the one right next door to it going to be asking for the same thing?

Mr. Fasi: They have not come forward. Developer has only granted an easement to lot 87 and not 86. I believe lot 86 is sufficient in their access to their lot.

Mr. Mardfin: Well, based on your photos they already have the driveway going out.

Mr. Fasi: That is correct.

Mr. Hedani: Any other questions? Commissioner Mardfin.

Mr. Mardfin: They want to get out onto Kama Street. If they followed existing allowed driveway where would they exit on to?

Mr. Fasi: They would exit, they would be the same ingress and egress.

Mr. Mardfin: No, but, if they go on the existing driveway where the existing driveway is supposed to be, they have to go out on some other road because I just don't know which road it is.

Mr. Fasi: Let me bring the applicant up to answer that question. Dwight Weiding is here.

Mr. Dwight Weiding: Pilikana Place.

Mr. Mardfin: I'm not familiar with this area of the island very much. Is there any other advantage in going out that way? Does it get you onto a main thoroughfare easier, does it avoid traffic? I don't know what the questions to ask because I don't know the area.

Mr. Weiding: Well I don't know if you have access to all the drawings that we have used in working

with the Planning Department and Subdivisions.

Mr. Hedani: Mr. Weiding, can you speak directly into the microphone please?

Mr. Weiding: If you can refer Exhibit 6 I believe, you'll see, get a bit of the idea of the problem there. This is a very narrow entrance to these five lots here and there's no cul de sac ever provided for these five lots. So that there's only that little, tiny section that you can see right at the end of that common drive. It has actually be allotted for access to lot 87 and it's virtually impossible to back out of there and even to get in there because if you'll notice there's a telephone pole that's right there in the corner as well. This right here is where the access was supposed to be, this little tiny section. And so when Smith, Kent Smith Development was working on Waiolani Pikake I knew we were planning to develop this so I realized that was really the only solution to the access to this lot was off of Kama Street. So they ended up with their design with a little tiny, I guess, flag lot you would call it, little triangular lot, that runs between our lot and Kama Street and that is what I requested an easement from them to access our lot through.

Mr. Mardfin: Do you have a –

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: How wide is that private roadway?

Mr. Weiding: Ten feet.

Mr. Hiranaga: So basically you have four house lots currently using a 10-foot wide private roadway for access. It does not have a turn around and so rather than exacerbate the situation by adding a fifth household this 10-foot wide roadway, he has negotiated a 12-foot wide access easement to a county road and I really don't see a problem with this. It's in Waikapu.

Mr. Hedani: Any other discussion? Any questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: Exhibit A shows a house already on the property. Is that already on or is that planned to be built?

Mr. Weiding: There's nothing on there right now.

Mr. Mardfin: It's a vacant lot right now.

Mr. Weiding: Yes.

Mr. Mardfin: Well, if you exit onto Kama, will that affect your setbacks when you come to build a house?

Mr. Weiding: Well, we'd hope not. We'd hope that it would be treated as a typical setback.

Mr. Hedani: Any other questions? Commissioner U'u.

Mr. U'u: Any objections from neighbors?

Mr. Weiding: Not that I know of. I think they're quite happy that we're not going to further congest those lots there.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I'd like to make a motion.

Mr. Hedani: Want to hold off, I'm going to ask for public testimony if there's any. Are there any members of the public that would like to offer testimony on this item? If so, speak up now. Thank you. Seeing none, public testimony is closed. Commissioner U'u.

Mr. U'u: Motion to approve.

Mr. Hedani: Motion to approve by Commissioner U'u.

Mr. Guard: Second.

Mr. Hedani: Seconded by Commissioner Guard. Discussion? Director.

Mr. Hunt: The department's continually being asked to find ways to streamline permit processing. It was raised earlier that perhaps this could be an administrative process rather than a planning commission process. If the planning commission would support that idea conceptually, of course, we'd have to come back with some kind of a rule or probably legislation we would like to hear that. There would be an avenue that we could explore.

Mr. Hedani: Any discussion? Further discussion? Commissioner Mardfin.

Mr. Mardfin: Were the neighbors notified of this proposed action? I'm not just talking the ones that share the same driveway but the neighbors on Kama Street.

Mr. Hedani: Planner Fasi.

Mr. Fasi: No, theirs is not a public hearing item. This is basically a communication item. It doesn't require notification.

Mr. Hedani: Any further discussion? Commissioner Shibuya.

Mr. Shibuya: I have a concern here that we're not applying the same standards for fire protection access to the four houses as well as this fifth house here. What are the standards for the Fire Department?

Mr. Fasi: The standards have already been reviewed and been applied otherwise subdivision approval on TMKs would not have been applied in this particular development. I believe offhand, off the top of my head that Fire Department access width is 10 feet I believe.

Mr. Shibuya: Because there's no turn around.

Mr. Fasi: That is correct.

Mr. Hedani: Further discussion? Seeing none, are you ready for the question. All those in favor of the motion to approve signify by saying aye. Opposed, nay.

It was moved by Mr. U'u, seconded by Mr. Guard, then

VOTED: To Approve the Recommendation.
(Assenting - B. U'u, J. Guard, K. Hiranaga, W. Mardfin, W. Shibuya,
L. Sablas, J. Starr)
(Excused - D. Domingo)

Mr. Hedani: Carried. Thank you.

Mr. Fasi: Thank you.

Mr. Hedani: Director.

Mr. Hunt: Your next item involves the Department of Planning, Long Range Division transmitting a conceptual schedule for the Maui Island Plan review for the Planning Commission comment. The proposed schedule was distributed at the March 24th meeting. The action before the commission is you may act to adopt or modify the proposed schedule. The planner assigned to this project is Davie Michaelson. He's been the lead planner on the Maui Island Plan and believe this schedule was based on tentative conversations that we had with the commission over the last couple months.

2. DEPARTMENT OF PLANNING, LONG RANGE DIVISION transmitting a conceptual schedule for the Maui Island Plan review for Planning Commission comment. Proposed schedule distributed at the March 24, 2009 meeting.

Mr. Hedani: Commissioners any comments, questions? Commissioner Hiranaga.

Mr. Hiranaga: I'm not sure if this is the appropriate time to bring this up but in the past I made some requests that hopefully the Long Range Planning Division would address when they come to us and I wanted to give you some lead time to prepare so, can I go ahead?

Mr. Hedani: That's it?

Mr. Hiranaga: May I bring up these points?

Mr. Hedani: Go ahead.

Mr. Hiranaga: I'd like to have an overlay of the urban growth boundaries over the current plan so we

can what's being added to the current plan and if anything is being taken out of the current plan. The other thing I'd like to know is who the major land owners are that are going to be in the urban growth boundaries.

I wanted some type of an orientation regarding smart growth because it's kind of a buzz word. I may have an idea of what smart growth is, but I think you probably want a uniform base for us to all start from.

Mr. Dave Michaelson: Mr. Chairman, Dave Michaelson, Long Range Division. First of all, your data request we actually have. I will be sharing some graphics with you on the 21st that do exactly what you're referring to about the UGBs, the current plans, the current community plans. We also have a data base of all the property owners within the proposed UGBs, so we'll provide those to you.

In reference to orientation, we transmitted an agenda for the 21st meeting that I'll make sure get to you and essentially the first part of that meeting which is on the 21st is an orientation prepared by myself and my staff that not only gives you an overview of the MIP, the development of the Maui Island from it's very inception to today, but then we shift into what I'm calling a short of a best practice if you will and it has a component, a chapter, that just deals with smart growth, neo-traditional planning and also have a fiscal responsibility component. So it's the same orientation that we gave GPAC, oh, so many years ago, I believe we gave it to them in the Summer of 2005 and then we're going to provide the slides to you so you'll have that in your binder. So that's our intent, is to sort of get everybody on the same page of what that term means. You hear sustainability kicked around a lot. I have some definitions of what I, as a professional planner, think is meant by sustainability. So hopefully we can get on the same page.

Mr. Hedani: Okay, any other comments, questions? Commissioner Mardfin.

Mr. Mardfin: I have at least two questions. One is on page 3, it refers to a Countywide Policy Plan. Have I seen that?

Mr. Michaelson: You have. Correct me if I'm wrong Director Hunt, but the Countywide Policy Plan has been reviewed by the Planning Commission is now in front of Council.

Mr. Hunt: I'm not sure Mr. Mardfin was on the commission at that time, but it has gone through the planning commission and it is at the Planning Committee with Council.

Mr. Mardfin: Could somebody get me a copy at some point?

Mr. Hunt: Of course.

Mr. Michaelson: We can both get you a copy and it is up on the website.

Mr. Mardfin: Okay. Second, this is really nit picky, but the first public hearing, you're starting the clock on April 21, we have a 180 days, that makes it October 18th. Our last meeting is scheduled for October 20th. So I know we're going not meet or quite meet the schedule. But for two days I'm not going to nit pick. And if I can ask a third one, and this is, I think this next one is much more

important, I see that for our Tuesday, October 6th meeting we're dealing with long range implementation, evaluation and monitoring. It's way at the end. My understanding is that the same thing happened on GPAC based on things that were in the report you gave us. I'm a bit bothered by this. I mean, when we first proposed this schedule, I hadn't seen our book so I didn't know what had been done and what hadn't been done, but it seems to me we're spending a lot of time up front on things and going to be crowding some things at the end particularly things like implementation monitoring and mapping and is there any way that we can rearrange this a little bit? I don't know what the solution is because I'm not familiar enough with the whole thing. But it seems to me that, or maybe we could just speed up on some of things early on if we need to have the things in order to deal with the other than maybe we could just speed it up and double things in the beginning so we have a longer time to deal with the things at the end.

Mr. Michaelson: Here's what I – I'm sorry.

Mr. Hedani: Mr. Michaelson.

Mr. Michaelson: Here's what I would suggest and we did forewarn GPAC when we reconvened them in January that if we got stuck in the wordsmith land and argued for hours and hours over singular wording in a particular policy that they would get caught at the end with not being able to give some very important elements obviously monitoring and evaluation is crucial to the success of the plan that they would run out of time. And unfortunately, that warning became true. What I would suggest and I suggested this when we met with you before is that, we will always be prepared staff to give you a summary of the next item, in fact, we'll be prepared, if for example, on Tuesday we have the orientation and the core values. What we would hope is that at the conclusion of the core values, we will still have time and could in fact get through population on that night. Every time we do that, we knock an element ahead of schedule, you pick up another meeting to deal with both the directed growth strategy which is very important as well as evaluation and monitoring.

Now one caution that I will toss out to you is that, the policy discussions they can get bogged down for two reasons. One because we're all generally passionate about what we're doing here which is the Maui Island Plan, but if you don't get through those policies, it's very hard to have a foundation for your recommendations regarding directed growth. One is connected to the other. So what I would caution you with is if you say – I think you'd be making a mistake to say, lets start with the mapping. Because then what you're doing is sort of subjectively looking at lines on map divorced of policy. You're just, pardon the pun, making it up as you go. So if we can get through the polices as quickly as we can and staff is, as I said, we will be prepared if you are done with a section, we are prepared to move on that night or that day if we have time. This schedule is based on a worst case scenario absolutely. I wish we would have had twice the time with GPAC to deal with the maps, but we got caught in some pretty circular loops where we relived policies that were put to bed at a previous meeting and that was unfortunate and we'll do everything we can to avoid that.

Mr. Hedani: Director.

Mr. Hunt: Just to add real quick in comprehensive planning there's a logical sequence of steps that you do and usually you start with the land because that's a given and population and your economy. You take care of all your base elements and then you start moving into – from there you start

building off of that and you're into more your qualitative visioning forward looking land use policies. So we would strongly recommend you stick to the accepted practice in the planning industry and as Dave said, if we can get through these earlier elements quicker, that's great, that's fine by us.

Mr. Hedani: Okay, how do you do that Dave and still meet the notice requirements for the public?

Mr. Michaelson: We generally will always notice one meeting ahead. In fact, what we did with GPAC which was effective and legal, it was consistent with Sunshine is we would say we're going to talk about population. We would reserve a section on that same agenda that would say, if we get through that element we will jump to the next element. So we try to always keep you one element ahead from a noticing perspective. That way if we do, if we can address it, we're not locked in where we have to adjourn a meeting simply because we didn't notice.

Mr. Hedani: Any other words of advice to avoid not going 360 versus a 180 versus a 120 days?

Mr. Michaelson: It's like a running back going north/south instead of east/west, right?

Mr. Hedani: No brown nosing with major land owners.

Mr. Michaelson: I'm sorry?

Mr. Hedani: Continue.

Mr. Michaelson: I'll let that one go. Two suggestions for the meeting on the 21st, obviously the orientation is our job and I think we do a really good job at doing that. I think GPAC was pretty impressed at the time, but be prepared, look at the population element, those policies, be prepared to make concrete suggestions of policy changes so that the discussion is focused and it's well thought through. Also review the population section with the inherent hope that we can put the core values to bed and move on. Thirdly, what we found successful with GPAC and I'm going to leave this up to the commission because it's really your kuleana is that it's very helpful if we have regularly scheduled meetings with the Chair, and congratulations by the way on your appointment, and another member, I hope – I was going to say something about your free time but I won't, I'm reminded of it all time frankly in my household, but we have an opportunity to meet at regular intervals with the Chair and another member of the planning commission to make sure if there's anything that the commission feels uncomfortable with or would like to move faster or would like a little different format that we're alerted to that and we can react as need be and we found that pretty successful with GPAC. But I guess there's just two sort of lessons we learned. Do your homework, come prepared with concrete policy suggestion and changes and from our end, I'll make a commitment that we'll always try to be a step or two ahead of you, so if we do make some significant progress, we don't get hung up.

Mr. Hedani: Okay, any other comments, questions from the commission? From the Chair's perspective I would appreciate your sharing any, you know, or giving the opportunity for the commission itself to give you any comments or recommendations or suggestions for improvement at the tail end of any meeting that we have so that if they want to adjust, they can adjust at any time.

Mr. Michaelson: It's totally appropriate.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Director Hunt first.

Mr. Hedani: I'm sorry, Director.

Mr. Hunt: To help in your review if you try and focus on concepts and pukas, things are missing or issues that haven't been addressed rather than wordsmithing, the word which should be more correctly or grammatically that, I think you're going to move along a lot faster. You also have to realize the amount of background work that has gone into this document before it got to you. The Planning Department did a whole lot of citizen input with a walk story, talk story, technical reports. The Planning Department then worked with a professional consultant to draft it. That plan then went to the GPAC that spent 11 months and untold meetings. I estimated a hundred meetings reviewing that. So by the time it gets to you, we're confident that it's fairly solid document. You shouldn't have to do a wholesale revision, that's not to diminish your role in the review of it, of course, but you shouldn't be starting from scratch by any means.

Mr. Hedani: Okay, Commissioner Shibuya.

Mr. Shibuya: As mentioned earlier in the meeting I believe there are extra days like May 26th that's available, there's also June 30th, there's also July 28th, August 25th and September – no October 13th.

Mr. Guard: Those are regular meetings.

Mr. Shibuya: Those are regular meetings?

Mr. Mardfin: Some of them are.

Mr. Shibuya: Okay.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I take what you're saying that it's nice if we can jump ahead. I think we ought to do more than that. I think we ought to determine that on the 21st we will do kick off meeting, core values and population. I think we should commit May 5th, to do heritage resources, natural hazards and economic development. I think we should commit on May 19th to doing economic development and housing. And at that point, look at where we are and spread everything, move everything else up assuming we've made our goals, but at least, the first three meetings lets double up for now. And particularly if what the Director said is correct that it's largely a complete plan then we only have to, as he says, looks for the pukas and not worry about the wordsmithing I think we can probably do that. It's ambitious but I think we need to do that in order to have sufficient time to do the stuff that GPAC didn't get to.

Mr. Hedani: Dave.

Mr. Michaelson: Mr. Chairman, I have no problem with that, as long as we meet the noticing requirements and there's some sequences in terms of adjourning meetings as opposed to continuing a meeting and I'll have to sit with James and sort of get that figured out. But you know, we'll do everything we can to move you along. Believe me, staff has absolutely no issue with getting going as quickly as we can, making as much progress as we can and in the tail end not to be rushed but have adequate time to relive or refine some of your work. That's where we want you to be.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I think a better mechanism would be that which was a little bit discussed the last time we talked about this which is at each of the meetings where we're out in one of the districts that we take part of that meeting time and we use it to get a jump on the directed growth mapping portion for that district rather than just jumping ahead to another module. In other words, say on Tuesday, May 5th, we go to Haiku and we work from 1:30 to maybe 5:00 on population or whatever the module is and then break, you know, take a short break and then come back and allow testimony and then go into – unveil the Haiku community maps and have a little discussion about how the directed growth regarding that district, not do decision making on the directed growth for that area at that point but at least have an introduction to it and present it and that way people in that area can understand it and comment on it and then do the same thing in Hana when we get there actually do the Hana district, open up the Hana district maps and directed growth for Hana and so on for Kihei, Lahaina and that way we're actually doing the ground work for the directed growth up front in each of the districts and then later on when we come back to them for the decision making on boundaries and so on then the ground work has been done.

Mr. Hedani: Any other comments? Commissioner Hiranaga.

Mr. Hiranaga: So we have couple of different view points regarding how the schedule should be handled and I'm wondering who makes the determination as to how it's handled. Is it the Chair's discretion or is it voted by the commission or administrative point of view. The Planning Department has their scenario.

Mr. Michaelson: I'm sorry Jeff, I think you can do both to be really honest. When we did our community workshops we created a scenario where we could sort of illuminate specific issues or specific policy directions or directed growth strategy recommendations specifically to that area, but at the same time, I mean, that's a given you've gotta do that. There's no reason to go out to Hana and not talk about the directed growth strategy for Hana. The same with Haiku, same with Kihei, same with Lahaina. So that's going to happen anyway. That's just good solid public engagement. But at the same time you can assure that we have noticed if we can make more progress than might be contemplated on this pretty conservative schedule. So I don't think it's either or.

Mr. Hunt: I agree with Dave. It's not either/or it's almost a group decision. We really don't want to send an agenda that the commission doesn't want to follow. On the other hand, we don't want to have the commission set an agenda that staff can't meet and we had some of these discussions with GPAC. We would probably suggest at the end of each meeting, we set out the agendas for the future and that's how you kind of do it because of legal requirements we have to agendize items.

In response to Mr. Starr's comment I think it's actually a good idea to perhaps have something on the agenda without decision making at least indicate that there'll be a discussion or we're focusing testimony in that community plan region for the growth boundaries for that community plan and then you just kind of store that information away and then once we get to that element in the actual schedule then we bring all that discussion back together.

Mr. Hedani: Any other comments, questions? Commissioner Hiranaga.

Mr. Hiranaga: Just one comment about time management. My experience with the five commissioners that did review the conceptual plan I thought we handled it you know, very effective and efficient and mature manner, so I really don't see us hopefully ending up in purgatory going over you know, like you said wordsmithing because we didn't really experience that but we do have four members so I can't speak for them.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I concur with what the Director and Commissioner Starr said. Let me sort of modify my suggestion. I laid out three, well three Tuesdays. Lets just take Tuesday, April 21st. I propose that we resolve to deal with the kick off meeting, core values and population. And I'm trying to make sure I know what I'm supposed to be reading. I see in here under I guess there's something on background reading I should probably read about two-thirds of the way through. There's a Maui Island Plan Volume 1, Background and it has population from page 27 to 40. Then I'm going to jump to Island Plan Element, it has Population and Demographics and that's pages 13 thru 18. I mean, this is not a huge reading load compared to what we're used to doing. So it's –

Mr. Hedani: I think they'll learn soon enough how fast we're going to move through a section.

Mr. Mardfin: So at least for the Tuesday, the 21st, lets attempt to do kick off meeting, core values and population all at once then we'll know.

Mr. Hedani: Dave.

Mr. Michaelson: That's fine.

Mr. Hedani: Forewarned.

Mr. Michaelson: I'm already ahead of you. Just as a point of clarification, the April '08 draft which is the very back section that you're referring to, I believe it says April.

Mr. Mardfin: It does.

Mr. Michaelson: That is the draft GPAC started with. So the policies that you see in the first section, the tab is labeled GPAC/Director Recommendation. That is the recommendations that came out of GPAC and the public's comments in regards to April...(inaudible)... draft. Just so everyone is clear in terms of that binder and we're going take to you –

Mr. Mardfin: And in terms of population there's two pages here.

Mr. Michaelson: That is correct.

Mr. Hedani: So your actual plan is not this date, your actual plan is this date?

Mr. Michaelson: Well, we'll see how thick it becomes. I can assure you that it will be thinner than the binder that we've provided you. Just out of the respect of a transparency, we felt that we had an obligation to share with you the '08 draft as well as the GPAC recommendations. I mean that's just –

Mr. Hedani: So what we're looking at is the baby in the developmental stages in the womb before you gave birth to this commission?

Mr. Michaelson: That's an interesting analogy but yeah, I'll buy that.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, two things we should keep in mind. April 21st is also the public hearing on the plan, so there's a likelihood of getting quite a large amount of public testimony as there certainly will be at the district meetings.

Also, in the binders there was a little CD/DVD I forget what it was, but that is actually the background that all of this is based on. And that's a document about this stuff. So I kind of read through some of them. There's some really wonderful studies in there. So that's there too.

Mr. Hedani: Dave, do you have any recommendations relative to public testimony and how to manage that?

Mr. Michaelson: Yeah, we learned some valuable lessons with GPAC. I think you're balancing two things. You want to keep those comments focused with the issue at hand. We're talking about population. So what you'd hope is the majority of public testimony you would feel would deal with the element that's essentially that night's deliberations. But at the same time, folks will come to meetings that can't attend all the meetings and they want to get something off their chest. You should be able to. The problem that occurred several times with GPAC is that you limit testimony to three minutes which is fair. You can't say it in three minutes, ...(inaudible)... But what would happen was that certain members of GPAC would use that as an opportunity to question them to essentially bolster their perspective. So a three minute testimony turns into a 25-minute sort of deliberation. Now there's nothing wrong with planning commissioners asking people to clarify their comments. But there's a very clear and distinct difference between asking for clarification and spurning discussion to continue to support your perspective and we cautioned them about that. And I think near the end and I think Commissioner Shibuya would support this, that that finally took hold. So you can't shut people down, but you as body can manage how effective and useful your interaction is with that testifier. I would just leave it at that.

Mr. Hedani: Thank you. Director.

Mr. Hunt: I would encourage the Chair to run a tight meeting. There's a tendency or there was a tendency at GPAC to not follow the three-minute rule strictly and some people got four or five minutes, particularly if the argument was sympathetic. It really it raises issues of fairness and the other thing that I'd like to reiterate what Dave said is the questions and answers. Finally at one point GPAC got to the point where they said no questions. They just simply took the testimony and said thank you and you might consider that.

Mr. Hedani: Okay.

Mr. Michaelson: Mr. Chairman, one more comment. Mr. Starr brought up a very good point and specifically for the purposes of talking about the population section. There are two documents that are both on that CD. They're on the website and we have hard copies in our office and they're socio economic forecast which explains the methodology for developing population projections. It talks about the strength of the data, the strength of the basis for those projections that would be a good thing to get a hold of and there's also the land use forecast which is a separate document which deals with not just the demand, right, which is the population but the supply, what's out there. Those two documents would be sort of your homework assignment to get us off on the right foot on the 21st. And if you have any questions regarding those documents, don't hesitate to give me a call. I'm very familiar with both of them.

Mr. Hedani: Any other questions? Comments? If not, thank you very much. I think one comment that I would have is that this commission's responsibility is to review the plan, provide comments on the plan and recommendations on the plan and the ultimate work product is the department's work product that moves forward to the County Council. Thank you. Director.

Mr. Hunt: Couple other comments. One thing GPAC did was to invite developers in at the beginning and say we'll give you an extra amount of time, they got five minutes and they brought in packets and the idea was, well, after that we don't expect you to come to the podium and use your three minutes every time. For the most part the developers held by that and there's a couple that didn't and towards the end, the last couple meetings pretty much the developers it was a free for all to some extent. You might consider some kind of avenue like that. The other option is just to say everyone's got their minutes and they can come forward.

The other comment I wanted to make was before we close on this, we really need some kind of a formal yes vote on the schedule because we're going to press with view points and press releases, etc., and so we need to be able to say to people this is the schedule and I believe there may be somebody in the audience who also wants to speak.

Mr. Hedani: Any other questions from the commission? Susan. You have three minutes.

Ms. Susan Moikeha: Susan Moikeha. Thank you Chair and Committee and let me say that this is a very important process that you're going to embark on and I have great confidence in what you're about to do. I'm not going to be one of those, going to be here monitoring every move you make but I feel the need to give some input from our learning experience.

I looked at the schedule the last and it wasn't on – I didn't have it when I testified to you and I looked

at it today and I don't think it's changed and that's what you received at you last meeting. I would tell you that you need to be concerned about your time. I think one commissioner mentioned the stuff we didn't finish and I think it's all of Section 2 of your manuals, the implementation, the monitoring, the evaluation, the CIP. We didn't even get to that. It came out of the some of the IRCs. It's a lot to leave at the end. My recommendation as it was before was to start with the land use polices, do the mapping, finish the stuff we didn't finish and then go through your other elements. That's up to you folks, but if you do stick with this schedule I would agree with what the staff has already presented to you, try to move quickly through it, do not go line by line. In his little summary thing it says review by element by element. You come prepared already knowing what you see is missing and you have language or a good subject or a good knowledge of what you want to say, that helps move things. Also, what would move things if you can get it to the department ahead of time. We also found that to be helpful.

I think what Jonathan Starr said about the mapping, it's really important when you get to the community plans. That's the whole reason you're going out there. It's not just for these policy elements which I'm going to tell you again, you've already done in the Maui County Island Plan. I have found that every element, it is a repetitiveness of those policies, goals and objectives that you already approved in the Maui County Island Plan. If you take one of these and go back and research it, you're going to find it's true. So whatever you can do to streamline this is even more important.

Getting back to the mapping and having the communities comment on that, it's going to be a challenge, you know, you're in Haiku or Hana and there's no maps there because that's what they want hear, that's what they want to talk about. You've given yourselves as much time as what we had over three and a half years to look at the mapping and get the community involved. And as the Director's introductory letter to you had indicated we're the ones that sent them back out there to do three more community meetings with the maps and we requested that. There just was not enough time for this.

I would also say as far as public input, everybody has a right to have input. I would also tell you that when we invited the land owners, there were small or large to come and testify that was the process that was set up by the department in September and October of '07. While we were trying to get into the Maui Island Plan which was supposed to have been done in July and we came back it was not ready so we used that time to have presentations and we started with all department agencies, they came and did a 15-minute presentation to us, Water, Transportation. These were state agencies and county agencies. Then came the time for the presentations by individuals and land owners, everybody got the same amount of time. You had five minutes whether you were a land owner, an individual, resident or whether you were a non government agency, non profit, whatever it was, everybody got the same amount of time. We could not ask questions. We did not have input on that and we did not have input on the format that was given to everyone which I think is the one thing that I see that is lacking in your resource material. There was a sheet developed by the department that every land owner had to fill out and submit to us and it was very much similar to this so you got a map from the land owner identifying the project and then there was list of questions on either side. You folks don't have that and it's not on the website. So if you're not going to have individual presentations, which I don't think you have the time for, at least ask that they provide every one of you these copies of those that did presentations and not only of the landowners, everyone, back in

September and October of 2007. Now you have to remember that's '07, what has happened in two years? It might be nice if they are going to provide this that they have some kind of update. The one thing the department did do was that if we filled out a sheet, if we had questions, they sent it off to the person, let them fill it out, bring it back and then sent us a copy. So we received an update and questions through that process. I don't know how effective that is. Personally if someone is in front of me I want to ask them a question, I want to ask them a question. I do know also earlier this year they were requesting technical questionnaires filled out by the land owners, we didn't get all of those. So I mean there's many ways to deal with the public but I'm going to tell you the most important thing is if you have a strong leadership in your Chair or Vice Chair, make sure you stay on target, you keep it to the time limit, at the end, we just passed a motion that nobody would ask questions at all of the commission.

Mr. Hedani: Thank you Susan.

Ms. Moikeha: And basically that's how we proceeded with the process.

Mr. Hedani: Thank you. Any other comments for the good of the order? Commissioner U'u.

Mr. U'u: So you saying not to take a line by line item and go.

Ms. Moikeha: So when you look at your population, you're going to see it has a goal and objectives. Some of them have – infrastructure has like five or six little sub-elements, roads, water, facilities. If you just adopt, look at the whole thing as a whole and take it as an element and just pass it as a motion rather than going by policy by policy by policy like we did, then you're going – it's going to take longer.

Mr. Hedani: Well, we'll rest assured that your group did such a good work that 90% of the people that needed to get something off their chest did get something off their chest and they won't show up for this next set of meetings.

Ms. Moikeha: And it's unfortunate because we spent almost two hours in public testimony before we could actually get to work.

Mr. Hedani: Okay, Commissioner Mardfin.

Mr. Mardfin: The Director asked us for something, the Director asked us to approve of something that they could start to publish. If they are, I would suggest a minimum list that we only deal April 21st meeting, if you need to publish the whole thing, then I'm going to back to maximum list.

Mr. Hiranaga: Mr. Chair, I think the public hearing is still opened.

Mr. Hedani: I'm sorry. Are there any other members of the public that would like to offer testimony? Seeing none, thank you. Public hearing is closed.

Mr. Hiranaga: I need to leave, can I just say one thing?

Mr. Hedani: Sure go ahead Commissioner Hiranaga.

Mr. Hiranaga: Based on her comments and I haven't looked at the packet yet, but is it possible to provide a Countywide Plan next to the Maui Island Plan, so we don't have to – can you redline it to change it from the Countywide Plan to the Maui Island Plan. Because we worked, ... (inaudible)... worked on that and to read everything when she's saying 90% is the same as we did, I'd like to know what the 10% change is rather than having to hunt for it.

Mr. Hunt: The draft Countywide Policy Plan is as thick as the Maui Island Plan, but let us see if we can respond in a reasonable way so that you have some information regarding the Countywide Policy Plan. Perhaps it's not the entire thing, perhaps it's just the final recommendations or whatever, we'll try and accommodate that request.

Mr. Hedani: What is that, there's a certain system that the Legislature uses for that.

Mr. Hunt: The Ramseyer version.

Mr. Hedani: The Ramseyer version. Okay, any other comments for Dave? Commissioner Mardfin.

Mr. Hiranaga excused himself at 4:30 p.m.

Mr. Mardfin: Not for Dave.

Mr. Hedani: Thank you Dave.

Mr. Hunt: In response to the earlier comment regarding the schedule, I think what staff would like is an okay on the dates, the times and the locations and we can massage or tweak the subject matter but if we could get some kind of formal approval of the date, the time and the location.

Mr. Hedani: Okay, do you have any objections to the dates that are listed? Commissioner Starr.

Mr. Starr: I'd like to make a motion. I'd like to move that we approve the dates, times and locations as presented to us on the schedule.

Mr. Sablas: Second.

Mr. Hedani: Okay, moved and seconded to approve the dates, times and schedule as presented. Does that have the caveat that if we complete a section we'll move to the next section?

Mr. Starr: We didn't mention what the text is, so they can be flexible on that.

Mr. Hedani: Right.

Mr. Starr: At least they can start to notice.

Mr. Hedani: Okay, discussion? I think from a homework standpoint we anticipate covering two

sections per night in the advance so that you know that's probably as fast we'll go. Commissioner Shibuya.

Mr. Shibuya: Just to clarify I believe that we had discussed earlier that if we are going to go in the communities that we would be presenting the directed growth maps for that respective community. So that would be included.

Mr. Michaelson: That's correct. Both in hard copy wall mount format as well as digital image.

Mr. Shibuya: As well as noticed. Thank you very much.

Mr. Hedani: Any other discussion? Okay, if not, all those in favor signify by saying aye. Opposed nay.

It was moved by Mr. Starr, seconded by Ms. Sablas, then

**VOTED: To Approve the Dates, Times and Location of the Conceptual Schedule for the Maui Island Plan Review.
(Assenting - J. Starr, L. Sablas, B. U'u, J. Guard, W. Mardfin, W. Shibuya)
(Excused - D. Domingo, K. Hiranaga)**

Mr. Hedani: Carried. Thank you. Director, are we almost there yet?

Mr. Hunt: Your next item involves the action minutes of March 24, 2009 and regular minutes of February 10, 2009 for your review and hopefully approval.

F. ACTION MINUTES OF THE MARCH 24, 2009 and REGULAR MINUTES OF FEBRUARY 10, 2009 MEETINGS

Mr. U'u: Move to accept.

Mr. Guard: Second.

Mr. Hedani: Motion to accept by Commissioner U'u, seconded by Commissioner Guard, any discussion? All those in favor, signify by saying aye. Opposed nay.

It was moved by Mr. U'u, seconded by Mr. Guard, then

**VOTED: To Approve the Action Minutes of March 24, 2009 and Regular Minutes of the February 10, 2009 Meetings.
(Assenting - B. U'u, J. Guard, W. Mardfin, W. Shibuya, L. Sablas, J. Starr)
(Excused - D. Domingo, K. Hiranaga)**

Mr. Hedani: Carried.

G. DIRECTOR'S REPORT

1. Planning Commission Projects/Issues

Mr. Hunt: Next item is under Director's Report, Item G-1 which is Planning Commission Projects/Issues. This is your opportunity to raise an issue that we can address perhaps in the future as an agenda item or if it's just a brief issue we can talk about it now.

Mr. Hedani: Any items for discussion members? Seeing none, if you could proceed.

2. Discussion of Future Maui Planning Commission Agendas

a. April 28, 2009 agenda

Mr. Hunt: Next item involves discussion of future Maui Planning Commission Agendas and I believe Clayton Yoshida distributed the next agenda.

Mr. Hedani: Any comments, questions or concerns over the next agenda? Commissioner Starr.

Mr. Starr: Yeah, I request to be excused from that meeting, I'll be out of state.

Mr. Hedani: Okay, just for the commission's understanding, I'll be unavailable on April 27th and 28th also so that meeting will be chaired by Commissioner U'u. My only comment to Bruce was that I said, anybody that can handle 200 apprentices should be able to handle nine commissioners. Director.

3. EA/EIS Report

4. SMA Minor Permit Report

5. SMA Exemptions Report

Mr. Hunt: The next several items just involve our monthly regular meeting reports on EA/EIS, SMA Minors, SMA Exemptions. If there's any questions on those, this would be an opportunity.

Mr. Hedani: Commissioner Starr.

Mr. Starr: I'm not sure, I assume it's on here somewhere, is there was a issue about a determination regarding SMA regarding Koki Beach, the point at Koki Beach. Has there been any determination on that or is that pending?

Mr. Hunt: Clayton can you update us on that?

Mr. Clayton Yoshida: Yes, Mr. Chairman, Commissioner Starr, there was a determination by the Director that they needed, the applicant needed to get an SMA major permit. I think that has been

appealed and notice of that was circulated to the commission. So it's going through the appeal process.

Mr. Hunt: And Clayton, is the appeal to the commission?

Mr. Yoshida: Yes, the appeal is to the planning commission on the Director's decision.

Mr. Hedani: So that's scheduled for a future date.

Mr. Yoshida: Yes.

Mr. Hunt: So the department determined that it needed a major permit which would be heard before this commission. They're appealing that decision and the appeal will be heard by this commission. It's a little awkward but it's the way the system is set up.

Mr. Hedani: Any other discussion? Any other comments, questions?

6. Public Hearing on the Maui Island Plan - April 21, 2009, 9 am

Mr. Hunt: The next item just as a announcement again, a reminder of the public hearing for review of the Maui Island Plan and that is at 9:00 a.m. on April 21st, so one week from today.

Mr. Hedani: And that's going to be in this room.

Mr. Hunt: In this room.

Mr. Starr: I believe it was noticed for 8:30 because there hadn't been a decision on that.

Mr. Hunt: We'll check on that. Whatever is in the paper, we'll have the final agenda.

Mr. Starr: I believe it's going to have to be at 8:30 just because it was noticed that way.

Mr. Hedani: Okay, so if you can confirm that and maybe email something to all of the commissioner so that they show up at the proper time.

Mr. Yoshida: Well, the commission will be receiving an agenda which we will post with the County Clerks Office which will be coming out from the Long Range Division.

Mr. Hunt: The agenda I have says 9:00 but we can coordinate that and make sure that the notice in the paper wasn't different.

Mr. Starr: Yeah, whatever it is is fine.

Mr. Hedani: So let us know if there's a change, if not, we'll go with 9:00.

Mr. Hunt: That sounds good.

H. NEXT REGULAR MEETING DATE: April 28, 2009

Mr. Hunt: The last item involves the next regular meeting which is April 28th and we'd like to take this opportunity to ask if anyone's not going to be here and as I understand the Chair and Jonathan, will you be here on the 28th? You'll be gone also.

Mr. Starr: I'll be at the National.

Mr. Hunt: Otherwise, we assume everyone else will be here.

Mr. Hedani: I'd also like to take this opportunity at this time to thank Chairman Starr and Vice Chairman Guard for their service over the past year and I believe the standards have been raised and the bar has been raised. So congratulations. Thank you.

Mr. Starr: Thank you.

Mr. Hedani: No further business for the good of the order, the meeting is adjourned.

I. ADJOURNMENT

The meeting was adjourned at 4:40 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Wayne Hedani, Chairperson
Bruce U'u, Vice Chairperson
Donna Domingo (excused @ 12:20 p.m.)
John J.B. Guard IV
Kent Hiranaga (excused @ 4:30 p.m.)
Ward Mardfin
Lori Sablas
Warren Shibuya
Jonathan Starr

Others

Jeff Hunt, Planning Department
Clayton Yoshida, Planning Department
James Giroux, Department of the Corporation Counsel