

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
JUNE 29, 2011**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chair John Sprinzel at 12:13 p.m., Friday, June 29, 2011, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

Mr. John Sprinzel: Ladies and gentlemen, aloha, e komo mai. I declare the meeting of the Molokai Planning Commission opened. First of all, I'd like to welcome our Maui Planning people: Clayton Yoshida, who's the Administrator; Michael Hopper, the Counsel. Suzie Esmeralda is the Secretary. Well, Nancy's not here. We have Gina Flammer, Staff Planner, from Maui.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Mr. Sprinzel: The first item – the second item is public testimony on any planning or land use issue. As we have the main thing as the next main item, perhaps we can save public testimony for then.

C. APPROVAL OF MINUTES OF THE MARCH 23, 2011 and APRIL 13, 2011 MEETINGS

Mr. Sprinzel: Approval of the minutes--any comment, please? We have the minutes of March the 23rd and April the 13th.

Ms. Debra Kelly: Okay, I make a motion to approve.

Mr. Sprinzel: Both of them?

Ms. Kelly: Yes.

Mr. Sprinzel: A second?

Mr. Ron Davis: . . . (inaudible) . . .

Mr. Sprinzel: So we have Debra Kelly proposes and Ron Davis seconds.

There being no further discussion, the motion was put to a vote.

It was moved by Ms. Kelly, seconded by Mr. Davis, then unanimously

VOTED: To approve the March 23, 2011 and the April 13, 2011 meeting minutes.

Mr. Sprinzel: Motion carried. Thank you. The next item is a public hearing on the Council Resolution 11-24 referring to the Lanai, Maui, Molokai Planning Commissions containing a draft bill amending Title 19, Maui County Code, relating to short-term rental homes. And Gina Flammer is going to present it.

Oh, and I didn't welcome our Director. Sorry. Michael Spence is here. I'm sorry, William. I'll get it right one of these years.

D. PUBLIC HEARING

- 1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 11-24 referring to the Lanai, Maui, and Molokai Planning Commissions containing a draft bill amending Title 19, Maui County Code, relating to Short-term Rental Homes. (G. Flammer)**

Ms. Gina Flammer: Okay, so did you want me to give the presentation before public testimony? Okay.

Mr. Sprinzel: Yes, please.

Ms. Flammer: Okay. Welcome. My name is Gina Flammer. I'm a Staff Planner with the Current Division of the Planning Department. I'm also in charge of bringing the short-term rental home draft ordinance out for comment.

So to start with, okay, what is the purpose of the bill? If you take a look in the bill, it describes that we would like to regulate the industry. The bill came out of the County Council Planning Committee. And I believe it was with the recognition that we have an underground industry. And there's a real desire to establish some regulations and to try to bring some of these properties into compliance. At the same time, we'll be working on our enforcement for those properties that don't come into compliance. And it's also about creating a balance between – basically, between housing needs and economic needs. And I'll go into that just a little bit more.

And the bill is based on the current bed and breakfast law. It's been adapted, from what I understand, to short-term rental homes. But when you go through and you read the bill, it probably looks familiar because it is based on the current ordinance. It has about two years of experience.

So what is a short-term rental home? We're not talking about condominiums. We're talking about homes. We're talking about rentals that are less than 180 days in no more than two single family dwelling units. There's a maximum of six bedrooms on the entire property for Lanai and Maui. And on Molokai, the maximum bedroom is three. And again, that's because it's based on the bed and breakfast law, and that's what was recommended out of this Body for that. The maximum occupancy is two people per bedroom. I don't know if you remember the bed and breakfast law. It's four. It was decided to cut it in half. And there's a parking stall required for each bedroom use for the rental.

When we take a look at where these are gonna be allowed, the bill currently has some in interim, residential, SBR, country town business, Business-1, Business-2, and rural. On Maui and Lanai, if you're under five acres and you're ag zoned, you are eligible for a permit. However, on Molokai, that option is not there. On Maui and Lanai, if your property is over five acres, there is a requirement of \$35,000 of farm income. And then the other option if you are on ag on Maui or Lanai is if you're in the State Historic or National Register of Historic Places, you're eligible to apply for a permit.

The bill does have some permanent signage which is a little different than the B&B law. And we kinda – we liked what Lanai and Molokai had to say with having that permanent sign. So the bill puts in a one square foot sign. Now, the Maui Planning Commission did ask for more. They did want a contact owner. On Molokai, they had done that with the bed and breakfast law where the sign has to state the phone number of the owner, the caretaker, or the manager. It would be the owner for the B&B, so that is included in here.

Ownership—so anyone can own a rental home with the draft ordinance. You don't have live on-island to apply for a permit. If you're not a resident of the island, then we do require – the draft ordinance does require that a resident manager or a State-licensed real estate professional who's accessible 24 hours a day be used. The permit cannot be held by a corporation, or a partnership, or a limited liability. There's a real desire to have this benefit residents. We're not looking to create new business opportunities for corporations. We have a provision that one permit – one person may only hold one permit. The permit is nontransferable. And part of that is so it doesn't get applied to the appraisal value or the value of the property. You can only have one permit per lot. And then homes need to be fully constructed prior to filing an application.

We do require neighbor notification for these applications. It's 500 feet. It's when you file the notice, it goes out to all owners of properties. There is a protest provision that

neighbors can file a protest. Now, on Molokai, all of the applications will be reviewed by the Planning Commission. On Maui, only some of them are so that's when the written protests really come into play. It does require a four-foot project notice sign. I don't know if any of you have been to Maui and seen the larger ones for bed and breakfasts. We realize they're kind of big, so it did get knocked down to four feet.

So again, on both Lanai and Molokai, the Planning Commissions will review all applications. And because of that, the bill does not have permit caps for your two islands. Maui, they don't review all of them. Here are the triggers for what would bounce someone to Planning Commission review. And that's if there's another one within 500 feet, if you have more than 30 percent of owners filing written protests, there's a variance. If it's on ag land, they do require a special State land use permit, and that requires approval by the Planning Commission, and that's to comply with State law. In the Hana community plan area, if you have more than three bedrooms, then that will get sent to the Maui Planning Commission for review. You can take a look at the caps for Maui, in case any of you are curious about that. Again, on your island, you're gonna review them all on a case-by-case basis.

For renewals, right now the draft ordinance has renewals being granted by the Planning Director for up to five years on Lanai and Maui. However, renewals for Molokai are only for one year. Maui does have triggers for Commission review. Oh, that would be— The Department had made some recommendations that the Maui Planning Commission did accept. And that's — we kinda beefed up that renewal process where if two or more protests received from owners of properties adjacent or directly across the street, then it would go to Planning Commission. Or if 20 percent of neighbors filed a written protest, it would go to the Maui Planning Commission.

Taxes—so the bill does not specify a tax category. It leaves it up to the Real Property Division, or it leaves it up to the Council to come up with that. However, the bill does specifically prohibit these short-term rental properties from receiving a homeowner's exemption, which makes sense — the person, if he's going to be living there. The Department of Real Property did come back and suggest that they would be taxed at hotel rates right now until the Council could address it. The bill does require the applicants have a current TAT and a GET license when they apply. And then when they come in for renewal, we verify that those taxes are being paid.

So when we take a look at the public policy considerations with this, we're looking at the effect on the long term housing market. We're looking at the economic effects on tourism. We're really trying to create a balance of that. And then for Maui and Lanai, because they are at this point, permitted on ag land, we're taking a look at what kind of effect that would have.

So basically, the concern for the housing market is that any time you take out any long term residential housing from inventory, you know, it's a classic supply and demand. If you reduce the supply, the demand goes up. Property value goes up. So we wanted to really take a good look at that. We were concerned that it could increase property taxes. We recognize that because it's not transferrable, it doesn't go into the actual appraisal value.

There's concern that this permitting system puts you on an already strong offshore market. And I know in talking to some Molokai residents, I've heard that as well for here. And then there's also just concern about the different communities and the character of the neighborhoods. You know, we really don't wanna see neighborhoods changed, if you get the high concentration of it.

So the Department, on Molokai and Lanai, because you are reviewing each one of these, it's really up to the Planning Commissions to take a look on a case-by-case basis to look at the effects. You can then see where they're all going and make your determinations based on that. On Maui, because we have caps, we're using that as a tool to manage it. And we're looking to keep those caps so that it's a smaller part of the housing market. Now, we do recognize that – and I'm sure it's the same here where you have a certain amount of your housing market is vacant at times because they're second homes. So we understand some of it will come out of that, but not all of it will.

So our Department is recommending right now that we cut the caps in half, but we are willing to look at that. Maybe a little bit more in Hana. And we're also interested in hearing from people about that as well. And I recognize that they don't apply to Molokai, but you guys may have good ideas as well.

So one of the things we're looking at with the bill is we wanna make sure that permitting these does not affect the character of the neighborhood. We will be adding some criteria in which to evaluate these, but also again, I can't stress how important it is to have a case-by-case review of the applications.

So tourism—where does this all play in with that? Obviously, tourism industry generates economic activity. Alternative accommodations—it's a growing trend worldwide. And it provides opportunities for small business creation and entrepreneurship. And I did a little bit of research. You can see that there's a lot of businesses on Molokai here that do benefit from tourism.

On the other hand, there is concern about tourism and becoming more dependent upon tourism, but recognize that this is diversifying our current tourism industry, but again, it is still tourism. And there's concern about shifting the tourist market from resort areas into residential areas as well.

Ag land, again for Maui and Lanai, I've heard both positive and negative impacts for it. If you guys have question, I can go into that a little bit more.

So besides public policy considerations, we have just basic operational concerns. And the number one thing that we hear out in the community is noise. You have people that are on vacation. They're operating at different hours. They're on vacation. They have a different lifestyle while they're on vacation. Parking has been something else that's been brought up quite a bit. We don't wanna be taking up spots on street and creating parking problems. The bill does require onsite parking. And then we hear a lot about enforcement, and we are working on that. And I'll go into what we're working on a little bit at the end here.

So we're lucky that we have the B&B bill with two years of experience, so we can look back and kind of see how does that work, where are the problems, what we can address with this bill. We also have the conditional permit system right now that these short-term rentals can use to get through. We do have one on Molokai for two properties. Maui, we had 53 permitted bed and breakfast operations in the past two years. And there are no permitted short-term rentals or bed and breakfast on Lanai that are permitted.

So I wanted you all just to see a little bit what are the ones that are permitted, what do they look like. So this is Kihei on Maui, if you guys don't recognize this. And then we have the other Dunbar Cottage. He's got one up in Makawao. It's a historic home. And then we've got down by the ocean. Again, by the ocean. This is Upcountry. Now, we've got one in Kahana on the West side. Now, we got one down in Makena.

So complaints—haven't got a whole lot of complaints on the permitted ones. Before, vacation rentals have had four different complaints, and the first three came from the same property. What I've noticed with processing applications is often you have someone come in. The sign goes up. They've been operating. The neighbors will call and let us know. When you turn in your application, it does bring a magnifying glass a bit to the property. And we do see complaints come in at that point. We generally tell applicants, you know, you need to not operate when you're coming for your permit. That's just good behavior. Okay, and then the fourth one was kind of an unusual neighbor situation, a neighbor dispute situation. And it kinda got dragged into this.

Now, in terms of bed and breakfast permits, I wanted to show where on Maui – you know, we're looking at the North Shore, the South side, and the West side is where most of them are concentrated. You got just a couple Upcountry. The Planning Commission, since they don't review all, I was curious how many are they reviewing. They've reviewed about half of them. Most of those that they've reviewed are the ones that are on ag land because they need that special – State special use permit. You also need one if you have another

one within 500 feet. We've had one that's been reviewed but deferred, and that was triggered by 30 percent or more of the neighbors protesting.

So I'm just gonna let you look real quickly what the complaints have been. I've noticed often one property will bring in a lot of complaints. Sometimes one person has just had it. You know, they're surrounded by vacation rentals, so they'll file RFSes on people around them. And again, when the sign goes up, people give us a call. And then we do have neighbor disputes. And we did see that with – in the Haiku area where almost half of them came from a competitor that felt everybody else should get a license, which we can understand that.

So what does our Department think about the bill? You know, as I said, we didn't write this bill. It came to us from the County Council. So we think that due to the absentee nature of the owner, we're gonna look at stronger neighbor input provisions. And we wanna add some additional review. Now, on Molokai, I know you guys are reviewing all of them, and that works great for here. We're concerned again, about the housing market on – everywhere. And on Maui, we're looking at smaller caps. And then we're also really taking a hard look at our enforcement. And we need additional tools. And I think many of you probably know that. So we understand that and I'll go into that– what we're gonna recommend.

So what is the Department recommending? I will let you know that the Maui Planning Commission did adopt our recommendations and they made a couple extra ones. First of all, we think it's great to have an off-site manager or a – the off-site manager, we're fine with, but we think that that person needs to be closer so that they can respond to calls. Someone from the West side managing a property out in Hana, well, that's just not gonna work. Or here someone on the East side trying to manage something on the West side, we don't think that's close enough to respond. So we're recommending that they be within 15 miles or within the same community plan district, whichever is closer. The Commission added that, "whichever is closer by travel time." And that will apply here to your island. So it will be within 15 miles. Each dwelling permitted as a rental will be required to rent to only one group at a time. We think that'll mitigate some of the impacts. At least for cars, we know it will. We're taking a look at the parking, if that does pass.

We're also – we had a bill a number – we had a package that went to the Council a number of years ago looking at short-term rentals. And one of the things that we proposed in that package was that we have specific resort areas where it can be an outright permitted use. We're gonna leave it up to Council, if they wanna designate some areas for that. We're adding more triggers to send it to Maui Planning Commission.

For renewals, we want the renewal process to be a little bit stronger because a lot of times when these come in, some may have operational histories and some may not. So if there's

no history, it's real hard to judge how they're gonna manage and what the effects are gonna be. So we're recommending a provision where applications where two or more protests are received from landowners adjacent or directly across the street, that renewal will then go to Planning Commission. And then also if 20 percent or more of the owners file a protest, it will also go for review by the Planning Commission. And that would be your Planning Commission as well that that would happen.

So for enforcement, right now we're looking at having appeals. Instead of going to the Board of Variances and Appeals, maybe having it go back to the Planning Commissions. We're looking at adding some other tools one of being which if a website is up and you're advertising, or any kind of advertising that that would show then that you are operating. And then it would be incumbent upon the person operating to show that they're not. We're looking at adding some other tools to help us with that, too.

Okay, so why are we here today? Your Vice-Chair mentioned that the Council asked us to go out to the communities and the different Planning Commissions, and ask you guys what you think. Your island is unique. And we need your expertise to understand how to craft this bill for your island. I recognize that you had a lot of input on the bed and breakfast one, but short-term rentals are a little different. So maybe you have some other things. I do have to have my report back to the Council Planning Committee by July 22nd. So I'll take your comments from today and incorporate them back in into my report.

With the community plan district caps on Maui, we are recommending that they be cut in half. Again, we're gonna take a look at that, too, and see if those are the right numbers. You notice Hana is a little bit high when we take a look at single family dwellings and what that's taking out of the market. We did add a provision where if we do cut them in half then, you know, if they reach the cap, there's gotta be a way to increase that cap. So we did add no. 8.

We did go out to the Hana Advisory Committee. And they talked about it. And they thought that maybe it should be – short-term rentals should be put only the in the urban district like their community plan says. They, of course, would like to review all applications, which makes a lot of sense. There are also a number of ones out in Hana that have been operating for quite a long time. And the community's pretty comfortable with them. So they wanted us to look at grandfathering the clause into the Maui County Code. It is a very restrictive clause, however. And they did look at that cap, and they did say, you know, this might be a little high for Hana most especially if they're gonna funnel right into the urban district. Now, the Maui Planning Commission was concerned that by having them only in the urban district that that could take away residential housing. So we'll see what the Council does on that.

The Planning Commission did add a couple other recommendations. Some of them are technical in nature, and some of them I thought were just great. The first of all is that permanent sign needs to have the owner – or it needs to have a contact name and number for neighbors to call. We'd like that to be visible from the street. They also thought that the notice should go to the physical address of properties. It doesn't have to be certified mail, but they want renters to know. And then the renters can contact their landlord if they would like to file a written protest. The Commission did also have some concerns about houses being built just for this type of use. They did consider a clause requiring that homes must be constructed prior to the effective date of the ordinance, but they were very split on that provision. So it did not get passed.

We did go out to Lanai. Lanai did have some other issues on their agenda. They had the Charter Commission comments that day, so there was a lot of discussion about district voting. So we did end up having to defer this item, but we did talk about it for a little while. The testimony and some of the discussion, I put up some of the basic points there. On Lanai, you know, there's only the two high-end resorts and then another smaller hotel, so the short-term rentals, they're used for kind of the middle class tourists. They're hunters. And there's a lot of workers that go over there that don't have places to stay. So they really talked about the need and how that income gets funneled right to local residents. They thought the parking requirements were much too high for Lanai. Some of those lots are really small. And there's just not enough Realtors to manage it. So they asked us to take a look at how they could deal with that. And then they don't like the big four-foot notification sign. So they wanted a little bit smaller.

So that's the end of my presentation. If you have any questions, I'd be more than happy to address them.

Mr. Sprinzel: Excellent. Thank you so much, Gina. Are there any questions from the Commissioners? We want the Commissioners to ask first on the presentation.

Ms. Flammer: I do have extra copies of the presentation, if anybody's interested. Oh, I guess we're out of them. I have some more here I can give to the Commissioners, but I'll put them out for anybody.

Ms. Zhantell Dudoit: Okay, I have a question. Just for clarification, when you said that it's one permit per person, is there a designation on how big the lot should be? How many homes can be on each lot? Is the permit per person meaning that I can come in and have three different TVRs on three different properties because they're giving the permit to me? Or is the permit based per property?

Ms. Flammer: Good questions. You can only have – you can only use two dwellings per lot for your short-term vacation rental. One person can only hold one permit, so you cannot

– and that’s for one lot. So you can only run – you can really only have one operation in your own name. I have heard the question about husband/wife, you know, could that be a loophole. We did look at trying to add every name to the permit, and thought that, you know, that could be a little hard if you get a lot of owners especially, if they have a 1 percent interest.

Ms. Dudoit: And then my concern would be if it’s one permit per person, two dwellings on each lot, if you had a corporation, multiple owners that could apply for two dwellings per person as long as they’re on the company listing, you still would open that up to possibly have this whole corporation type business, you know.

Ms. Flammer: It is a loophole. So what I do understand from working with corporations on other types of permits, you really don’t want to put it in an employee’s name. And then the employee would then have to own the property.

Ms. Dudoit: Well, I wasn’t thinking about employees. I was thinking like for instance with our company, everybody has an equal share so they’re not necessarily an employee. They’re an owner of a company. But individually, this loophole would allow us to go and apply for two dwellings per lot, right?

Mr. William Spence: Hi. Will Spence, Planning Director. Normally, if a piece of property is owned in the name of a corporation, that name shows up on title. You don’t have – I mean, I suppose it could vary, but when an ownership is by a corporation, it doesn’t say, such and such corporation, General Electric, and lists all the stockholders. It’s just owned by the corporation. So I’m not sure it would come up exactly that way.

Ms. Dudoit: I guess I just wanted to make sure that we address something like that as you’re looking, you know, at the draft. And that we thought about those kinds of things because for places like Molokai, in my opinion, that’s the way that big corporations start to funnel into us, and before we know it, we’re taken over by a big property owner, landowner, or business just like that by becoming creative and finding those loopholes. There’s no law that says you cannot go back in and change the names on your title. So I just wanted to make sure that we look at that, and we try to compensate for potential–

Mr. Spence: Well, definitely, the permit will not be transferable.

Ms. Dudoit: So when you look at having part of the allowable transient permitting places where on residential areas, does that include areas specifically mandating for affordable housing? For instance, on the island of Lanai, we’re involved in that. The County just designated a whole portion of land specifically for affordable housing in which our County’s monies is going to pay for affordable housing there. And that’s still a residential-zoned property. So my question is, if we’re setting aside monies that the taxpayers are paying for,

and we're allowing this because it's a need for the community, is this gonna be a permitted use, or a secondary permitted use somewhere where it's – I don't think it would be morally or right to do? So maybe that's something else that we can look at. You know, if it's designated for affordable housing, then some kind of language needs to separate residential from those things.

And then my last question was operational concerns. When you talk about complaints, the ones that you used in the example, were those complaints specifically from the community about the operation? Or were those from the operation about the community, when you talk about noise, and parking, and enforcement?

Ms. Flammer: The complaints that I have up there are official complaints from members of the community. I want to say neighbors, but often, it's not neighbors. So that's what's they are. They're filed. We send an inspector out and they investigate.

Mr. Sprinzel: Any more questions to Gina about the presentation?

Ms. Lori Buchanan: Chair, I have questions. I kinda wanted to hear from the community first to see if all my questions would be answered up until then.

Mr. Sprinzel: Okay, I would happily do that, if you wish.

Ms. Buchanan: We can do that?

Mr. Sprinzel: Yeah, sure.

Ms. Buchanan: I get one question first. You said several times – I wanted you to define review when you said it has to be reviewed. So can you define—?

Ms. Flammer: Review means approval. You have approval authority. There's a big difference. Thank you for clarifying that.

Mr. Sprinzel: Thank you. I just meant for us to ask technical questions that we didn't understand which would explain stuff to the general community. So we're now open for public testimony. Please restrict it to two minutes, and up to the microphone, and announce your name so that we have it in the minutes. Thank you. Who's first? Who's up first? Who's on second?

Ms. Dayna Harris: . . . (inaudible) . . .

Mr. Sprinzel: Into the microphone, please, because it's recorded.

Ms. Harris: I have a letter to read, but I – actually go back to your question about the two – you can have two homes on one lot, but you can only have one owner, one permit. So really, why do you say you have two houses on one lot, but you can only have one – the owner has only have one permit for one house? The other one he could not? Is that correct?

Mr. Sprinzel: No, we understand you can have one permit for two houses, but only one permit for one lot.

Ms. Harris: Okay, but if had another lot, he could not get another. So technically, the Dunbars, that is legal now would not be legal because – or one of them would be, right? I'm just trying to understand.

Mr. Spence: . . . (inaudible) . . .

Ms. Harris: Okay, alright. So anyway, here's a letter that we, in the community, wrote:

We, the community of Molokai believes short-term rental vacation homes on Molokai have become an important thread in our community weaving together many segments which provide economic growth. These types of short-term vacation rentals provide stays for visitors that are affordable. They provide an added length to stays, more room nights, as compared to hotel stays. The economic benefits affect many such as grocery stores, shop owners, restaurants, small eateries, activity providers, car rentals, ferries, and I don't have to tell you besides the people that work on these properties.

They fill a much needed niche for the guest looking for lodging outside the traditional hotel and condo. Currently, there's not an abundant amount of room nights on Molokai. We only have one hotel and we have five condos. Most of them are long term rentals these days. By adding vacation home rentals to the list, it will provide Molokai with a high number of room nights and diverse choices. Vacation homes are only used by out-of-state visitors, but the majority of the time, they're booked by local residents.

You guys needed them. I know. I get the calls.

They're used for weddings. They're used for graduation, baby luaus, funerals, canoe paddling board races. Molokai has a few professional, state-licensed, off-site managers. We are accessible 24 hours a day. We have cell phones. We have beepers. We have everything. We also have books in our places that tell you what to do and who to call. These professionals provide information sheets inside the vacation rentals telling

them to respect the local neighborhood. We encourage you, really, to pass this.

A couple of things that – comments that I thought. Anyway, with this letter, I just casually went around asking people if you're for it or not. I got 114 names, and this is just running into somebody at the post office, going to Young Brothers, going whatever. So – and then I have a whole list of people that have rented places from us. These homes, I've been dealing with probably about –

Mr. Sprinzel: Can you wind it up?

Ms. Harris: If I had two minutes? Okay. Anyway. Do you have any questions?

Mr. Sprinzel: Thank you. Any questions?

Ms. Dudoit: Chair, can we allow her to finish her testimony 'cause I think that Dayna has a large number of vacation rentals?

Mr. Sprinzel: I was asking her to wind up, and she said I'm–

Ms. Dudoit: Oh, okay.

Ms. Harris: I'll mention one thing.

Mr. Sprinzel: . . . (inaudible) . . .

Ms. Harris: I feel like when it comes to Molokai that you guys gotta look at beyond the three-bedroom. My biggest house that people call on is a four-bedroom, and it's because, paddlers, every time they have a band uses it. The locals come. They use it. This house is on the West end. They make a great venue for weddings. There's no place to get married around here. The only thing you can use is Mitchell Pauole. You can go to the hotel, but if you really would like to have beer or wine at your wedding, you either have the hotel, or you have an option at some of these homes, which they do open up to locals for weddings. So that's one thing I think you really should look at is the bedroom needs. We don't have resorts here. We don't want resorts here. We have five condos. So these guys have already been in the neighborhoods for the last ten years. So hopefully, you can get them legal. Thank you.

Mr. Sprinzel: Any questions for this young lady?

Ms. Dudoit: Dayna, how many people you employ or get benefits from the revenue that you collect, off the top of your head? Or do you have a dollar amount?

Ms. Harris: Yeah, you know, the other day I was sitting there thinking, honestly, the money that I take into Molokai, I would say probably 35 percent of it stays on Molokai with my employees, with the people that work on them, with just buying stuff that they need, you know, broken toilets, and new screens, and whatever. I mean, probably, 35 percent of this money stays here. And they do pay their taxes. They have been paying them for the last ten years that I've been doing it. So there's probably about 20 people under our—

Mr. Sprinzel: Thank you. Can we have the next victim – the next person, please?

Ms. Susan Savage: I want to thank Gina, first of all, for the good presentation.

Mr. Sprinzel: Name, please?

Ms. Savage: Oh, I'm sorry. I'm Susan Savage. I'm the broker in charge at Friendly Isle Realty in Kaunakakai. And I wanted to thank Gina for the presentation. It was most informative. And thank you, Commission, for allowing me a moment to speak.

I, being a Realtor, and being in the business, I'm pretty well apprized to some of the benefits and issues. I clearly understand the economic benefits of this ordinance. However, I live on this island, and I am regularly, natively affected by loud neighbors, irresponsible people, people that stay up at night. And any economic benefit is not worth losing my individual property rights for – to enjoy a good night's sleep. And so I'm not opposed to the bill and the concept of the bill. But we know that enforcement is a challenge in many areas. Until we have enforcement as a reality actually happening, I don't think this bill is appropriate. I think if we get an enforcement element not just on paper, but in reality actually happening with the problems that we currently have, then we can introduce additional resources. But we have problems already that aren't being addressed, and I think this bill, the way it is with the current County budget limits and limitations, I don't think that this is an appropriate time to have this bill.

I have a vacation rental right across the street from my house. I live on the West end. The people that frequent it are not locals. They've vacationers. They come. They drink. They party. They make loud noise. And they have no respect whatsoever for the neighbors, the neighborhood, or the fact that it's zoned agriculture. And when I filed a complaint, I was told that I, personally, would have to get the names of the people staying in the house, the dates that they were there, and the license plate numbers of the cars. And if you think I'm gonna march over to my neighbor's house at three o'clock in the morning and talk to a bunch of drunk people, that's not happening.

So I'm not opposed to the economic benefits. I wanna see Molokai thrive, but I wanna see us do it right. And I don't think this bill, the way it is right now with the limited resources is appropriate. Thank you very much.

Mr. Sprinzel: Any questions from the Commissioners? None. Thank you very much. Who's next? DeGray, aloha.

Mr. DeGray Vanderbilt: Alright. But anyway, my name is DeGray Vanderbilt, resident of Molokai. And Vice-Chair Sprinzel, I had wanted to say something on the planning issues, but didn't get a chance. And you said maybe you should wait till now. Should I do that now?

Mr. Sprinzel: On the planning issues of--?

Mr. Vanderbilt: You remember that first thing on the agenda? You said maybe it should wait until we get to--

Mr. Sprinzel: Would you do your testimony on this, and then we can perhaps let you do that after that?

Mr. Vanderbilt: Okay.

Mr. Sprinzel: Okay.

Mr. Vanderbilt: And two minutes? Is that what the Molokai Planning Commission--?

Mr. Sprinzel: Well, you're always allowed to come back and have more. I thought it would be more--

Mr. Vanderbilt: Oh, that's very thoughtful, yeah. I just didn't know. So anyway. But anyway, I -- this Planning Commission and a lot of people that you'll all recognize, about 15, 20 past Planning Commissions, have dealt with this TVR issues way back in 2006 and 2008, and sent memorandums to the County Council on their positions. The minutes from those meetings are very informative. And you -- I would think the Planning Department would've provided some of the background from those minutes to find out where certain things came from.

In the testimony I passed out to you, the last three or -- the last three pages just refer to some of that. One is a letter dated June 2008 from Steve Chaikin of the Chair of the Molokai Planning Commission sending all of the Molokai comments and recommendations to the Council. And then, the last two pages are from 2006 when the Planning Commission -- Bob Ribao was Chairman then. At that time, they voted to recommend denial of the proposed ordinances and wait till we get to the community plan where this issue could be looked at more in-depth, and we could see what areas, and how it would be affected, and there'd be more participation.

And all I did with this testimony– Because I didn't even know about this. And there was no agenda posted on the Molokai Planning Commission website for this meeting. And when you went to the website, there were no – there was not the staff report from the Planning Department Director, nor was there a copy of the bill that I could find easily to review. But anyway, what all I did was put together– As you'll see I'm starting on the bottom of the first page. This is just the intent of all the zoning districts that you'll be looking at, what the purpose and intent was. And all those really refer to keeping the integrity of those zoning districts whether they be residential or country town business zoning. And they also say that any new zoning designations like in our community plan require all zoning and discretionary land uses and development approvals to be consistent with the community plan, and that it needs to be consistent with the General Plan.

And there's a lot of issues. I mean, I am for vacation rentals. I've stayed in them. I think they're great. It would be great to have them affordable. I'm not for going for any more than three. I wasn't the person that proposed three. Some of the other Commissioners did, including somebody that already has vacation rentals.

And three people – you're allowed to have four people in each room: two kids and two adults. That's 12 people. So if you're living in Ranch Camp–

Unidentified Speaker: . . . (inaudible) . . .

Mr. Vanderbilt: Oh, I thought this was patterned after the bed and breakfast.

Unidentified Speaker: . . . (inaudible) . . .

Mr. Vanderbilt: Oh, with a few exceptions. Okay. As I said, I didn't have a chance to go through and compare everything because we didn't – the public didn't have access to it unless you happen to read a notice.

And I guess the thing that bothers me just a little bit is that you guys are under the gun right now to make some decisions. And this is a big issue. You have until July 22nd to get something back to the Council, yet the Planning Department has had this from the Council since March 24th. So you wait until the very end and wonder if you want to defer. One of the options that the memo report gets is that vote to defer action on the proposed bill in order to gather specific additional information. Well, it's gonna be hard to do all of that: get the information and still meet the deadline. So I just think that's a procedural thing that may be corrected in the past when you have such a monumental bill as this. And I think there's a lot of loopholes, just looking at it, definitely. And I support vacation rentals, but I would support basically, wait until our community plan review, and – instead of making all these permitted uses and all of these different zoning areas, and then tying the hands of the community plan review committee. I think that's backward. And I think most people would

agree with that. And so anyway, thanks very much, Commissioners. And I'd like to come back just to hit a couple of specific—

Mr. Sprinzel: No problem. No problem. Any questions of DeGray from the Commissioners? Thank you. Next? No one else. Okay. Well, DeGray, do you wanna come back up and — do you wanna come back and do your last bit?

Mr. Vanderbilt: No, I just think it would be good to — if you had questions on where some of these issues came. If you notice in the ordinance, it says “except on Molokai.” Well, that didn't come from the Council. I mean, it did come from the Council, but it came back from the Molokai community. And the Molokai community had other issues the Council didn't put in there. They put some and didn't put the others. And I have a link to all those — I did look up all those Commission minutes this morning, and I have a link to all of them, which I can send to the Planning Staff to forward on to you, if that's needed.

But just one little thing. There's something about tandem parking. We talked about parking. Well, in the Molokai minutes, one of the Commissioners — it was unanimous not to allow tandem parking, but it's in this bill to allow tandem parking. So I don't even know if tandem means two, or you can line up three or four. But there's just a lot of things that need review. And I think you would have had a lot more people out here if it would've been really easy to get some advance notice of what this is all about. Not everybody reads the — we don't get very many *Maui News*, and sometimes the legal notices in *The Dispatch* are kinda hard. So the Molokai Planning Commission website is really a key place to put all the issues. Even our community plan should be on our website. So anyway, I don't wanna hold up your time because there's just so much in here, and I haven't really had time to look at it. So — but I appreciate you allowing me to come back. Thank you.

Mr. Sprinzel: Will, do you want to say something on the subject before we go to the Commission, this subject, the various aspects of the subject?

Mr. Spence: Well, I think first off, I don't — and I must say, I don't look at the Planning Department's portion of the County's website every day. But I am told that this particular bill is — if you go to the Planning Department, it's right there. So there is access. I know we do send out the agendas to — I'm not sure how many people we send them out to quite a few people. So Molokai is a small place. There's a lot of— If people aren't directly notified, they know still what's going on. I think if I've learned anything about this island, that's it is there's not too many secrets.

While waiting for the community plan, I'm hesitant to say that because you are about to start on the community plan. The Long Range Division, they're gearing up for it. They're doing a bunch of writing. They're preparing meeting schedules, etc. Those will be starting in I think the beginning — the end of this month or beginning of — excuse me, end of July or

beginning of August, we'll start – you know, you'll start to see more activity taking place. The thing is, is that you aren't gonna have a new Molokai Community Plan for a number of years. It's – first it's gonna go to the Citizens Advisory Committee. We call it, CPAC now, instead of CAC. It's going to then go to the Commission. We're gonna spend a lot of time at Commission. Then it's gonna get up to Council. By the time it gets up to County Council, you're gonna have Lanai Planning Commission, or you're gonna have Lanai Community Plan and the Molokai Community Plan running hopefully, simultaneously, but maybe not. So we're talking years down the road before you have another community plan. And I know this island doesn't like to rush that.

If you put this ordinance off until that's adopted, then you aren't gonna have an entirely legal means to permit short-term rentals on this island until after that. It's not gonna be – I don't know what's the priorities are gonna be three or four years from now. So you're talking – then we're talking about going through this whole process again. I think this is an opportunity that if this Commission wants a permitting process for these things, this is the opportunity to do it in. I think the community plan will be a time to further refine what this island has to say about short-term rentals. So that's my viewpoint on the community plan.

I did have some questions just for consideration. I know that this Body doesn't like bed and breakfasts on agricultural land, but I was thinking, you know, on the West side considering – Okay, I see heads shaking. They – You know, there is quite a review process. The thing that I get cautious about is when people say there's absolutely no conceivable instance when something should be permitted. And that's not here, so I don't mean this in a disparaging way whatsoever. But I had a conversation. What they said is, "No short-term rentals on the East end." And I said, "Really? There's never a case where you should have that? I hear about the luaus. I hear about family reunions and all this." He goes, "No, there shouldn't be any on the East end." And I said, "What about Kip Dunbar's? He goes, "Well, that one's okay." So there is a conceivable time when maybe one of these things would be permitted. So that's why I ask if ag land is still no. And that's this Commission's kuleana. It's not mine.

I know on Maui, the question is gonna come up about one – you know, we're bringing to you one owner, one permit. There's going to be instances on Maui where people are gonna be asking for a couple of permits. You get in some of the resort areas, some of the really upscale homes maybe owned by one person. And I just trust – since this was modeled after the bed and breakfast permit, I trust that this Commission does wanna see each and every permit. It's not gonna be just an administrative review.

So those are the things that I was going to bring up to you. Oh, yes, number of bedrooms. We wanna do three, because that comes from the bed and breakfast ordinance, or would the Commission wanna consider, you know – I don't know. Our bed and breakfast ordinance is up to six on Maui. I'll leave you with those questions. And maybe you'll also

wanna address Kip Dunbar's thing. There's Kip Dunbar. There's the multiple owner issue: owning two units or two homes. He probably would be able to keep – if he wanted to have one of those under this bill, he could probably continue to get conditional permits on the other one.

Mr. Sprinzel: Any questions of the Director formerly known as Mike?

Ms. Dudoit: So when you're saying three or six, you're talking about bedrooms?

Mr. Spence: Correct. I'm sorry. I didn't make that clear.

Mr. Sprinzel: I guess we could limit it to the number of people.

Mr. Spence: We're still limiting to – at least proposed, we're still limiting to occupancy of two per bedroom.

Ms. Dudoit: Right, and in accordance to our County and State fire codes, you're gonna – that's gonna overrule any amount or number that we put in place anyways, right?

Mr. Spence: It would – the way that we've been at least treating bed and breakfasts – the way the Fire Department has been on Maui, so long as there's exits, so long as there's like an exit plan, you have an ABC fire extinguisher, like a couple of them in the house within so many feet of each other, they're counting that good. The Fire Department's concern is for any structure is that people be able to get out in the event of a fire. That's our number one priority. Then if they can save the building, they're right there to put out the fire. The number one is human life.

Ms. Dudoit: Okay, so how this is supposed to work is we are being asked to approve the draft as it is, or are they taking recommendations, and you're including that, or approving–? Okay. And you are gonna write down the recommendations and take it back as we state it or–? Okay. So we don't need to draft the whole letter to you? You're gonna take it down today and include it?

Mr. Sprinzel: Can our counsel please advise you on that?

Mr. Michael Hopper: I say this earlier because in Hana I didn't say it till later and we had some issues. If you wanna make comments as a Planning Commission, you would need to vote on a series of comments. You can make your comments to the Planner. The Planner can write them down. The only reason you would need to vote is – either vote, or if you're all in agreement with all the comments, the Chair can say, if there's no objections, those will be our comments. Whether it's to approve, deny, or alter it, those would be your comments to the Planner, but you would have to all agree on those comments. Otherwise,

they're just individual Members' comments, and not the Commission's comments. And since you have five people, you would need all five to agree.

Mr. Sprinzel: At this moment, we seem to have a single owner and not corporations being one of the suggestions, and not in affordable housing districts. I don't know whether we agree with that, but those are the two that have been brought up so far. I would like to add one year permits for Molokai. And then if there are complaints— Because don't forget, we are going to hear every single application. So we're the judges in this. And if there are complaints, we'll hear about them. Don't you worry. Yes, Laurie?

Ms. Buchanan: Thank you, Chair. For me, this is frustrating. I served one term, which was five years, and I'm serving a second term. When the ex-Commissioner DeGray testified, what he testified was true. In June of 2008, then Chair Commissioner, Chair Chaikin, had sent correspondence to the Council directing them as to how this community input felt about this subject. And that was that. So now Staff comes, and they're giving me what? A couple of weeks to give them one answer when I gave them one answer in 2008. Nothing's changed since then that I know of especially, enforcement.

The person who testified about enforcement was correct. I know this because I put in a request for service and I was told the same thing: I needed to verify. We went through hours of testimony about complaints filed by the public on enforcement, and always came back that there was a shortcoming on enforcement. We putting the cart before the horse. You just throwing this ordinance or this bill out there and saying we going work on enforcement, we going work on the parking issues. Right now, in the residential areas, the current infrastructure does not support this ordinance, period. Can you see these short-term rentals in Ranch Camp? There's no parking, street parking. If you go to Kahului and you just drive around the neighborhood, I parked three blocks away from where I was staying because there was no parking. They have mc mansions. It's all built out because the cost of land is so high. And so there's a compounding issue of enforcement. We have what? Six zoning officers for Maui nui? Maybe one comes once a month, if we lucky. It's not my neighbor's job to police the TVR. The way that this ordinance, this bill, is written is self-policing right now. And that's not my job to police my neighbors.

What I would've liked to see, if you really wanted some real substantial input from this Commission was a table or matrix of the current bed and breakfast, the bill you're proposing, and also what is the current TVR. That would've been nice as a matrix to see where the differences lie because it can get really confusing after a while as to what is allowable and especially, on Molokai.

So unless I have a subcommittee working on this like I did for the SMA rules amendments, I'd be hard pressed to support this at this time because it's large. There's not just one issue. There's several issues with this bill: parking being the least of 'em and enforcement.

And what is increasingly frustrating for me is that there's a cultural aspect that is always left out in these bills. They never address the cultural portion of it, but we talk about tourism all the time.

And thanks to the County of Maui, I was able, along with Commissioner Debbie Kelly, we got to stay at the beautiful Grand Wailea in Kihei, Wailea. And what struck me was that there was nobody there. There was this huge facility that obviously is suffering from the economic downturn. Is this ordinance gonna help them or hurt them? If I wanna support tourism on Molokai, I'd like all the tourists to come to one place and go home. I don't wanna drive home at eleven o'clock at night and wondering who sitting on the corner stone wall under the street light like I have done. There is an illegal vacation rental in my own home. And that's how I know when you request for service, I gotta go on the Internet and prove that they running an illegal- I'm not the Maui Police Department. So unless we get those issues settled, I don't wanna consider this. It's a waste of my time.

The whole ag issue is another issue in of itself. The caps is another issue. Right now, you putting this law - you asking - you're proposing a law, and then you're already looking for ways that you can try to control the beast because we all know it's a beast. Let's call it a beast if it's a beast. You're trying to cap on. You're trying to go one owner. You're trying to cut that in half. You're trying all kinds of things to control the beast. I say don't let the beast go yet until you can control the beast.

So instead of wasting our time when we can go back and look at what Chair Chaikin had submitted in great length, you know, I always going say the infrastructure. And that's a big encompassing word for all what's wrong with why we cannot accommodate this at this time.

I'm glad Director Spence is here because the other thing that frustrates me is the whole Molokai Community Plan. I will be looking at a third or fourth term by the time I see one another community plan. We've been talking community plan. This is my year no. 8, and it's not because we holding it back. It's because you don't have staff. You don't have the staff to move this plan along. Molokai, Lanai, we're supposed to do comprehensive zoning - I mean, comprehensive planning. So we all supposed to be on the same page at the same time moving forward, and we don't because we don't have staff, but it's not because this community is not standing ready to participate. We've had the members of the CAC chosen four years. They was there so long, their term expired, and no one even went call them for work. So it's frustrating because that's the bible for this community. So if we no more the bible, why we doing everything else? We writing up laws that going get changed when the community plans come out. Like my grandma said, "no make sense." No make sense. And we common sense thinkers over here.

So besides the hundred questions, what I think is now wrong with this ordinance and what does it mean, I just going say I cannot be in support of it at this time. There might be a

future time if we get our act together when we can address this ordinance. Until then, I cannot especially, if you going give me two weeks to say yes or no. Sorry. That's it.

Mr. Sprinzel: Commissioners, who's next? Zhantell?

Ms. Dudoit: Okay, I have one question before I make my comments. We don't approve this, we don't let it go through, that doesn't necessarily mean that it's not gonna be seen and voted on anyways, right?

Mr. Spence: What we do – if this Commission just says that they don't wanna make any recommendations on this ordinance, we are going to transmit that up to the County Council. And then at that point, it's up to the Council. It's a Council decision whether they act on this or not. So in other words, yes, it is possible they could act on it, but they could say – they may also say, no, this ordinance does not apply to Molokai. So either one could happen.

Ms. Dudoit: Okay, so now, with that knowledge, there's a lot of things that Commissioner Buchanan said that I agree on when you look at the bill as it is proposed. It is a great big monster, although I've been in the tourism industry for a long time, and know it intimately, especially, on the political standpoint. And I see this also as what could possibly be, depending on the way you look at it and the definitions you use for the words, a great asset to our community, if done in the right way. I don't think this current bill addresses the things that we need to make it a complete benefit. I don't know if that's even possible to make it a complete benefit, but when she talks about cultural details and addressing those things, I think that's very important. And I just going spit out one whole bunch of comments that I have because I know already that we're not going to be able to pass this today. So I just wanna make sure that if it does get passed, I've said my peace.

So the other thing is when you talk about a cap, It read on your presentation and through your presentation that it says that you guys are looking for a cap, or are you addressing not wanting a cap on this, or how does that work because it says "no permit caps" on your presentation? So–

Mr. Spence: Just as a part of bringing this to this island, we had not proposed any caps on permits. The way that – for the other community plan areas, Gina is going to correct me, I'm sure, it's just the numbers that you saw stem from the study that was done in 2006. And then we just whacked them in half. And the numbers, the percentages you see at the end are percentages of total housing stock within that community plan area.

Ms. Dudoit: So you weren't giving us a number on the caps because it was something that you wanted us to address, and look at, and give you a number?

Mr. Spence: Something to address. Also, in the original bed and breakfast bill, there was no cap put for this island. And, I mean, even if you put a cap, I don't see people storming in the doors to apply.

Ms. Dudoit: So I was going say as far as the caps are concerned, what I think is necessary is that you guys actually come up with a number. And that's based on the amount of accessible water, potable water, that we have to supply first and foremost to our regulatory agencies and our Department of Hawaiian Home Lands, and then to the residents to the Molokai, and then to the businesses and the things that are grandfathered in. I mean, that number is going to become obvious when you look at, first off, what the need of our community is based on water, based on land appropriation, and the size that we need to live on, the population of our people.

And then, to insure that the consistency is— If we designated hotel and resort areas, you know, like for instance, on the West end, which is not being used at all in the Kaluakoi Hotel, I think if you're not gonna use the Kaluakoi Hotel, and you are proposing to have these numbers of people that was designated for the Kaluakoi area integrated now into our community that you factor that into your equation. If 200 people are gonna use water out on the West end, then you cannot add on an additional 200 people in our residential area and leave it like that. I think we allowed for residential and tourists, a certain number of tourism, for the usage of our natural resources. And that should be factored in and not— So I don't know what that number is but—

Ms. Flammer: Okay. Let me clarify one thing. The reason there were no caps set, from what I understand, is because you review all applications. They basically left it up to this Body to determine whether or not it's enough. If you'd like us to propose a cap, we can do that, but we wanted it to be more home rule.

Ms. Dudoit: Well, one loophole I saw with the caps, and I was here when we approved as a trial period, and I think DeGray was on the Commission also when we did Dunbar's TVR at the very beginning, one problem with not having a cap is that the Commission changes over every five years. And this is a very small community. You know somebody. You like 'em. You give 'em. You don't know somebody. You no like 'em. You no give 'em. That's just facts. So when you — I think, and this is just my personal opinion, when you impose a cap, when you look at enforcement, the guy screws up one, two times, he's out. The next person gets to step in. And we not — we're not stroking somebody and saying you can do this over, and over, and over again, and you always only going have — you know, there's room for improvement and for the quality of that kind of operation to be established. So that was one thing.

Ms. Flammer: If I could just ask a question, too? There's two ways to look at the caps: one that was done in 2006 looked at all existing operations and based the number on that. We

took a look at all single family housing and kind of derived some numbers from that. So you can do it from one of two ways. Would you have a preference?

Ms. Dudoit: I don't know if I would have a preference. I think if you equation in— My biggest concern is natural resources. You know, you talk about ag. You talk about people, tourism, and all that kinda stuff, but there's very little studies done or numbers given based on what our natural resources can uphold. And to me, that's a long term effect. That's something that affect the quality of life on our island. So I don't know. I anticipate that if you start to factor in those numbers, you're gonna get a really small percentage of permits that you can give out. That would help us. I mean, you know.

Ms. Flammer: And as for the water, are you assuming that more water is used by vacationers than by a resident?

Ms. Dudoit: I'm not saying that at all. I just saying that if we looking at the amount of usage in a single family dwelling or two houses on a lot, we need to factor in how much water usage those things come out to. Even — I mean, at no time when talk about ag— And this might not be as clear as it is to me, but when we talk about accessible water on ag land or wherever, we're a single aquifer community. The hotels never get factored into how much water is being used in each of the hotels or condominiums when we talk about how much we going have for the next 10, 20 years. So that's what I saying, to be responsible. If we going create a visitor accommodation, we need to look at our natural resources and factor in those numbers.

I also wanted to address— I just wanna say that I not one big fan of TVRs. I like the concept of bed and breakfasts except for on ag land, but then in recent years, I had a tutu who couldn't work anymore and that was a viable income, if they wanted to be able to welcome people. And that's very customary in our culture to welcome people into your home. When I look at noise and one of the testimonies that were told about not wanting because too much noise, and the character, isn't that why you're proposing in your bill to have local real estate agents, and local businesses and Realtors be responsible for those TVRs because they're responsible to us? They're community residents. They're responsible to us. That's their — that's their — they should be punished because that's their responsibility. They bring people. It's like you bringing a family — you know, a friend into your family home. If you bring 'em, you responsible for 'em. So maybe the enforcement issue should be stronger upon the people who are maintaining it and operating it every day.

Mr. Spence: Just to comment on that particular thing, real estate agents are required to be licensed by the State. Their licenses are renewed, I forget, every two years. And they have to get additional education, etc., etc. They have something to lose. So they have an incentive. That license is very valuable to them. So if they are a professional manager, and a vacation rental has consistent problems, then maybe that real estate agent some

problems and complaints filed, etc., etc. So that's a very serious matter. But likewise, because they're a licensed professional, because they're supposed to be educated in what they do, they're supposed to deliver a higher quality service. So you have both of those things going on.

Ms. Dudoit: Okay, so I just have one more question and then I'm done. When we look at short-term as the bill is proposed and through your presentation, we talk about TVRs being a short-term rental. When you go in for a short-term designation, like you're gonna – does that automatically say that you cannot ever have a long term rental in there? Or do you – or is it easily fixed so that–?

Ms. Flammer: You can have a long term renter. What happens is you lose your homeowner's exemption, which if you're not living there, renting long term, you wouldn't have anyway, your tax category would also be affected. They haven't set the rate yet, but my guess is it's probably gonna be higher than what that would be taxed at anyway. So if you were gonna go to a long term renter, and wanted to keep your permit, you could probably do that. You would just be paying higher taxes. If you thought you wanted to continue having a long term renter in there, you might just give up your permit and reclaim your other tax rate.

Ms. Dudoit: The reason why I was asking is because at least for Molokai, perhaps one of the major issues in finding hotel accommodations for visitors, not just tourists, but for visitors, is the fact that the – and the County is responsible for this, too. The condominiums and a lot of the privately-owned timeshares and vacation places, you know, the hotel, have become a venue for long term renters even on the Section 8 Program. So when we talk about integrating a visitor into the community, you know, we also have to address that one of the problems with that, and why we don't have enough rooms is because we're integrating the community into the resort area. So both of those things need to be looked at. I mean – and when you talk about taking out long term rentals from the residential area and then making it short-term and increasing rent, well, I going be honest in saying the County did that. HUD did that. You cannot even find one home to rent over here for under \$1,200. So, I mean, who's gonna want to rent short-term at the condominium if you can get HUD to pay \$1,800 for the three-bedroom and you pay \$35? So I think there's a balance that gotta be looked at that. If you wanna segregate everybody and you want them to go back to their proper places, then inter-agency cooperation gotta be made to get the community out of the resort areas and the resort people out of the community areas, if that's what you like. I personally think there can be a blend and that would be a benefit for some place like Molokai, but that's the larger issue. So I think that's all. Thank you.

Mr. Sprinzel: Debra, any comment?

Ms. Kelly: I'm totally new in this particular area, so I have to rely on my fellow Commissioners. But, you know, I still have a problem of relying totally on Realtors to police this because to be honest, they don't even tell homeowners – when they sell their homes, they don't even pass on the SMA rules. And the homeowners are breaking the rules. So for them to be the ones to police TVRS, sorry, that's something I wouldn't recommend. So I have questions, too, and I wouldn't know who to recommend. To have TVRS on ag land, that's something I'm familiar with. Is TVRs an agricultural practice? I mean, I don't think so. So why would we allow it? And they're zoned ag and they're supposed to be producing some kind of ag product. So TVRs are not ag products.

Mr. Sprinzel: Ron, any input?

Mr. Spence: Mr. Chairman? Mr. Chairman? I would just like to comment to Commissioner Kelly's – at least one of the things. I was not suggesting that Realtors do the policing. I understand. I share that concern. What I was trying to get at is ultimately, policing falls from my Department and Corporation Counsel. In conjunction with Corporation Counsel, I should say. The idea behind having a Realtor do the managing is that to stop issues before they happen, or if issues do happen, they're right there and they can handle it. So that's the idea. Okay? I know the idea is not always the case. So we're looking for solutions on how to do these things. Ag land, I understand the concern. A lot of times, not so much here, on Maui, though, we got some really nice homes on ag land and they're not producing a whole lot. So there is a difference. So that's why I raise issue for this Commission to consider.

Ms. Kelly: No. Thank you. And I realize that the Realtors are not the ones who's going to police it, but they're the first . . . (inaudible) . . . that the community's going after because they're the ones who – you know, they're there representing the owners or whomever. So who do you think the community is going to go to? And I don't think they're– Dayna, are you equipped to do that?

Ms. Dayna (?): . . . (inaudible) . . . The law is if you have a property, anybody can manage it for you. If you manage one other person's property, you have to be a licensed agent. That's the law. So I think that is why on the table, they are saying you have to have licensed real estate company to manage 'em because that it is the law. But if they only had one property and they asked Lori to manage it, yes, Lori could manage it. So that is part of it. But some of the– Can I say more comments? Or is that not–?

Mr. Spence: Yes, that's the Chair's decision.

Mr. Sprinzel: There'll be more opportunity. Mr. Davis?

Mr. Ron Davis: I had a few questions, but I think Lori raised most of them. I'm kinda in favor of TVRs, but I wanna agree with Commissioner Buchanan and also with DeGray. I think we gotta wait for the community plan to catch up. I know, Will, you said it might take a couple of years, but given the short amount of time we have, if we pass this out, and then things are not the way they should be, how can we correct it? Is there a way to correct it before the community plan comes back?

Mr. Spence: There would be – probably what you would do would be put an item on your agenda. If there's really a problem, I'm happy to have my Department work with the Commission, and just say, hey, there's a problem with this bill. We need to correct it. And we can – I can propose an amendment to an ordinance. The Planning Director has that authority. You guys would hear it and send it to the Council.

Ms. Dudoit: But once the bill is passed, though, isn't it every ten years that you can amend that, or you can do it at any time?

Mr. Spence: No, you can amend an ordinance at any time? Yeah. The community plan, that's a different story. But for something like this, you go, hey, this ain't working. Mr. Spence, we need to change this. We can work with that.

Ms. Dudoit: So if this bill don't get passed, though, say the Council say, okay, Molokai said no, we going take this off the table and not address the bill, and we waiting for something else to come into play, does current TVR policies stand in place, or is the freeze still on, or how does that work?

Mr. Spence: No, the – yeah, basically, nothing would change for Molokai. If the Council passes this ordinance and leaves Molokai out of it, nothing would change. What it would mean would be people could still apply for a conditional permit, which comes before this Body just like this. The difference is, the decision-making authority is up at Council as a conditional permit. It comes to you guys for review, but you only make a recommendation to Council. That's what happened with Kip Dunbar's things, and they pretty much followed your recommendation, by the way.

Mr. Sprinzel: Lori?

Ms. Buchanan: I think what would've been helpful is if in the beginning, the current bed and breakfast rules for Molokai was stated to this Commission, because if this doesn't pass, it's not that the homeowner who wants to rent out short-term doesn't have an option. They do have an option. So can you maybe explain the options that that person has right now on Molokai if they want to do a short-term rental like a B&B or a vacation rental because I know they can.

Mr. Spence: Okay, the bed and breakfast, the main difference between – the main difference between what's presented to you today and a bed and breakfast is that in the bed and breakfast, the homeowner lives on the property either in the ohana or in the main house. So that owner is there all the time. The primary difference for this is that the owner would not be there. So you have an ordinance where somebody operating a bed and breakfast can come to this Commission and get a permit. If somebody wanted to operate a short-term rental, they would – depending on which district it is, they may have to come to you for a County special use permit or a Land Use Commission special use permit. But then – and you have approving authority there. Or they may just – they may just need a conditional permit. They may need both, but they may only need the one. Both of those comes to this Commission, and then it gets transmitted to the County Council. I point up because I'm not on the eighth floor. I'm on the ground floor, where my office is, so I'm just used to going like that. I do that for the Mayor's Office too. So they still could come to this Body for permits. It's just this lays it out much more succinctly for these kinds of operations.

Mr. Sprinzel: Counsel, please?

Mr. Hopper: And just to clarify a conditional use permit process, it's not an expressly allowed use by a conditional use permit. It doesn't say here's how you get a transient vacation rental permit. They have been allowed under there, but there are no standards or criteria, really. What – the bed and breakfast ordinance establishes standards, criteria, things like that. This proposed ordinance would do that for transient vacation rentals, also known as short-term rentals. But a conditional permit, there's really no criteria set out for the Council or for you to review it. So I think that's one key difference. A conditional use permit can be obtained for any use anywhere that is not allowed in the code, even uses that are expressly not allowed by code. So I think that's why this ordinance is looking to clarify that, hey, if we know this is a use that's being proposed frequently, these are the standards for it. So just to let you know because that can get confusing sometimes when you're looking at conditional use permits because there's not a clear criteria set out for granting – as far as a vacation rental.

Mr. Spence: And that's very important because this bill does attempt to set out standards. As a former consultant, when you go apply for a conditional permit for somebody, it's a lot of head scratching because you're basically coming up with, okay, what do I think is gonna pass, and you give it your best shot. But this would actually lay out good things, bad things, restrictions, etc.

Ms. Flammer: If I could just add one example of restrictions and criteria, the parking that you talked about, right now, if you don't meet the parking criteria, we can't process your application. So we've returned applications to people that don't have adequate parking. Conditional permits don't have that. So it would continue to be reviewed.

The other thing I wanna point out is that you are the approving Body for these permits, so you have ultimate authority. If you don't think it fits in with your community, then you don't have to approve it. So it all rests with this Body.

Unidentified Speaker: . . . (inaudible) . . .

Ms. Flammer: With the bed and breakfast – well, with the bed and breakfast ordinance— With the conditional permits, no, you're recommending to the Council. You would be the final with this.

Mr. Sprinzel: Lori?

Ms. Buchanan: No, even outside of the special management area for any permits outside of the special management area, this Board? So permits outside of the SMA for short-term rentals would come to this Commission?

Mr. Spence: Yes, it would come to this Commission for review. Say somebody wanted to do a short-term rental say in Kalae, say on the West end, and let's say they're in the urban district, not in the ag district, they would come to this Body for a recommendation to the County Council. You would hold the public hearing. The ultimate decision authority is with the Council, presently. This bill would bring decision-making authority to Molokai, to this Commission.

Mr. Hopper: Just to note with the caveat that the bill does propose to still allow condition use permits for vacation rentals in addition to the short-term rental bill. So someone could still do that if they got either denied by the Commission, or for some reason, couldn't meet the standards you set out.

Mr. Spence: Yes, Miss?

Ms. Dudoit: Okay, I just have one more addition for my comments when we was talking about ag land, something that I got forgot. I not one big fan of TVRs on ag land, but what are you doing? Do you grandfather—? Currently, we don't have – according to your records, we don't have, 'cause I know we have, but currently on your books, we don't have any TVRs on ag land?

Mr. Spence: I think the Dunbar's is on ag.

Ms. Dudoit: The one?

Mr. Spence: Yeah, just the one.

Ms. Dudoit: So one of my recommendations would be, which I thought was really creative of you guys is, is there a way that for Molokai that the condition be if you are having TVRs on ag land that in some way or form there is a generated income or usage for ag? Because one of the things that – the new movement is agri-tourism, right?

Ms. Flammer: Yes.

Ms. Dudoit: We're doing that all the time. But I don't think it's – on ag land, at least my preference would be that that is the usage for which that land was zoned. So if we going have to incorporate something like that and that's something that has to be done, then I would like to see some sort of ag production or whatever it is. Even if it's just to feed the property on your property, but that it be used or the intent of the–

Ms. Flammer: There's one in the bill, if you have under five acres, or if you have over five acres, you have to have \$35,000 of gross sales. If you have under five acres, you have two things you need to satisfy. The first is you have to get a State land use permit which you review. And more stringent is you have to have an implemented farm plan. There are only two cases now where you have to have that implemented farm plan. One is where when you build your second dwelling. For the first dwelling, you only have to have the plan. You don't have to implement it. For the second dwelling, and when you come in for a B&B permit, and when you come under this draft ordinance, you would have to have that plan implemented. Now, what that means is you have to have 50 percent of your property either in ag conservation which is rather strict. You have to show you're in a gulch where you can't farm or you have to be farming too. And one of the things I love about the Planning Department is they don't mess around with those farm plans. We're very strict with them. We go out. We look. So what I've heard from the community is it's been interesting. I've heard comments like this is a way to create forced farming. It's kind of an interesting combination that you would have, but they're not gonna get a permit unless that farm – they can't even come to you unless that farm plan has been implemented and it has to go under warranty deed of what your plan is. And then second, you guys have to approve a secondary permit, which would be a State land use special permit. So you'd be coming with an implemented farm plan and then you'd be looking again at that second permit that comes, which is the State land use permit. Now, your community plan policies, they talk about different types of farming. So you could use that as some guidelines for what kind of farming you wanna see. Big difference between a bunch of plumeria trees, and taro farming, or food farming. You would have that ability to make distinctions.

Ms. Dudoit: So just for clarification, anything over five acres requires you to have an income of \$35,000 a year?

Ms. Flammer: Yeah.

Ms. Dudoit: \$3,500?

Ms. Flammer: \$35,000.

Ms. Dudoit: Right, a year in income for—

Ms. Flammer: The preceding two years as shown by Federal tax—

Ms. Dudoit: When you look at ag, when you look at — when you're talking about that \$35,000-dollar number, does that include that the income revenue from the rental of the TVR?

Ms. Flammer: No.

Ms. Dudoit: So it's separated from the TVR?

Ms. Flammer: It's your Schedule F.

Ms. Dudoit: When they come in to apply, does it only have to be on paper, or do you require them to turn in a tax form every year to show—?

Ms. Flammer: They have to turn in their Schedule F.

Ms. Dudoit: Okay. Under five acres, you're saying that they have to have an implemented plan, but that does not require them to have to show you tax documents or—?

Ms. Flammer: There are no income requirements for that.

Ms. Dudoit: So my suggestion would be that that include anything on ag land. Include an implementation of income generated from ag to — because that's one direct benefit to our community. So that would be my suggestion— whatever that number is. Though I think \$35,000 is a lot, but when you show me that property, tell me. We wanna go after their example. But I would like to see a number generated for anybody who going have one — who was gonna have a TVR on ag land to have some kind of income generated from agriculture.

Mr. Spence: If I could just comment to that? The — one of the reasons why you have individual applications come before this Commission is because every circumstance is different. I have— First off, I think somebody is going to correct me. I forget how large Kip Dunbar's properties are with the two rentals. Okay, so they're small. So that's an exception. And I know they're right on the coast. It's not like you can do a whole lot of farming. As I remember, the way that those things are situated, there is an instance where

maybe you don't want to make a hard and fast requirement, but somebody out on the West end, yeah. They got the land available to them.

The second thing is, I had an instance in Kipahulu, a former client. Actually, we started their permit when I first left the Planning Department in 2002. And they didn't get their permit until like 2008. They had to go all the way to Council. They have no place – they have a couple of acres of bananas. They give away thousands of pounds of bananas every week. They have no place to sell, so they give them to the homeless shelter. They give them to a couple of the non-profits. I told them that's not gonna fit in really well because everybody's expecting an income. I said you weigh 'em and you keep count. And then maybe you're gonna show 'em to the Commission when you come back in. But see, that's another exception that doesn't quite fit in to the – you know, I have to generate income kind of model.

Mr. Sprinzel: There's a legal answer to that question.

Mr. Hopper: I just wanted to comment that Molokai as it's planned is to prohibit these on ag completely. So if you wanted to consider them allowing them with those restrictions, you could, but just a reminder, I understand that's the proposal just like the bed and breakfast bill is that these will not be allowed on agricultural land.

Ms. Dudoit: That's why I asking you if there was any already on because you're gonna pass this, and then what happens to Kip? He gets grandfathered in. So I guess my thing was then make him responsible to have ag on ag land.

Ms. Flammer: Well, in his case, he has an existing permit which he'll probably keep. And then he just renews the existing permit, in that case. I think everything he went through, he gets a longer extension because of that.

Mr. Sprinzel: Okay, my turn. From 1981 for seven years, I worked in Kailua as a partner in a very large vacation rental business. We had over 50 properties. The boss was a Realtor, and everything was as smooth as you could possibly have. It was legal. And if there were any noises or complaints, they were seen to because if you know Kailua, you've only gotta drop something and there's a phone call to the police. But I agree with Lori and I agree with what was said before. There is no supervision here, so we can't possibly do the same thing. Over there, there's terrific enforcement. I mean, there's little public officials come 'round and check everything. We don't do that here. We've never done that here. There's a whole raft of people doing vacation rentals here as we all know, amongst other things, and we just don't supervise it. So I have to agree with Lori. Until there's some sort of supervision, while I love the idea of a little vacation rental business especially, here where we have no hotels worth speaking of, and we have a lot of people come over from

out island, and visitors with families, weddings, and all this sort of thing, graduations, we need places for people to stop, but now is not the time to pass this. That's my opinion.

Anyway, it's time for some sort of a decision, I guess. Would somebody like to make a proposal or—?

Mr. Hopper: As far as a ruling, yeah, the Chair could make a recommendation, or you could just say the floor is open for motions, and leave it to the Body. The Chair could make a recommendation or could decide. That's his decision.

Mr. Sprinzel: Well, is anybody gonna make a motion?

Ms. Buchanan: Chair, I'm open to discussion. July 22nd is the date that you want a response from? Is that correct? That's what you said in here. Between now and then, we have another meeting date. If this Commission wants to give direction to staff on areas that we want them to come back with answers on, we can do that. We can defer with directions to staff. Or you can let me make a motion to say the hell with that, and just say forget it, but I am willing – even if we defer to one more, we can still say “except for Molokai.” But in the process, we can also give considerations and recommendations to our County Council on the record, which would reflect our thoughts. And we can put that in the drawer with a 2008 recommendation stay hiding some place inside there. We should just pile 'em up and put 'em some place. So when we get our community plan, we can take 'em out, and dust 'em off, and our work is done.

So with that said, I will move that we defer this to the next meeting date. And in the meantime, after we make this motion, then we can discuss exactly what it is we want to get from them, if it's a recommendation on caps based on certain things. What Commissioner was talking about was something – a big carrying capacity, carrying capacity, and that takes a lot of time to figure out what is your carrying capacity. So that's it. I move that we defer this to the next meeting.

Mr. Davis: I'll second that. I'll second that motion.

Ms. Buchanan: There you go.

Mr. Sprinzel: So we have a motion to defer from Lori and Ron—

There being no further discussion, the motion was put to a vote.

It was moved by Ms. Buchanan, seconded by Mr. Davis, then unanimously

VOTED: To defer this to the next meeting.

Mr. Sprinzel: So it's unanimously deferred. Motion carried.

Ms. Buchanan: Okay, Chair, I think at this time the staff wants some direction. Okay, so I would say look at all the discussion and questions from this Commission, and then try to work on that area. Zhantell, if you see something now— Or if we can also e-mail that to you. If this Commission is agreeable, we can also make that question by e-mail. But I would like to see – I'm not sure what the Commissioner is asking, what was the recommendations in the 2008 by Steve Chaikin. We may want a synopsis of that. So a synopsis. Of course, ex-Commissioner Vanderbilt has that or has notes on file. Okay, so maybe a synopsis of that.

Ms. Flammer: I'll give you a synopsis, but it wasn't the same bill.

Ms. Buchanan: No, it wasn't the same bill.

Ms. Flammer: Okay. Yeah, I'll give you a synopsis of that bill and what your concerns were at that time.

Ms. Buchanan: I think we concerned about the loopholes, about the permitting that cannot be held by a corporation or partnership. And then the whole part about the – if it's not a resident. We may— Remember now, you can require that there be a resident, but then it's gonna be like a B&B.

And then when you say notice in your neighbor notification, you said “a notice date that written protest that can be filed with the County,” where does it direct the person to find the process for that?

Ms. Flammer: I'll just answer that now. In the letter that goes out, when the application is filed with the Department, it is written in that letter where the protest can go. It comes to the Planning Department. So we have the Planning Department's address and it tells them where to file it.

Ms. Buchanan: So I the neighbor. I complaining. I call the County. I complained. And then you going do what?

Ms. Flammer: Well, if somebody called me, I'd write it down. Typically, it's a written protest. So we'll get letters in. And what we do is – well, when it goes to the Maui Planning Commission, those letters go in the staff report. So since you're reviewing all of them, they would all go in the staff report to you so you can then read them.

Ms. Buchanan: I think I wanna know as the neighbor what going happen, what is the process. Just knowing where to look for that process. You know what I mean?

Ms. Flammer: It's gonna be in your letter to you telling you that an application has been filed with the Department. That's when it'll come. Other permits that comes in, there's a public hearing. They just notify you of that. In this case, you get notified at the beginning of the process, which I think is good rather than at the end. We get notified both, actually. So what happens is, we have a form, and it says on the top, "Filing of Application," I think is the title. And then it gets addressed to each neighbor. And in that notice it says you may file a written protest within 45 days of the mailing of this notice. And then it gives an address for that. It does spell out any criteria about what that protest needs to say. Now, I will tell you for the 35 percent trigger to go to Maui Planning Commission, you can just say, "I protest," period. But I would think for the Commission people, you're gonna wanna know a little bit more background, but the notice of intent right now just says you may file a written protest to this address.

Mr. Sprinzel: Do you have any record of complaints about the three vacation rentals on Molokai?

Ms. Flammer: I have records of the permitted ones, not the un-permitted ones.

Mr. Sprinzel: No, no, the three permitted ones, have you had any—?

Ms. Flammer: There's two.

Mr. Sprinzel: No, the Feeters have one.

Ms. Flammer: Oh, the Feeters, but I—

Unidentified Speaker: . . . (inaudible) . . .

Ms. Flammer: Yeah, I don't believe that that's a current permit right now. I don't think there have been any for the Dunbar, any complaints. I'd have to verify that, but I can do that for you.

Mr. Sprinzel: No, no, I was just interested if you had any complaints. I know you'll get 'em about the un-licensed ones.

Ms. Flammer: No, because they would've gone on my thing. I went through each conditional permit and ran for that property what it was. I didn't bring that with me, but it would've gone up on my report, if there were any complaints for that.

Mr. Sprinzel: Thank you.

Ms. Dudoit: So currently, how are you guys – if somebody complains to you that there's an un-permitted vacation rental, how are you handling that, and what kinds of penalties are imposed?

Mr. Spence: Okay, Commissioners, I'm the first one to admit that enforcement lacks. They were discussing other things, but this is something that I wanted to let the Commission know. One, we – you know, budget, etc., etc., but also some of the – just some of the ways that we enforce, it's gonna be a separate ordinance or modifications to other things on how we handle those things.

If somebody has a complaint about an un-permitted vacation rental, we check into online or any number of ways. We find out what's really going on, if it's on another island, perhaps. We'll let the person know, hey – you know, we'll call 'em up, whatever, e-mail, mail. But we do send an inspector over not too often, but we do send her over. I'm not gonna– You guys know what goes on. But, yeah, we'll go out and we'll issue them a notice of warning. I'll say, hey, you know what? You either gotta shut down, or you gotta come in and apply for permits. And we pretty much do that.

Unidentified Speaker: . . . (inaudible) . . .

Mr. Spence: The fines are negotiable. They're not just like– If we issue them a second warning, and then after the second warning, if they continue to operate, or they continue to violate whatever the issue may be, then we issue them a notice of violation. That's when fines starts.

Ms. Dudoit: Okay. 'Cause when we talking about suggestions for staff, that's one of the things I don't see included in the bill is the determination of what the penalties would be, how you regulate that on a– I mean, I would like to see that. One of the advantages, and I agree with you guys, that something is better than nothing. And the current transient vacation policies that we have in place to me is absolutely not adequate for Molokai. And I'm afraid to operate in those pretenses for the next two years while we wait. So that's what pushes me towards this. What discourages me from supporting this is the fact that it's gonna – it's like you give us little bit, but it's business as usual, because the same people who are violating are still gonna violate. And the ones who comply still going get punished 'cause they still gotta apply, and they still gotta pay, and they still gotta be looked at. So I think incorporated into the bill or into documentation to us, there has to be a mandated way, and an amount, and very strict procedures by which these guys are punished for what they do, 'cause it's not the ones that comply we worried about. It's the ones that don't comply.

Mr. Hopper: Just to note, the penalty for any illegal use is a thousand dollar-initial fine, and a thousand dollars per day as the illegal use continues. That's in the Planning

Department's administrative rules. If there's an SMA violation involved, then that's— Well, you're looking to change your rules. So right now, I believe it's a ten thousand dollar-initial, and a thousand dollar a day fine. Pending your rules amendments, though, it would be a hundred thousand dollar-initial and ten thousand-dollar a day fine maximum for an SMA violation. I'm unaware of any notice of violations issued on Maui or on Molokai. On Maui, we have had.

When the Director says they're negotiable, what typically happens is if a violation's issued and appealed, or something has happened – happens later on when there's a settlement agreement to agree on the amount on the fines to be paid, and that the use is going to cease, and any continuation of the use would result in a reinstatement of the fines.

I think the two agreements we've had on Maui, one was a twenty thousand dollar-fine and one was a thirty thousand dollar-fine. So in those cases, those were the fines that were agreed on. They were approved by, I believe, the Planning Commission and the Planning Director at that time. Those are the two that I know of, of vacation rentals. So that's the law right now. If the issue is enough inspectors or other things, that can be the challenge.

In addition, in order to establish evidence for a violation, the Department would need to establish that by what they call a preponderance of the evidence. If there's an appeal that the person was illegally running a vacation rental, which means that it was more likely than not they were running a vacation rental, that proof must be made to the Board of Variances and Appeals, which is on Maui, by Charter. They are required to review appeals for notice of violations issued by the Director. They have had meetings on Molokai, if it involves a Molokai property. I know of some of those meetings primarily for variances. And so the issues are going to come up what evidence is needed for those violations.

There's Department proposals some years ago that would alter those rules to state that if a person advertises for any business, that would create a rebuttable presumption that that person is conducting that business. And that rule has not passed in large part. There was a lot of lobbying against the passage of that rule and it wasn't passed at that time. Kauai has a very similar rule in their code dealing with that exact thing. What it does is basically creates a rebuttal of presumption if somebody – if you find evidence that there is an advertisement for this. It says, okay, we're going to presume you're doing this unless you show the Board otherwise. And you can explain it and say I tried to take it down. It wouldn't let me. I haven't been operating it. But that would assist in the burden of proof that – you know, providing advertisement is stronger evidence. So I don't know if the Department would be looking to have that as either another rule amendment for the Board, or something they could put in a code like this that would say – because that's where Kauai's is. It's in a code. So those are some thoughts as well before those types of issues.

Ms. Dudoit: And then that would answer your staffing problem because if you went on the Internet, we could fine everybody a hundred thousand dollars and you would have enforcement.

Mr. Spence: We'll be looking at that. If I could comment? One of the reasons I said fines are negotiable, and I saw reactions when he said a hundred thousand dollar-fine for SMA violations, you know, I don't think we're gonna go out and fine somebody a hundred thousand dollars if they add a carport onto their house that maybe cost five thousand dollars or something. It's just – you know, probably slap them on the wrist, and say go get your SMA assessment, and go before the Commission rather than charge them a hundred grand. A hundred grand is reserved for something really serious: filling in a fish pond, whatever.

Ms. Dudoit: Okay, so one more recommendation or suggestion I was going have as you guys start to do your planning is I don't know how the TAT taxes work, and if some of those monies could be generated or appropriated back to as an inter-department partnership to pay for enforcement, but I do think that it warrants some discussion with the tourism authority, with the Maui– I mean, we fight hard for Maui to keep its transient tax. So make it responsible for the things – for the people–

Mr. Sprinzel: I think this is just a little bit outside our–

Ms. Dudoit: Oh, no. We talking about enforcement. So when you looking at that, that would be one of the suggestions, yeah, and that might help. 'Cause I know it's hard to find staff to do enforcement for this. So maybe that's one venue we can look at.

Mr. Sprinzel: Are there any more suggestions you want to make for action?

Ms. Buchanan: Zoning. So – because Molokai is interim zoning, a preponderance of interim zoning, how would that specifically affect us? And then we talked about special use permits from the Land Use Commission a lot. And just as a reminder that this Board is the final authority on all Land Use Commission. We act on their behalf on acres, 15 acres or less. And so that does come back to us if it's 15 acres or less.

And then you said that there was no – this bill does not specify a tax category. That's a concern. I don't know what you can do between now and two weeks. Mr. Spence: That's something that the Budget Committee took out for bed and breakfast. They actually formed an entirely separate tax category for bed and breakfast.

Ms. Flammer: Are you comfortable with what the State land use special use permit requirements are? I don't know how often you deal with them. I did put in your staff report, the farm plan application and our guidelines for it. I thought if you were curious, you could

take a look at that. I decided to – it was already 117 pages. So I didn't put in all the State land use. But if you're curious, I could include that. I also included as Exhibit 4– Now, legislation is always tricky to read because it often refers to other sections of the code. So in this bill what it does for enforcement is it refers to 19.53, which is our enforcement section of the code. We are working on updating that right now. I know you heard a couple of years ago about that. We're working to increase fines. I did put a copy of that section under Exhibit 4, if you wanted to read it.

Now, for this bill, because enforcement is such a critical component of it, we are actually looking at incorporating some enforcement provisions right into this bill. Yeah. And we're also updating the 19.53 to make it a little stronger, but we felt like our Corp. Counsel was talking about, you know, if we could put in the rules about advertising, things like that, it would just make enforcement a lot easier too. So we're also needing to look for other tools that we could write into the code.

Ms. Dudoit: Is there an opportunity for us to extend the deadline from July 22nd? Is there a process or an opportunity for us to extend that so that we can have a little bit longer to deliberate?

Mr. Spence: Well, we're – yeah, maybe Clayton can better address, but by law, we're supposed to get it back up to Council under a certain time. We can continue to provide comments, but–

Mr. Hopper: I do think by Charter, though, if they move ahead without your recommendations, if it was a Council bill, they would need a two-thirds majority to vote on and pass the legislation. In addition, I mean, correct me if I'm wrong, but the Department is going to get the minutes from all of the meetings and transmit that to the Council as well. So if you're talking about a little while longer, you would be after the deadline. But I'm not sure if the Department – I don't know if your comments would be blank or just not there. If you're talking about like months afterwards, it may be a different story. So that's the – I think that's the law on it. But they could act without your recommendations. It wouldn't prevent them from still forwarding your recommendations, but they could act without your recommendations.

Mr. Sprinzel: And also, could you add the Commission's previous summaries that was submitted to you back in the distant past like five years ago? Can you include those? Because I know DeGray and–

Ms. Flammer: I have the 2008. Was there another time that you submitted comments that you–?

Mr. Sprinzel: Twice, I think.

Ms. Flammer: I think 2006. You want to go back five years?

Mr. Sprinzel: Yeah, I think 2006 and 2008, from what I can remember, if you could add those, because, I mean, they've been debated at length.

Ms. Flammer: Sure. Yeah. So what I'm gonna do in that case, like I talked about earlier, is I'll provide a synopsis of those bills because they were probably a little bit different. And then I can provide you with what your comments are.

Mr. Sprinzel: It would be super if they could go to Suzie so we can get them in e-mail before the next meeting so we have the weekend to kind of look at them. That would be good. And then we can make our decision next time. Fine. So the next thing is the Chairman's Report, Chairperson's, sorry. As Mikiala isn't here—

Ms. Kelly: Chairman, I have a comment.

Mr. Sprinzel: Sure.

Ms. Kelly: It's on the farm plan, and in here, you have that an individual – the owner can develop their own, but there's a Charter, Chapter 20, I think, County Charter, that the local soil and water conservation districts approved those plans. So I would recommend that they do that.

Ms. Flammer: I'm sorry. Could you say that again?

Ms. Kelly: It's the local soil and water conservation districts. On Maui, you have four. Maui and – Molokai and Lanai, we have one, and it's housed here. So it is in our NRCS Office. I only know that because I work for them. Okay, so any of the farm plans should be approved by any of the soil and water conservation districts because they make sure that they're not gonna plan anything that's not feasible.

Ms. Flammer: I'll follow up on that. I know our guidelines were developed with them that you see in there. So, yeah, it'll be interesting to learn.

I did have a couple of the comments that were made earlier. Can I just read them back to you just to make sure I got everything here?

Mr. Sprinzel: But of course.

Ms. Flammer: There was a comment about a one-year permit, but you can come back to that next time.

Mr. Sprinzel: Well, we thought that was a good idea because if there are complaints, we get a year, and we don't see it in five years' time.

Ms. Flammer: And for the cultural aspect, it would be great if you could help me understand that for Molokai. I know some of you are interested in providing comments directly to me. That would be useful for me to understand.

Ms. Buchanan: Culture, okay.

Ms. Flammer: Yeah, the cultural aspects of the bill, how we could work that into it. I would need some guidance from you about that. The caps, did you want me to pursue any information on the caps?

Mr. Sprinzel: I don't think so because we have the power as the Commission to cap every single application, if we so felt it.

Ms. Flammer: Okay. And then the natural resources, I think we decided it's probably too big to take that on right now? Is that--? I don't know. Is there anything I could provide you with on that?

Mr. Sprinzel: That would be only be if somebody came and wanted to build a new vacation rental. And then the Water Board would probably say no if it's in the East end anyway. I don't think that is particularly relevant. Well, I mean, it's relevant, but I don't think it's gonna be ignored by the Water Board.

Ms. Flammer: So just real quick, right now I'm looking at providing a synopsis of the 2006 and 2008 bills, and your recommendations. You wanted me to explore a little bit about the loopholes for a corporation or a partnership. I didn't understand that. Was that so that employees cannot be--?

Mr. Sprinzel: No, we just wanted single ownership.

Ms. Flammer: Yeah, okay, that's what the bill provides for. I'll work with our Corp. Counsel on understanding how--

Mr. Sprinzel: I mean, there aren't, as far as I know, too many corporations involved on Molokai at the moment. And we--

Unidentified Speaker: . . . (inaudible) . . .

Mr. Sprinzel: Oh, okay.

Ms. Flammer: Yeah, we do—

Ms. Buchanan: We talking about trust as well, yeah.

Ms. Flammer: Yeah, and if we do consider revocable living trust, if the trustee is the owner. I mean, that's done for estate purposes. Other types of trusts, we do not consider a natural person. So you could not come in and apply as a trust.

Ms. Buchanan: Really? Okay. Because you know— Okay. Alright. If we sure about that. I just wondering because there's a lot of ownership on Molokai that are all trusts. There's huge tracts of land that are all under trust. So one person from that trust cannot come and apply?

Ms. Flammer: I'm gonna do a little more research on that. Yeah, are you talking about trusts that are formed in a trust?

Unidentified Speaker: . . . (inaudible) . . .

Ms. Flammer: Yeah, okay.

Mr. Hopper: The beauty of making comments on the bill is that you can decide that for yourself. You can say I'd like to allow a trust to apply or you would not like to allow a trust to apply. So that's something you can, you know, make a decision on and recommend.

Ms. Dudoit: Because I think even in addition to that, the Office of Hawaiian Affairs is going forward with helping people to exempt their properties as kuleana type lands where everybody's on the list. It's like a generational type add-on. So that's another area to look at.

Ms. Flammer: I have some comments here about interim land. You would be eligible to apply for a permit if you're on interim. Is there any more information that you were curious about?

Mr. Sprinzel: And I'm pretty sure with interim, you have to apply for whatever it is before you build something, because when I built even in the Heights, which is all houses, my lot was still interim. And it took me a couple of years to get that made into a residential.

Ms. Flammer: We did put a provision in the bill – or we did not, but the bill came to us with a provision that interim – it would be added into the interim district. I know usually the B&B law didn't have it in, but I think they went back and put it in because of problems like this.

And then you also wanted me to check a little bit on the farm plans and are they reviewed – what's the rule of the NRCS.

Ms. Kelly: It's not an NRCS rule. That's a County ordinance that gave authority for the local conservation districts to approve all conservation plans, which a farm plan is.

Ms. Flammer: Okay, so I'll get back to you on that too.

Ms. Kelly: Yeah. So it's, I think, Chapter 20.

Ms. Dudoit: So back to your question on the interim zoning, if it's true what Commissioner is saying about you having to foretell what the use of your property is on interim zoning, I might have misunderstood him, but if it's true that you gotta declare that, and then your bill says that you cannot have plans, you know, the structure already has to be currently built, then how does that work itself out?

Mr. Sprinzel: Well, I wasn't allowed to build on interim. I had to get residential. I had to change it from interim to residential before I could build my house.

Mr. Spence: I would have to look into the specifics on your property. Interim stems back to – I don't know, 1957 or something like that. It was supposed to be a temporary zone, a holding zone, until we actually get around to– It's been temporary for 50 years. This bill – interim allows almost everything except businesses. It allows residences, one per 6,000 square feet, an ohana, sanitariums, hospitals, churches, schools, universities, just about everything except the businesses. So I'm not–

Ms. Dudoit: So then it doesn't make any sense because the TVR is gonna be a business.

Mr. Spence: Oh, no, it didn't prohibit them. I mean–

Ms. Dudoit: Well, it would be prohibit–

Mr. Spence: This is what– What we would be doing– Once we get a vacation rental bill, a short-term rental bill, you would have – you go through and you say which districts is it permitted in. It's gonna be permitted in R-1, R-2, R-3, business country town. And interim is gonna be one of those zoning districts that it would be permitted with – permitted in with a permit from this Commission.

Ms. Flammer: If you're really curious, Exhibit 2 lists the interim districts and all the permitted uses on it. So how you read legislation is we take the current County code, and then we bracket things that are gonna be deleted, and we underline additions. It makes it hard to read, however. If you look at Exhibit 2, 19.02A.030 is our interim. It's all – everything that's

just written out is all the way it is. At the very back of this section, should be page 5. Item no. 7, that's underlined, would then add a short-term rental home as a permitted property use. If you're curious what else is permitted, it's all back there. You can take a look and see. So you can have a single family dwelling. So I'm not sure. It would be interesting to know what your unique situation was.

Mr. Sprinzel: Well, I came in front of this Commission 20 years ago.

Ms. Flammer: Oh, that might've been—

Unidentified Speaker: . . . (inaudible) . . .

Ms. Flammer: Yeah.

Mr. Sprinzel: Perhaps because I was a Haole. No, I didn't say that.

Ms. Flammer: Okay, so what I summed up is all I have. Were there — is there anything else you'd like me to research and tomorrow, get to you?

Ms. Buchanan: We could say that we don't short-term rentals in residential areas?

Ms. Flammer: You can say whatever your preferences are.

Ms. Dudoit: Or in interim areas? Because we could do specific to Molokai, right?

Ms. Flammer: Yeah. Yeah. There's a lot of information in the report. And I know it's cumbersome, and it's hard to get through, and I'm sorry it was so big. I'm somebody that likes more information other than less. Yeah, but if you kinda— There's a lot of information in there. If you kinda work your way through, there's a lot of what you need in here. I will research these areas and get it to you as quick as I can. I also think it's good for you to go out and talk to your community during this time. You need to do that. I understand that.

Ms. Dudoit: So just real short so that I know what kind of comment to make so I don't sound like one complete idiot, but when you looking at— I'm having a problem understanding. If the bill says that you wanna add in interim zoning as a permit — you know, TVRs, but the ultimate purpose of that place has not yet been decided, right? So somebody could actually come in and say I just wanna build my house over there, and live in there, we're gonna whatever. Is there a restricted time of how long you gotta be living there because you could do that, and then turn around and go seek zoning? You know what I mean? Turn it around and be a TVR. And that's exactly what—

Ms. Flammer: I have heard out in the community, comments, exactly that. And there's been comments that you need to live – you need to own the property, or it needs to be built for one, two years before it can be converted to this use.

Ms. Dudoit: So some kinda language like that, yeah?

Ms. Flammer: If you wanted to address that, yes. Now, under the ordinance, it's a single family dwelling. So when you go in for your building permits, that's what you're going in for. You cannot go in as a short-term rental.

Ms. Dudoit: So I think what I'm – in my mind I'm trying to discourage is you get somebody who's coming in. They don't really wanna live in our community, but they find one affordable piece of land. You go in. It's interim. You build on it. You said you going live there, but you actually don't. And then you end up doing that, then you sell it, whatever, you go do it again, or you . . . (inaudible) . . . I mean, then all of a sudden you got all these different vacation – okay.

Ms. Flammer: And part of – the way the bill addresses that right now is that it has to be constructed before it comes in for the permit. Now, whether that's achieving the purpose or not–

Ms. Dudoit: Okay, thanks.

Ms. Buchanan: Yeah, we like know that question, too, because we all like build plenty on affordable land, and we like all get rich.

Mr. Sprinzel: Okay. Now, may we go to the next thing: the Chairperson's Report? As Mikiala isn't here, we aren't–

Ms. Buchanan: Somebody asking to be recognized, Chair.

Mr. Sprinzel: Yes, why not?

Mr. Vanderbilt: Yeah, DeGray Vanderbilt. Yeah, just like Gina said, she likes more information than less. And she'd like everybody to get out and talk with the community. Well, the community needs to have some information. So, if possible, if all of this staff report and everything could be put on our Planning Commission website along with our community plan, so if somebody has – and that the documents be in some kind of editable PDF like what the County sent to you.

Unidentified Speaker: . . . (inaudible) . . .

Mr. Vanderbilt: No?

Unidentified Speaker: . . . (inaudible) . . .

Mr. Vanderbilt: Well, yeah, where you could cut and paste, where you could cut and paste the document. That's an editable— You can't change the original, but it's like the Council – it's like the bill that was sent down to you from the Council. You can cut out a section and paste it onto a document. It just makes it easier for people.

Unidentified Speaker: . . . (inaudible) . . .

Mr. Vanderbilt: Yeah. And I guess on the interim zoning, on that testimony I put in to sort of support what Zhantell is saying, on page 2, it gives the title and purpose of the zoning. And I did that with each of the zoning categories. And I think that's helpful to understand what the intent of each of these zoning categories are. And that's really was the extent of my testimony—to try to help everybody understand 'cause it's just impossible to get all of that stuff.

And the other thing, Mr. Chairman, Mr. Vice-Chairman, is that on July 11th, some of you probably got e-mails from Stacy. The Charter Commission is coming over. And they're looking at a deal where the Planning Commission is gonna be disbanded and we're gonna have an elected Body of Molokai people. We're gonna take over all of the land use decisions that the Council currently has which would be conditional use permit approvals and everything else. So there's so much going on behind the scenes and we still haven't gotten to our community plan review yet. So that's on July 11th. And that was a proposal that wasn't even – wasn't even originated here on Molokai. And it may have some merit, but it's gonna take a lot of work. So anyway, thank you, Mr. Chairman.

Mr. Sprinzel: Thank you, DeGray.

E. CHAIRPERSON'S REPORT

1. Status of the Commission's Subcommittee on Rule Changes Report

- a. Rules of Practice and Procedure**
- b. Special Management Rules**
- c. Rules Regarding Special Uses in the State Agricultural and Rural Districts**
- d. Shoreline Area Rules**

The Subcommittee's Report was presented to the Molokai Planning Commission at the March 9, 2011 meeting. Public testimony will be taken. The Commission may take action on the Subcommittee's Report.

Mr. Sprinzel: Okay, so under Chairperson's Report, the Director has requested that we ask him whatever we want to ask him. We'll make points about these changes. So now would be a good time to do it as he's here and you're here. So, who's next?

Mr. Clayton Yoshida: Mr. Chairman, I would only report that the Current Division Planners have spent countless hours reviewing the proposed rule amendments. And we're particularly interested in the special management area rules and the shoreline area rules. The Department has identified the Administrative Planning Officer, Joe Alueta, as the point person to provide comments to. And also our Zoning Division has also commented on the proposed rules. But I guess this all has to be presented to the Director and Deputy. And they have to provide their input also.

Mr. Sprinzel: Lori?

Ms. Buchanan: Can we ask Clayton this time about the open projects?

Mr. Yoshida: No, I'm talking about the Chairperson's Report, the various rule amendments, rule changes developed through the subcommittee last – the last–

Mr. Sprinzel: That was Steve Chaikin and I did that, and we submitted everything to the Commission, and the Commission went through it.

Ms. Buchanan: Right. Didn't we ask you to have one staff – our own meeting concerning the rule changes at the last Commission meeting? We wanted to – yeah, a separate issue on the agenda.

Mr. Yoshida: We could check with the – since Mr. Alueta has been appointed the point person, I guess he – if we specify a meeting, he could be in attendance to deal – have a discussion on the rule changes.

Ms. Buchanan: Because the last report was that it was being circulated amongst the different–

Mr. Yoshida: Yeah, it has been circulated amongst the Planners. They have commented. They have provided their comments to Mr. Alueta. And I guess he has to work with the Planning Director and Deputy regarding the Department's – what are the Department's official comments gonna be.

Ms. Buchanan: Okay, because my understanding was the Chair made the – the Chair came out with the report on the day he was leaving at one meeting. This Board was supposed to – we had homework. We was supposed to read it on our own. After that, we never did discuss it as an agenda item. And so we never approved or disapproved the recommendations from the subcommittee. And so that is still pending. And so at the last Commission meeting, I suggested that we have staff come over and we dedicate some time with the Commissioners to go over those rules because Corp. Counsel and Chair went over it very quickly at that time. It was too much to absorb. Since then we were supposed to look on it as our own, but we still wanted to come back and discuss it. Is that correct?

Mr. Hopper: I think the Department is saying it wants – I'm not sure, but they wanted Joe to consolidate all those comments, and then to have that meeting to also have their recommendations prepared, so that when you discuss those issues and go to finalize any amendments, you could consider their comments. You could accept some, reject some, whatever you like. But I think they're saying – I mean, I would recommend for you to have the Department have its recommendations as well. If you want to have a separate meeting to go over the changes again, you could. But if the Department's gonna have additional changes, I would generally recommend that you get it all at once, see all the changes, because you're gonna be the ones administering it. And I think if they have issues with what Steve and I had come up with, it would be – I would like to hear what they'd have to say, too, just as a thought.

Ms. Buchanan: Okay, fine. So what you telling me, Clayton, that you guys doing it?

Mr. Yoshida: Okay, so we'll try to schedule a time for whatever your regular meetings are in the future when we can have this discussion. I guess, do you want to move on to the Director's Report?

Mr. Sprinzel: Yes, please.

F. DIRECTOR'S REPORT

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**

Mr. Yoshida: I guess Nancy is supposed to return to work tomorrow from her three-week vacation, but we have circulated the list of pending and closed Molokai applications, if the Members have any questions on those reports.

Mr. Sprinzel: I would like to have heard from our two representatives who went to Maui for that conference, if there was anything that concerned us. That would be a good opportunity to tell us or give us a bit of paper.

Ms. Buchanan: I'd be happy to do that very briefly. I meant to do that by e-mail, but I think Commissioner wants to address the open projects right now—Zhantell.

Mr. Sprinzel: E-mail them, fine.

Ms. Buchanan: But I going tell you after this too.

Mr. Yoshida: Okay.

Ms. Dudoit: Would you happen to know what is the hold up with the installation and replacement of the sirens?

Mr. Yoshida: That, I think I have to talk to Nancy. I mean, I think the Civil Defense has submitted a whole package of siren installations, and some of them were within the SMA, and some of them were not. So if they're not, they don't necessarily have to come before this Commission for an SMA review. But I would have to check with Nancy as to the status of bringing those – that particular SMA assessment before the Commission.

Ms. Dudoit: Okay. And then the other one was just this letter from Robert Matson that we have. I don't see it here so he— Oh, right there. On February 18th, has this been addressed? It looks like an administrative problem, but since we got it, I figure I just ask. The letter cites Ms. McPherson is not giving all of the accurate information.

Mr. Yoshida: Yeah, I believe it was an SMA assessment. And there was some – well, there was some after-the-fact action. And according to the budget, the minimum after-the-fact fee is a thousand dollars less the initial assessment fee that they paid. So that's how they come out with the \$835 or whatever it is. And we did change the budget. Before it used to read a thousand dollars for after-the-fact fees, for a thousand dollars plus 10 to 50 percent of the project valuation. We changed it to a thousand dollars plus zero to – up to 50 percent of the project— So we did have a problem previously with the French Dwelling, Roxanne French Dwelling, where they started—this is about two years ago—started construction without an SMA permit. And basically, at that time, the fee was a thousand dollars plus 10 percent of the project valuation, which would be \$16,000. But then we changed the budget requirements, so I think she only paid a thousand dollars less whatever she paid at initial assessment. So that's sort of what we're going – just going by what is in the budget for after-the-fact fees.

Ms. Dudoit: Okay, so then my question is, why we have this letter, and are we supposed to act on it, or what is the purpose of us getting this correspondence?

Mr. Yoshida: Well, I think he's asking the Planning Commission if – since the Planning Commission is the authority on SMA assessments, as well as SMA minor permits and SMA

major permits. But basically, the Department is only going by the budget which is for after-the-fact fees which is a thousand dollars plus up to 50 percent of the project valuation.

Ms. Buchanan: I have one answer for Mr. Matson. The answer is no. Okay? You can tell him I said so. That's 'cause I paid my eight hundred dollar-fee for putting up one – two hollow tile bricks. So if I had to pay eight hundred dollars for two hollow tile bricks because I never know, he gotta pay, too, okay? So that's my answer to Mr. Matson.

Mr. Yoshida: Well, I guess it still requires a building permit and it was after-the-fact.

Mr. Hopper: Just to note this is an administrative fee. It is not a fine. It's not appealable. It was sent to you, I guess, 'cause there was a letter sent to you, and being the correspondent. There's no appeal hearing set. It's not on your agenda. It was in your packets so I understand why you're dealing with it, but it's not like an appeal item right now. So I don't think there's any action required. And it's a fee that was charged.

Mr. Yoshida: Yeah, we use the term "fee," not "fine." Okay, our next meeting is scheduled for July 13th. You have Council Resolution No.--

Ms. Buchanan: Wait, wait. Back to the open projects.

Mr. Yoshida: Oh, okay.

Ms. Buchanan: Your request for comments to Molokai Ranch, they asking for request for comments. That's what "RFC" means, yeah? No? That's what means, "RFC" on page – no more page, page 1 of 3, Molokai Ranch, seven meteorological towers. There's a request for comment. That's to the staff, to Planning Department?

Mr. Yoshida: Right. I believe that that has subsequently been withdrawn by Molokai Renewables LLC.

Ms. Buchanan: That's withdrawn?

Mr. Yoshida: The request for comments has been withdrawn by Molokai Renewables LLC.

Ms. Buchanan: Okay.

Mr. Yoshida: And they will be submitting a subsequent request.

Ms. Buchanan: They resubmitting? Okay.

Mr. Yoshida: Yes.

Ms. Buchanan: Model – on the same page, the Model Railroad Hill. And it says “grading (tunnel/Papohaku Beach),” and that’s an SMX. So that’s pending. Going come to us?

Mr. Yoshida: That’s, yes, still pending.

Ms. Buchanan: Okay. They asking to do grading or tunneling, or we don’t know yet, because Nancy– Who is that? Yeah, that’s Nancy’s case, yeah, McPherson? Okay.

And then Nancy get D&J Ocean Farm. That’s still pending. That going be one environmental assessment, yeah?

Mr. Yoshida: Yes, this was submitted by Kamehameha Schools.

Ms. Buchanan: Kamehameha Schools. Okay. What is “CPA?”

Mr. Yoshida: CPA?

Ms. Buchanan: Yea, what does “CPA” mean?

Mr. Yoshida: Community plan amendment.

Ms. Buchanan: Okay. So the condo, the Chopra Hale Condo going be one – they coming in for one community plan amendment.

Mr. Yoshida: Right.

Ms. Buchanan: Because they like go from single to multi family dwelling. Aha. Okay. And then last question, Melvin Chang, the SMA appeal.

Mr. Yoshida: I’m not sure exactly what that is because that’s handled by our Zoning Division. But I can report at the next meeting what that is. Any other questions on our report?

3. Agenda Items for the July 13, 2011 meeting

Mr. Yoshida: Our next meeting is scheduled for July 13th. We have continued discussions on Council Resolution 11-24 related to short-term rentals. The resolution is available online on the County website, Planning Department, Pending Legislation. As well as the Molokai Community Plan is available online on the County website, Planning Department, Long Range Planning Division. And I’ll talk to Nancy about any other SMA assessments that she are ready to go for the Commission for that day. If there are any other items from the Commissioners that they wanna place on the July 13th agenda?

Mr. Sprinzel: Thank you, Clayton. Everybody happy? We will adjourn this meeting and thank you all for your attendance.

4. Status of Molokai Planning Commission vacancy

Mr. Yoshida: I would say one more thing. Regarding the vacancy, the Mayor has nominated an alumnus of this Commission: Janice Kalanihuia to fill out the rest of the term of Napua Leong. And she went to the Policy Committee this morning. So hopefully, by mid-July, we'll have another Commissioner on board. The status of Commissioner Williams kinda rests still with the Mayor's Office. And so hopefully, we'll have at least another person that can attend to make quorum by the middle of next month. I think that's all we have to report, unless Director has— Oh, yeah, we did that amendment to the Chapter 205A, Coastal Zone Management that starts effect on Friday. We can talk about it at the next meeting, but just the way it is, it does extend the minor permit threshold from \$125,000 to \$500,000. So you could come in with a \$480,000-dollar commercial addition, and that could be a minor permit.

Mr. Hopper: Of course, that doesn't make difference for you because you still hear minor permits and major permits. So different on Maui.

Mr. Yoshida: Okay, that's all we have to report.

Mr. Sprinzel: Thank you, everybody. Good to see the Director here.

G. NEXT MEETING DATE: JULY 13, 2011

H. ADJOURNMENT

There being no further business to come before the Commission, the meeting adjourned at 2:52 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

John Sprinzel, Vice-Chairperson
Debra Kelly
Lori Buchanan
Ron Davis
Zhanterell Dudoit

Excused

Mikiala Pescaia, Chairperson
Nathaniel Bacon

Absent

Don Williams

Others

William Spence, Planning Director
Clayton Yoshida, Planning Program Administrator
Gina Flammer, Staff Planner
Michael Hopper, Deputy Corporation Counsel