

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
AUGUST 10, 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 Chair Mikiala Pescaia at 12:10 p.m., Wednesday, August 10, 2011, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

Ms. Mikiala Pescaia gave an introduction in the Hawaiian language.

Chair Pescaia: Welcome to this community of Molokai. My name is Mikiala Pescaia. I serve as the Chair of the Molokai Planning Commission. I welcome you to our meeting today. To my right is our Vice-Chair, Commissioner Sprinzel. Joining me here today are Commissioners Buchanan, Commissioner Kelly, and Commissioner Bacon. Also, to my left is our Corp. Counsel, Michael Hopper. Joining us from Maui Planning Department, Clayton Yoshida; and our Secretary to Boards and Commissions, Ms. Suzie Esmeralda. We also have on hand our Molokai Staff Planner, Nancy McPherson. Welcome.

B. INTRODUCTION OF NEW MEMBER - JANICE KALANIHUIA

Chair Pescaia: First thing on our agenda was to introduce our new Member: Ms. Janice Kalanihulia. You may be familiar with her. She leads the Molokai General Hospital. She has been newly appointed to this Commission to serve in the recent vacancy. She was unable to join us today for a formal introduction, so when she does join us at the next meeting, we'll be sure to recognize her and welcome her to this Commission.

C. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Chair Pescaia: At this time, we would like to open up public testimony on any planning or land use issue. For those of you who would like to provide comments on an agenda item, but cannot wait till that item comes up, and you would like to offer your testimony now, you're free to do so. If you can wait, we ask that you hold off until it comes up and present it at that time. Or if there are any other issues that you would like to bring to our attention that we can put on a future agenda, now would be the time. Seeing none, we will move on to the approval of minutes of the May 25th meeting.

D. APPROVAL OF MINUTES OF THE MAY 25, 2011 MEETING

Chair Pescaia: I will entertain a motion.

Mr. John Sprinzel: I propose we accept the minutes of the May 25th meeting.

Chair Pescaia: Do I have a second? Second by Commissioner Bacon. That was a motion by Commissioner Sprinzel.

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

It was moved by Mr. Sprinzel, seconded by Mr. Bacon, then unanimously

VOTED: To accept the minutes of the May 25, 2011 meeting.

Chair Pescaia: Okay, thank you. Motion carried. Next order of business, we have the Planning Department, Mr. Spence, requesting concurrence from this Commission for an SMA exemption for the proposal that I believe we looked at last meeting from DAGS, the Department of Accounting and General Services, in regards to three civil defense warning sirens to be installed.

E. UNFINISHED BUSINESS

1. **MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**
 - a. **STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES submitting a Special Management Area Assessment for replacement and relocation of three civil defense warning sirens at Duke Maliu Park, Kamiloloa, and One Alii Beach Park, sirens to be omni-directional and solar-powered, TMKs 5-3-003: 012, in DOT Right-of-Way fronting 5-3-003: 012, 5-3-002: 052, 5-4-006: 999, and 5-4-003: 023 located in Kaunakakai, Kamiloloa, and Makakupaia, Island of Molokai. (SMX 2011/0133) (Valuation: \$340,000) (N. McPherson) (Previously discussed at the July 27, 2011 meeting.)**

Chair Pescaia: I believe we're in receipt of a letter. Commissioners, you should've received a letter today that responded to the questions that we raised at the last meeting. So I'm assuming that they haven't sent a representative this time.

Ms. Nancy McPherson: Don't assume. Thank you, Chair. Nancy McPherson, Staff Planner. Aloha kakou, Commissioners. And we do have Fay Alailima-Rose here from Civil Defense from Oahu. And she also has a short power point presentation that she'd like to make to you. She generated the map that you were given today. And she also got a response from Civil Defense, which is the letter in front of you today based on an e-mail that I had sent them relaying your questions and concerns from the last meeting. So that's the new information. Please, if you need time, let's take the time to take a look at those responses. And then she would— I'd like to defer to Ms. Alailima-Rose to let her make a short presentation, if I may? Okay.

Ms. Fay Alailima-Rose: Aloha. Thank you for seeing us today on this request. I'm from the Hawaii State Civil Defense. And we are looking to upgrade a lot of the sirens in the State of Hawaii through all the counties. So the power point that I have here is to – just to give you a background of where this request stems from, and a little background on how these warning systems work.

The siren warning system is activated by the counties only. The State doesn't activate these. These come from either the Counties' Civil Defense or the Counties' Police Departments. And we use the County – their County radio networks, and they talk to each of our sirens to get activated in the times of emergency.

The siren modernization program that I'm working on is to upgrade our sirens. You see from the left there, our sirens, our old mechanical sirens with wood poles and wood boxes at the bottom. And we're trying to upgrade them to get them to be more reliable, outdoor, all hazard-type warnings. So they're not only in tsunami zones. They're in other populated zones.

And at the bottom there, you'll see what we're trying to do. We're trying to move from wood poles to composite poles; from power – AC power to solar power; from mechanical motors to electronic sirens. We want to standardize our controls. We have sirens that have different manufacturers. It's been an interface problem in trying to communicate with them all. So we're trying to standardize the controls. We also are gonna be adding controls in there so that we can monitor the health of the siren. Right now, we don't know whether the siren – the batteries' dead or is not working. So we're trying to do some remote monitoring because we had a lot of complaints that some of the sirens aren't operating. And then the last thing that we wanna do is to add satellite control and GPRS, commercial wireless control, which is an alternate method to the Police Station method, so that we can get to that siren and activate it in the time of emergency, if the primary system fails.

The legislature has allotted 14.2 million towards this project, which will fund about 58 percent of the project. And we – for fiscal year 1213, they've added another 3.3 million, which leaves us with an unfunded 8.2 million. We're looking to put in 271 sirens throughout the State: 125 of them will be upgrades, and 146 will be new sirens. So that kind of gives you an idea of this is a part of a bigger picture that we're working on.

We're having some permitting issues with trying to get these through quickly, so we are entering into MOUs with different counties to be able to be clear about the permitting issues trying to get these through, and also, the issues regarding using County sites. And Maui has, I think, approved or is close to approving their MOU with the State so we can get these sirens in.

Honolulu County has 73 sites that need upgrades and 52 sites will be added. Maui has 27 upgrades and 32 adds. Hawaii, also, they passed their resolution. They have 13 sites that need upgrades and 51 sites will be added. And then Kauai, with the least amount has 12 sites that need upgrades and 11 sites that'll be added.

You all should have a map of Molokai, yeah, sites. And that's just basically the background of how this project came about. It's part of a larger project. Thank you.

Chair Pescaia: Commissioners, you have any questions?

Ms. Lori Buchanan: I get one question for Fay. Thank you, Fay. This was enlightening. I found out that my county activates this. I never knew that before. And I was kind of surprised to see that you trying to get into one MOU with the National Park Service, but only the Park Service that is receiving land, water, conservation funding, which is State general funds, right?

Ms. Alailima-Rose: Right. We're having issues with what we call "success sites." And we're working with the Park Service in trying to resolve that.

Ms. Buchanan: Okay, so using your Google map, the one you gave us, I wanted – I had one question about the one that is MA516, which says "Kalae Picnic Area, Molokai." I'm gonna just assume that that's in the Palaaau State Park because it's State lands.

Ms. Alailima-Rose: Yeah.

Ms. Buchanan: And then what was the justification for having a siren at Palaaau State Park?

Ms. Alailima-Rose: I think that for – we find that it's easier to try to get these sirens in a park area because, well, one, you've got the tsunami-inundation zone, but the other thing is that when these sirens are placed in the middle of a residential area, it's very difficult because

you want the houses— My background is an electrical engineer. We want to try to stay away from being directly next to a residential house. And so we try to pick schools or a property where we've got kind of a clear area, and then we can get out to everybody.

Ms. Buchanan: Okay. Fay, how much per unit? When you install a new unit, what is the break down on a new unit installation?

Ms. Alailima-Rose: The total cost is \$85,000.

Ms. Buchanan: \$85,000.

Ms. Alailima-Rose: \$85,000. And the equipment cost is about \$35,000. That's just the installation cost.

Ms. Buchanan: So I would take the \$85,000 plus the \$35,000, and that would be the total I would get per whole?

Ms. Alailima-Rose: Oh, no: \$50,000 installation; \$35,000 equipment; \$85,000 total.

(Ms. Zhantell Dudoit then entered the meeting at approximately, 12:20 p.m.)

Ms. Buchanan: The reason why I raising this is because that property belongs to the Department of Hawaiian Home Lands, which is leased to DLNR. And just because we were having – the community was having discussions with DHHL on the use of that land, and in conjunction, it's just the more improvements that the State makes to property, the less chance DHHL has of receiving those properties back. So now you looking to make one other \$85,000 improvement. Thank you. I just wanted that personal information. Thank you.

Ms. Alailima-Rose: Okay. No problem.

Chair Pescaia: The current poles that will be removed, the ones that are being decommissioned, at the base, they're just posts in the ground and not connected to cement slabs?

Ms. Alailima-Rose: Currently, that's the case. So when we pull out, they normally will pull out with – you know, some of them might have a little bit cement, but not a lot. The new ones will be embedded in cement.

Chair Pescaia: Okay. Because at the last meeting, it was represented that the current poles also had a big cement base attached to it, and that's what we were asking about in the removal. That was the first issue that came up.

Ms. Alailima-Rose: That one, over time, the newer ones had more and more cement, but the older ones—and those were the ones we're pulling out—they only had a small cement cap, and the pole was direct-buried.

Chair Pescaia: Okay.

Mr. Sprinzel: Thank you. You did a good job of answering our questions. How tall are the existing poles?

Ms. Alailima-Rose: The poles are 45 feet and we'll be burying them ten feet under the ground. So it'll put them up at 35, and then you add another ten feet for the sirens on top of it.

Mr. Sprinzel: And how tall are the existing poles?

Ms. Alailima-Rose: Oh, the existing poles, they should be approximately the same height. So they should be at the 45 to 50-foot mark.

Mr. Sprinzel: Your predecessors must've got an exemption to have that height. I know all you're doing is replacing them.

Ms. Alailima-Rose: I don't know what the State was at that point.

Ms. McPherson: I've been trying to get information from our Zoning and Enforcement Division on that, and I haven't received a response yet. The sirens are going in, in the interim district, and the height limit for interim is 30 feet. Now, whether or not those poles originally got any variance or anything when they originally went in, I don't know. I haven't been able to find that out. But in the response from Civil Defense, we can see that they will proceed if they are required to, to obtain a height variance for installation of the new poles. So—

Mr. Sprinzel: Well, if they're the same height, I'm not bothered. You mentioned something about an Enforcement Division that exists?

Ms. McPherson: Yes, it does: Zoning and Enforcement.

Ms. Alailima-Rose: Some of these were put in the '60s, '50s. '60s, a long time ago.

Chair Pescaia: Question?

Ms. Buchanan: I just wanted to take advantage of Civil Defense from Honolulu while they was here. Fay, it's just funny to me because some of the locations that I not familiar with,

I'm sitting here thinking, okay, now, I like know where all the poles going go on DHHL lands. But it seems that at the elevation, which these poles are gonna go into is like maybe 2,000 feet, very far from inundation. And so it seems like for the State to spend \$85,000 on a pole in an area where it's not subject to inundation from flooding, it's kind of – it doesn't make sense.

Chair Pescaia: Well, I think the sirens also serve for acts of war, hurricane, earthquake, other kinds of natural disasters or hazards. So, yeah, I live Hoolehua. I like know when something's happening. Thank you. Maybe you guys like put one down in Halawa, too, because those guys get hard time communicate. It's not like people can call them up and tell them something is up. And I know people have to drive down there, and set off some sort of bomb so that people go, oh, what's that, and check it out so they can tell the people in the valley what's going on. I know that Civil Defense has an airplane, I think, that broadcasts a speaker, but in the last couple rounds, they said they didn't hear anything, the people who live in the valley. Put one more down the end.

Ms. Alailima-Rose: I think you can – there's – if you have an SNS phone.

Chair Pescaia: No more service down there. Halawa is like a dead zone for all kinds of communication. There's no electricity. There's nothing. And that place has a lot of people living down there on that end.

Ms. Alailima-Rose: Police radio? Can police radio . . . (inaudible) . . . ?

Chair Pescaia: I don't know, but you gotta power the radio. They don't even know that something is up like to turn it on. So just like the tsunami that happened, the Japan one, that was nighttime. So everybody is bunkered down and they don't even know that something was going on.

Ms. Alailima-Rose: That's a good point.

Chair Pescaia: Yeah, Halawa. We get kupuna over there. Okay. So have all our concerns been addressed? I think so. At this time, though, I would like to open up public testimony. If anyone here would like to offer comment on this agenda item, you are free to do so at this time. Seeing none, public testimony is now closed. Commissioners, I will entertain a motion or if there is any further discussion?

Mr. Sprinzel: I'd propose a motion that we accept the Department's exemption.

Chair Pescaia: Motion by Commissioner Sprinzel, second by Commissioner Buchanan. Alright. Discussion?

Ms. Buchanan: No, but did you need to take public testimony again? No, yeah?

Chair Pescaia: I did, and then nobody said anything.

Ms. Buchanan: Thank you. Thank you, Chair.

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

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

VOTED: To accept the Department's exemption.

Chair Pescaia: Five votes makes that unanimous. Motion carried.

Ms. MacPherson: Mahalo, Commissioners.

Chair Pescaia: Thank you very much for coming and addressing us, Ms. Alailima-Rose. That was very helpful. Wish you were here last time. Okay.

On to our next order of business, we have Item F, Communications No.1-a. Mr. Manera, you are up twice. Alright. The Planning Director is requesting concurrence for an SMA exemption on the following issue: the Wavecrest AOAO submitting an SMA assessment for re-roofing of the front office building. It's a 2,500 or so square foot roof area with the same materials as the existing roof. No ground-disturbing activity. Pretty straightforward. Planner McPherson?

F. COMMUNICATIONS

1. **MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**
 - a. **MR. LUIGI MANERA, consultant on behalf of the WAVECREST AOAO submitting a Special Management Area Assessment for re-roofing of the front office building, 2,508 square feet of roof area with the same materials as existing, no ground disturbing activity for property situated at 7148 Kamehameha V Highway, TMK: 5-6-004: 055, Manawai, Island of Molokai. (SMX 2011/0293) (Valuation: \$30,000) (N. McPherson)**

Ms. McPherson: Just a moment. Let me grab the file. This item is for re-roof only. And it is for the office, which is the structure closest to the highway in the Wavecrest Resort Development. I did an assessment. You have exhibits. I drafted a short form, what we call our SM5 short form. And that is something that the Commission agreed – one of our streamlining measures, which sort of streamlines things to have certain– There are actually seven categories, although the civil defense sirens should be on that list too. Repair and maintenance of underground utility lines and– Oh, what happened there? Okay. That's a boo-boo. I apologize. That is the wrong box. That should not have been checked. Please cancel that out, and this is no. 6, repair and maintenance or interior alterations to existing structures. The recommendation for exemption is based on Exhibit A, assessment and exhibits. I did check. The applicant did submit an average lot depth calculation and a shoreline setback estimation. And because the work is clearly outside of the shoreline setback area, if you'll look at Exhibit 3, we estimated the shoreline setback at 90 feet. And it's 395 feet from the shoreline. Therefore, it is well outside of the shoreline setback area. And it is for re-roof only. So we're recommending exemption for this project. And Mr. Manera is the consultant, and he is here also to answer any of your questions. You actually issued an SMA exemption previously for the re-roofs of the three residential buildings years ago.

Chair Pescaia: Commissioners, do you have any questions? If not, I would like to open up public testimony. If anyone would like to offer their thoughts or comments on this project, you're welcome to. Seeing none, testimony is now closed. Commissioners, any discussion? If not, I will entertain a motion.

Mr. Nathaniel Bacon: One question is I guess for Luigi would be are they stripping off the old shingles, or are they just putting new ones on? I mean I don't know how many layers are there so–

Mr. Luigi Manera: Commission, Mikiala, Commissioner– It's on? Yeah, they strip the whole roof and they replace it with a new one, of course, felt and . . . (inaudible) . . .

Ms. Debra Kelly: Sorry. I had a question, too. Sorry. Late turning it on. Where do you plan to take the material that's removed?

Mr. Manera: I assume they take it to the dump. I'm very sure.

Ms. Kelly: I think you need to check because I don't know if we do that. It's construction and demolition materials. So maybe check on it?

Mr. Manera: Sure. Thank you. I know for construction material, they charge a fee. It's a different fee to be paid, but I will check. Thank you.

Chair Pescaia: Any more questions?

Ms. Zhantell Dudoit: What year was that building constructed? Before '76?

Ms. McPherson: 1978.

Ms. Dudoit: Okay. I was just wondering about the lead-based paint issue on the new policies for any building being built prior to 1976 requires a lead-based paint inspection prior to any demolition or removal of material from the building. So if it's '78, that's okay. I just didn't see what year that was in here.

Ms. McPherson: I think I stated that it was built in the 1970s, but I didn't have an exact year. So I'll try to get the exact year from now on.

Ms. Buchanan: Okay, Chair, you calling for the motion? Okay. I'd like to move that we concur for an SMA exemption for re-roofing of Wavecrest.

Mr. Sprinzel: Second.

Chair Pescaia: The motion by Commissioner Buchanan, seconded by Commissioner Sprinzel. Any discussion?

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

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

VOTED: To concur for an SMA exemption for the re-roofing of Wavecrest.

Chair Pescaia: Okay, motion carried.

Ms. McPherson: Thank you, Commissioners.

Chair Pescaia: On to our next project, we have Mr. Manera again consulting on behalf of Robert and Pamela Matson requesting an SMA assessment for an addition and renovation to an existing 960 square foot single family dwelling; a 440 square foot carport, which will be adding 892 square feet of covered area; minor excavation less than 24 inches for a new garage, and patio slabs, and seven new footings at 215 Kolapa Place, which is located in the Ranch Camp area.

- b. MR. LUIGI MANERA, consultant, on behalf of ROBERT and PAMELA MATSON, applicants/ owner, submitting a Special Management Area Assessment for an addition/ renovation to an**

existing 960 square foot single-family dwelling and 440 square foot carport, adding 892 square feet of covered area, minor excavation (less than 24 inches) for new garage and patio slabs and seven new footings at 215 Kolapa Place, TMK: 5-3-008: 014, Kaunakakai, Island of Molokai. (SMX 2011/0077) (Valuation: 155,000) (N. McPherson)

Ms. McPherson: Thank you, Chair Pescaia for delivering the project description for me. This is another addition and renovation in Ranch Camp directly across from the, you know, parking lot, basketball gym, and swimming pool, and youth centers there at upper Mitchell Pauole Center.

The project was transmitted to State Historic Preservation in April, but there was not a response. As you all know, that's been a trend lately. Projects for individual – private projects for individuals are unfortunately last on the list for SHPD review. It goes Federal, State, County, and then private individuals. So what we are trying to do is gather as much information together as we can at the Planning Department to try to fill that gap, for now.

And with previous projects that have come before you in Ranch Camp, we have referred to the site visit that was made by the SHPD archaeologist. In April, she toured Ranch Camp. There were a number of projects that she visited the sites of specifically. So she got a really good feel about what that subdivision is about. And although she did not make a site visit for this particular project because it hadn't come before her yet– It came before her shortly after that or about the same time, I think, but she had many, many projects that she had to try to see in two days while she was here. So her assessment was that Ranch Camp is an existing improved developed area. And that there – most kinds of activities in Ranch Camp are not likely to impact historic resources or cultural properties. So that's the basis of this recommendation for exemption, as well as the fact that the excavation for footings is limited, a maximum 14 inches for two slabs and seven footings.

Therefore, I'm recommending that this addition/renovation be exempted from the SMA rules, and I'm requesting that you concur with that recommendation. There were after-the-fact fees levied for some construction that was initiated within the existing dwelling after the SMA assessment had been submitted. And they have paid those after-the-fact fees. So they're good to go.

Ms. Dudoit: So we're just disregarding this letter at the back of your packet?

Ms. McPherson: The situation with the fee is that they are part of the fee legislation that was approved by the County Council. The Planning Department does not have the authority to waive those fees. What we do have the authority to do is take the one

thousand-dollar flat fee, and then assess basically, zero to 50 percent of the assessed value of the after-the-fact improvements that were done. In this case, the valuation of those improvements were \$2,107. We assessed those fees in addition to the thousand dollars of zero. And then we deducted the filing fee that was paid of \$165 for the SMA assessment. So the total fee that was paid was \$835. And that, we took it down as low as we legally could. And that letter was included because it was submitted by the applicant. And unfortunately, it's not under our authority to waive the fee, refund the fee. The Council, the County Council has to change the law.

Chair Pescaia: Any further questions at this time?

Ms. Kelly: I just have some concerns about the added hard space, hard areas, and the runoff because it's already a silt property. There's no vegetation on the ground. And with this added hard surfaces, the runoff that would go on the street, down the road, to the drainage, to the ocean.

Ms. McPherson: Yes, I understand that we do have a problem with drainage coming down from Ranch Camp during heavy rain events, and flooding out Duke Maliu Park, and creating a standing wave that the kids can boogie board on as it goes dog legs around the elementary school. I've actually seen that happen, but in our existing code, as it is now, we can allow these improvements. What ultimately needs to happen, and I think one reason Ranch Camp is in the SMA, is that the entire subdivision needs to be reevaluated in terms of drainage that's delivered down into Mitchell Pauole Center. And then the drainage that takes it under the highway, or in some cases, across the highway, and out through the subdivision along the ocean there, the adequacy of that drainage system. We all know it's probably not really adequate for the heavy rain events that we can have sometimes. That's a job for Public Works. That will probably need to come up in the community plan update and become an implementing action. And then when the plan is implemented, Public Works will be directed to do that. That is a problem that is really for the entire subdivision. It's an older subdivision. When it was improved— You know, I looked at this when I looked at the Kawela Beach Lot subdivision. These are older subdivisions, and the standards were different back then. What I don't think we can do today is I don't think we can put the onus of that on individual property owners within that subdivision much as we might want to alleviate the situation by limiting the amount of impervious surface, that's done on each lot. What we don't have right now in our Public Works' code, in our Title 16, and our zoning is any way to really regulate the amount of pervious surface that's created on each lot. That is another thing that could be an implementing action for the community plan. The community has to push the County to do those things, to deal with those situations.

What's difficult is when someone buys a lot in an existing subdivision, and basically, meets our code, and what they're proposing is legal, and allowable for the zoning, and for that lot.

They're meeting the setback requirements. And we are really constrained in how much we can require them to deal individually with those kinds of impacts. I'm not saying they're not important to think about. I would encourage the applicant and the consultant to figure out ways to keep water from running off that lot. I do believe that in other areas of the island, an unimproved land, the County does require— Let's say for the Molokai Community Health Center at the Pau Hana Inn, they have to contain all of that runoff on their land. But because this is a subdivision, and because there were little natural drainages that were left coming down there, that's the way that subdivision was originally designed. It was considered adequate at the time. I'm sorry that's a very long answer, but—

Ms. Kelly: No. Okay, my understanding was that that particular TMK is a separate TMK, and the current amount of runoff cannot exceed what it is now. But with the added surface, hard surfaces, it will probably increase.

Ms. McPherson: Okay, I think I see what you're saying.

Ms. Kelly: And not that – you know. It's only because there's no way we can ask them to just plant the grass. I mean, that will help with the runoff. That's kind of my concern because the whole property looks like bare ground. And I understand the whole area is of concern, but individual property owners are responsible for their area. And so that's my concern.

Ms. McPherson: Okay, well, maybe – can you come up and use the mike, okay, please? Or I can bring it over to you. I think they might have plans along those lines, but those might not be on your site plan.

Ms. Pamela Matson: I'm Pamela Matson. This is the house actually my husband and I bought. And actually, just listening to this conversation, I just wanted to let you know that we plan to have a yard. The runoff is an issue for us. Because of the slant, it comes straight at the house. So there are things we plan on doing and having actual grass so the kids can play in and not just dirt and rock. So if that helps you at all, that's gonna be grassed.

Chair Pescaia: If you're not aware of this property, it was previously occupied by the ambulance, the paramedics, that house. So they weren't really big on having landscape, but I know the Matsons have little children, and I just know she had expressed earlier about having a complete yard put in so that her family can safely play in their yard because they're so close to the road that has high traffic. So I know they're going to make it up really nice inside the property.

Ms. McPherson: Well, and one of the things that people can do – you know, if it's a small enough area, they don't even need a grading permit for this. They could create vegetated

swales also on the property. Get an idea of where the water is running and create something to stop it. And what that also does is it increases the water that's irrigating your property. It stays on your property, and it waters your plants and your grass. So, yeah, we can always educate folks on doing those sorts of things. So thank you, Commissioner, for bringing that up.

Mr. Sprinzel: Michael will probably correct me, but at the Urban Design Review Board on Maui, we used to very often insist on plantings for this very reason. That's one point. So we do – there are some teeth available. And the second thing is if you tell somebody to plant stuff up there, they've got to water it. And then they're gonna add to it. So it's bit of a dilemma, really.

Mr. Michael Hopper: Yeah, certain projects require landscape planting plans. The Maui Planning Commission typically requires a condition – again, it doesn't review exemptions, but for permits, oftentimes requires a condition. I don't know if they do it every time. I think by code, any new development has to retain all of the additional runoff that's created. The Maui Planning Commission typically requires the development to retain all pre and post runoff development, or pre and post development runoff. Sorry. So basically, they require the developer getting the permit to also retain the runoff that the property is creating both before and after. So it goes a step further. That's what the Maui Commission does. And again, that's for permitting. It's still up to you what conditions you would want to put on if it was a permit. But just as an FYI, that's what I think, Commissioner Sprinzel. That part is reviewed and drainage is an issue through review as part of your SMA.

Mr. Sprinzel: I must say I'm fairly happy with what the owner's gonna do. I'm confident that if they have a family and kids, they're gonna do a bit of lawn and stuff. So I'm not worried about that.

Ms. McPherson: Yeah, skinned knees are no fun to deal with.

Mr. Bacon: Two things: one is like Kawela had – to do their subdivision, they had to have SHPD come in and they get an evaluation of all the properties. So anybody that comes in that's within that SMA area in Kawela, if there is part of in there, they wouldn't have to do a separate evaluation, right? And is that not the case up here like in Ranch Camp or in any of these earlier subdivisions? Were they ever required when they were doing it?

Ms. McPherson: Well, you have various factors going on. You've got a subdivision that was created. The roads and some of the – you know, the infrastructure was put in, but the lots were never cleared and prepared for homes and all of that. That's one kind of subdivision. Another kind is Ranch Camp, which my understanding was there was a lot of grading and improvements done when those lots were created, but I look at some of them and they – you know. And then Kamiloloa, you know, a lot of that land was never graded

and that sort of thing. But I have not found an archaeological report for the Ranch Camp Subdivision. I know that there was a survey done behind Ranch Camp where the Department of Water Supply's water tank is, and that there were a lot of sites found up there. And that's one reason that development hasn't continued to occur. That's supposed to be an urban reserve area, and the potential for affordable housing, but there's actually a lot of archaeological resources up there. So that's a concern.

But as far as Ranch Camp goes, what we could do is get coastal zone management funds, do a study of the entire subdivision, work with the property owner, and figure out a way to mitigate the runoff for that whole subdivision, and assist all of those individual property owners in berming, and vegetating, and doing the things they need to do to keep the soil from running through the creeks and out through the park. And that's a great project and I hope that happens some day soon.

Mr. Bacon: Okay, and then my second question is, this is a two-story building. We don't have the exact height of it which is probably under our 30-foot anyway, but I'm just wondering. Even though it's not under purview, does Ranch Camp or any of these other areas like that— I know some people have been building two-story houses, and they block the view of somebody behind them. And I don't know. Do they have a covenant that says you can or can't do two stories?

Ms. McPherson: No, the zoning is interim. Two stories are allowed by the code. So it's basically based on your zoning. And there is no design review. If you had a design – if it was a planned development and you had design review, then all of those things would be sorted out. They'd even have building envelopes for where you could build your house on the property. But this is an old subdivision, and it was just – the lots were just made, and you could build a house. In fact, I heard recently about a house that was originally sited for the driveway to go on to this side of the lot, to this street. But they actually built it going that way. So the driveway comes out to that street. So they didn't even build it to the orientation that it was originally supposed to be. So they're allowed to do a two-story, yeah.

Ms. Buchanan: Chair, I have one. The same-o, same-o questions. Sewage capacity, I'm assuming it's – I liken this to the last project we just did in Ranch Camp, which was the church, the Catholic Church. And then my concern then was the same concern now that at some point, we're gonna have build out capacity, and we're gonna have the issue with McMansions like they do in Wailuku. So again, sewer, which I'm gonna just assume that you're moving to now having a total of five bedrooms, two baths, a laundry room, a study, two lanais, and a new carport. So again, parking requirements for a five-bedroom, two-bath home, is that sufficient that they're gonna have the onsite parking? That was not clear.

Ms. McPherson: Maybe I can ask the consultant to respond to that. Yeah, as far as I know, they can't get building permits unless they meet all of the code requirements.

Mr. Manera: Commissioner, Luigi Manera. As far as the sewer capacity and also the water for the water meter, that's already been reviewed and approved from both departments. The only department has to sign off on this permit is the Planning Department. So all the other agencies, they already reviewed and approved this house as far as that goes. As for the parking goes, I don't know if they show on the picture, but there is a 20 feet by – let's say, probably 40, 50 feet already paved. That's what they gonna use for parking. They only require two. This is already paved.

Ms. Buchanan: Okay, for the five-bedroom single family dwelling, the requirement is you only have to provide two parking?

Mr. Manera: Two parking.

Ms. Buchanan: Is there room for tandem parking? I can see that plan and I can see that there's a garage.

Mr. Manera: Yeah, this is a garage.

Ms. Buchanan: Yeah, so we wanna encourage the homeowners not to park on the street, yeah?

Mr. Manera: I no think so. It's paved already.

Ms. Buchanan: Because we saw the Catholic Church move from one standard home to like six bedrooms or whatever that was. And so you can just assume– We just trying not to get into that problem like Wailuku get.

Mr. Manera: Even for the church, though, despite of the six bedrooms, they only require to have two parking. That's the way the law – because it's a single family dwelling.

Ms. Buchanan: Okay, thank you.

Mr. Manera: You're welcome.

Chair Pescaia: Commissioners, you have any more questions at this time? If not, I will like to open up public testimony on this item. If anyone out there has comments or concerns, now would be the time to express them. Alright, seeing none, the public testimony on this item is now closed.

Ms. Kelly: Okay, I make the motion to approve.

Mr. Sprinzel: Second.

Chair Pescaia: Motion by Commissioner Kelly, second by Commissioner Sprinzel. Discussion?

Ms. Dudoit: No discussion. Just wanted to reiterate the long conversation we had last meeting – I mean, before, requesting that the department supply us with all prior approvals and included in the packet so that we can see the full spectrum of what we're supposed to make a decision on. We talked about this the last time. If there are prior approvals from the Department of Health, from the Water Department, whatever, if it can be included in our packets.

Ms. McPherson: Yes, Commissioner Dudoit, the – in this case, when they submitted a building permit, the various departments just sign off on the building permit form. So are you saying you'd like a copy of the building permit because that's all they get? They don't issue individual letters for each building permit. That would be way, way too much work.

Ms. Kelly: I think what we're talking about is that we'd just like to know that it was approved because then we know that different departments look at different things, so, yeah, we don't have to ask.

Ms. McPherson: Okay, I'll make sure I figure out some way to either print it from our KIVA system, or get a copy of the building permit with the checks. Okay.

Chair Pescaia: Awesome.

Mr. Sprinzel: I think it would just be simpler if you just wrote somewhere in there that the application has been approved by the blah, blah, blah, blah. And then we'd know, wouldn't we? You don't have to include any bits of paper.

Ms. McPherson: For the building permit, you mean?

Mr. Sprinzel: Yeah. Where you're asking for an exemption, you can say that this application has been approved by the Water Board, the sewage.

Ms. McPherson: Well, I don't transmit the SMA assessment application to all the agencies because that would be redundant with the building permit approval process. So what I do is I do transmit it to the State Historic Preservation. And depending on the location of the project, the nature of the project, the different kinds of activities, and site improvements, I can also transmit it to other State agencies, Federal agencies, etc., as necessary. But

when it's for a single family home, especially, an existing one that's maybe a remodel or an addition, we defer to the building permit process. Now, a lot of times and this case, as Mr. Manera has shared, the building permit is already totally approved. And the only thing that's left – actually, Zoning's probably even signed off on it. The only thing that's left is the SMA because that takes the longest. So we don't circulate it twice.

Mr. Sprinzel: But it was the same with the church properties, the two church properties, in fact. The architect in both occasions said, yes, we already have water approval, and this approval, but we didn't know this until they told us.

Ms. McPherson: Okay, well, I can just make sure that whatever approvals have already been given for the building permit that I give that information to you in writing.

Mr. Hopper: Just keep in mind it's gonna be whatever's been given. So my understanding is unless you're talking about an after-the-fact, you would need your SMA exemption prior to getting your building permit. It's my understanding because you need your assessment and your SMA signed off as part of the process, as I understand it. How could you get a building permit before getting an SMA exemption?

Ms. McPherson: Right, no, but there's different reviews that the different Departments give for building permits.

Mr. Hopper: Right, so you would give whatever stage they're in and what approvals they would have, but I just wanted the Commission to keep in mind, I don't think you'll be getting a fully approved building permit in most cases, yeah.

Chair Pescaia: Any further discussion?

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

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

VOTED: to approve.

Chair Pescaia: Motion carried. Unanimous. Thank you very much.

Ms. McPherson: Thank you, Commissioners.

Chair Pescaia: Moving right along, we have under Communications, Item no. 2: Mr. Adamo, who is the president of Ke Nani Kai AOA requesting an SMA minor permit for the relocation of 50 solar PV panels from the north side of the office roof to the roof of the residential condo building to the north, which is above Units 245 and 246. Also included,

the excavation for 65 feet of trenching to a depth of 24 inches, and laying of electrical cable to mitigate glare at 50 Kepuhi Place. This project has a valuation of \$10,000. It was previously at our last meeting. It was separated out and has been re-prepared for us as its own individual project. Hopefully, I've stalled long enough that Planner McPherson is ready for the next one.

2. **MR. MICHAEL ADAMO, President of the KE NANI KAI AOA requesting a Special Management Area Minor Permit for the relocation of 50 solar photovoltaic panels from the north side of the AOA office roof to the roof of the residential condominium building to the north above Units 245 and 246, excavation for 65 feet of trenching to a depth of 24 inches and laying of electrical cable to mitigate glare at 50 Kepuhi Place, TMK: 5-1-003: 013, Kaluakoi, Island of Molokai. (SMX 2010/0445) (Valuation: \$10,000) (N. McPherson) (Previously discussed on July 27, 2011 in the context of an application with a larger scope.**

Ms. McPherson: It's a marathon today. Okay.

Mr. Sprinzel: Before you start, it says "50." The drawing shows 30.

Ms. McPherson: It's 32? Okay, well—

Mr. Sprinzel: Then why does it say "50?"

Ms. McPherson: Because I was given various information. So what we can do is make that correction. And it is 32 panels. Thank you for counting.

We are requesting that you review this as an SMA minor permit with conditions. You have been given two new exhibits for today. And that is— I'm sorry, one new exhibit. And that is— Well, I take it take back, two new exhibits back-to-back on one page. And that is a glare analysis which if you look on the right-hand side, it's kinda small. But they do have an analysis of the sun, I believe, at various times. They also do have a letter about the material on the roof. And I know you had a number of other questions from the last meeting. The representatives of Ke Nani Kai and Synetrics are here again today. And they have tried to provide you with adequate information to base your decision on today. We did get specifics on the trench, the dimension of the trench and the location. My understanding is that that's the confirmed location of the trench. So if you have any more questions about the information contained in the memo, not gonna read through all of it, we can respond to your questions. And then once you've gotten all the information you need, I can go ahead and read the proposed – the recommended conditions.

Mr. Sprinzel: I'll make a little comment with two points, and then I'll shut up till the voting time. I put my solar panels in, in 1971, and my first photovoltaics in 1985, so I know a little bit about this. A non-reflective is the objective of most of the solar panels. That these reflect is defeating the object of the solar panel. It's supposed to absorb every little bit of sunshine. And if it reflects, then it's not efficient. And I don't know quite why it's doing this. Anyway, you could probably solve it by doing some sort of treatment to the glass panel, some sort of overlay, and then they could stay where they were, and they wouldn't reflect into anybody's house.

My second point is, if whoever is doing this walks up our road and looks at the ten different installations, there are metal frames on every single one of the arrays. They vary in degree. They vary in type. My simple answer to this if it was my project would be to alter the angle of the existing panels. You can raise the bottom, or you can tip them to one side or the other, the framework, which would save a huge amount of money, effort, time, and whatever. Right, that's it.

Ms. McPherson: Could we get Kevin to come up, and maybe he can respond to your comments, which are very informative? Thank you.

Mr. Kevin Comcowich: Kevin Comcowich from Sunetric Capital. So I'm on the investing side, so those are good ideas. I'll ask about them, but I don't have anything to comment on them. I assume that if they were easy fixes, the installation guys would've come up with them.

Chair Pescaia: I notice on this drawing or this image they have little depictions of the angle of the sun hitting the roof at different times of the day. Do you know what time of year these measurements were taken, and if they were counted for the sun moving up and down, and changing angles, basically throughout the year? And if – I mean, knowing that their panels can affect people, have they looked at neighbors farther away maybe even in the Kaluakoi Villas like on the other buildings, if they might be affected somehow by this glare?

Mr. Comcowich: Alright, so I'll give you what we tasked Sunetric with doing, which is different than Sunetric Capital. So they're the installer. What we asked them to do is do a glare study, and confirm that we were not gonna have any impact from glare, and that's what they produced. Again, I'm not an engineer. You know, they said that there's not gonna be glare, and this is what they provided to back that up. Beyond that, I can't comment.

Chair Pescaia: Do you know if a similar study was done prior to the first initial installation?

Mr. Comcowich: No. I mean, prior to the first initial installation, putting the panels where you see them today from the person that talked about the project initially with the AOAO, his view is that it absolutely would create a glare problem, which subsequently, it did. What was planned to have happen is the panels were gonna be relocated, and they were gonna build out a pool covering, and it was gonna be on a flat roof, which was the most limiting from a glare perspective. What happened in the process is that flat area over the pool was not built, and then someone on the fly made the decision to put it where – like I've said repeatedly, there's no question there's a major glare issue. So again, we came in as the investor to solve the problem. And again, the person who pulled the permit, the person who really ultimately should be responsible and probably will, you know, in time, is Sunetric, which is the contractor, but Mr. Canady's issue is substantial on glare, and we want to solve it as soon as possible.

Chair Pescaia: Do you happen to know where Mr. Adamo is today and why he's not here? Because I would love to ask him a lot of questions.

Mr. Mike Jennings: Mike Jennings, Ke Nani Kai Manager. Mr. Adamo is at this home in Phoenix, Arizona.

Chair Pescaia: Shucks, because a lot of these things that you guys didn't have– So I'm going back to the last meeting. There were a lot of decisions that were made that both of you were not a part of, helping us to understand. So – because what you just said to me was the people who are installing this again had a plan. They didn't follow the plan. Just changed the plan. Decided to do whatever they want. They didn't even bother to come in for the original application, SMA application, when they knew they had to get one. So they're just – the integrity of the people installing this project is very questionable to me. And I have a hard time looking at this, and going, okay, so what is represented is really what's gonna get done, because this paper you just gave me shows a built out patio and roof with what looks like a picture– That's not even there. I mean, that's not even part of this proposal. We're not even looking at an accurate picture representation of–

Mr. Comcowich: There is a small patio, but they planned to make it quite a bit bigger, and it was gonna accommodate–

Chair Pescaia: Are there solar panels on there right now?

Mr. Comcowich: Yes.

Chair Pescaia: So it looks like this? You're saying it looks like this?

Mr. Comcowich: Yes. My understanding is it does. But what they were planning on doing is building that out bigger, a bigger footprint, which was going to ultimately, accommodate those 32 panels that ended up going on the roof which causes the glare issue.

Chair Pescaia: Okay. In this application— Thank you for that. In this application, or in the agenda it says “65 feet.” The application says “68 feet.” On this drawing it says “Distance 61.27 feet from A to B,” which is in the middle of the roof. And there’s no pictures of the actual trenching. You know, it’s nice to have like, this the ground, this is where it’s connecting to. You know, people show very detailed—

Mr. Comcowich: Yeah, the trenching I think was in the original SMA.

Chair Pescaia: No, it wasn’t, because I was asking for it the last time.

Mr. Comcowich: I think on page 12 there was.

Chair Pescaia: I’m pretty sure it was a bird eye’s view kinda similar to this where it just had a line that said here to here.

Mr. Comcowich: Can I show it to you?

Chair Pescaia: Sure.

Mr. Comcowich: . . . (inaudible) . . .

Chair Pescaia: Right, so what I’m looking for is people like to bring us very detailed – something like this that gives you a side view that says, okay, this is where it’s connecting to this building, and it’s gonna come across. It’s gonna enter this building. Because then it has to run up two stories or however tall that building is. Do you know what I mean? Like there’s a little bit more details.

Mr. Comcowich: Yeah, we’re happy to accommodate what you want. Again, we’re—

Chair Pescaia: I’m just asking because I asked – that’s exactly what I asked for the last time was more details on the trenching because this is what we were looking at, but they didn’t tell me exactly where. He came up and testified that it was connecting outside of his office. There’s a panel, right? There’s a panel outside of your office behind the wall, and that it was gonna connect somehow to that. We were looking at how it’s gonna connect to the other side of the building. Because everything right now is contained on this office building, but now you’re going into a residential area. We were concerned about other irrigation or other pipes that were in the grass. We wanted to kind of see what the layout was on that. And because this is utility coming into a more common area – I mean, the

office area is the more administrative, you know, controlled area. But you have visitors and you have homeowners who are gonna be affected by this thing coming up. I just wanted to see that – something like this that tells me exactly how deep, how – what side conduit line is going in there. I mean, more details and I asked for that. I know I asked for that last time. So I'm just a little disappointed that this is what I got—a black and white version of this today. I don't usually get upset and I'm actually upset about this. So I'm sorry. I'm trying to tone it down.

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

Chair Pescaia: Well, it's just—

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

Chair Pescaia: And I know it's not your fault because you're not the contractor. You're not the one doing the installs, and it would be nice to have some sort of confidence from them, or this is what they're gonna do. So far all I've gotten was a bunch of B.S., run-around, and disrespect, really, for this Commission and this community. It seems like they knew they were gonna have glare issues. They knew that they had concerned citizens who would've said something. They knew they had to submit for an SMA. And they intentionally skipped over that part, and was prepared to pay the fines, and just proceed. And now we have this big issue. And I just don't like people who think they can do that in this community. And I know you're not the person this speech should be directed to. And I'm really sad that somebody had to be in Phoenix while this was all going on. I don't know how that weighs with this Commission. I'm just the Chair. So are there any other concerns or questions? And I usually don't make speeches. And you made me make one speech. Anybody else have anything to say before I open public testimony?

Ms. Buchanan: Thank you, Chair. I think we all have the same sentiments. And there's no in defense of anything, but at least somebody's here to stand and take the heat from the Chair. And I think the bottom line is Darryl Canady has this shining, glaring thing going on every day that he gotta live with. That's the bottom line. There was a lot of misrepresentations and stuff that went on that shouldn't have gone on. The fines were very substantial, in my opinion. If I remember correctly, it was in the seven to eight thousand dollar range, which to me is significant. I've never seen that type of fees, after-the-fact fees, incurred on any project. And this is my second term on the Planning Commission. So I'm happy with that – the Planning Department saw through the blatant misrepresentations and levied those fines, which unfortunately, the investor had to eat. So right now, there's a bunch of recommendations and conditions. It is now an SMA permit, minor permit. And so it's moved past exemption. So this is your time to put conditions, added-on conditions, if you don't already see them on staff's recommendations, and then

try to get this glare out from Darryl's house, and move on with them trying to get this project. And I think lessons have been learned.

Ms. McPherson: Would the Commissioners like me to read the conditions that we're recommending now? Okay, you've all read them?

Chair Pescaia: I going open testimony. Alright. So anyone who is wanting to offer public testimony on this Ke Nani Kai project, you are free to do so now, please. Alright. Seeing none, public testimony is now closed. Now would you like the conditions? Or you all read them and feel comfortable?

Ms. McPherson: We also have the determination. We have the items that we based the determination on, on page 3 of your memo. Based on testimony from the last meeting, and discussion, and revision of the assessment, we have determined that the project is a development. And we are proposing that it will have no adverse environmental or ecological effect based on proper implementation of the conditions of approval. So that's the conditions of approval. The purpose there supposed to serve is to mitigate impacts. And the proposal itself is a mitigation of environmental impacts. They have agreed to hire an archaeological monitor during all ground disturbing activities. And— Oh, I'm sorry.

Ms. Buchanan: No, no, Nancy, you going – you're on no. 3 and you're moving to no. 4?

Ms. McPherson: Well, I'm kind of skipping around. It didn't sound like you wanted me to read them all.

Ms. Buchanan: Yeah, no need, but let me just have one discussion on item no. 4, if you guys turn to the recommendation page. A concern at the last meeting time was brought up by a community member who is not here today, which is also a resident at Ke Nani Kai. And that was the – having to do with the material itself of the PV panels. Thus, no. 4 was added into the recommendations for conditions that the materials' safety data sheet for the PV panels itself be distributed to all the owners in Ke Nani Kai. And the second part of that, which is not on here was that person was concerned with the final disposition of the PV after-the-life shelf, and how the disposal was gonna be made. So it's unknown at this time if that MSDS sheet does also call for the disposal of those PV panels. I would assume it does. And if that's the case, then it's all good.

Ms. McPherson: Commissioner, would you like me to add the language that final disposal of panels, once they've served their useful life, shall be in compliance with all Federal regulations? Okay.

Mr. Hopper: You could say "applicable regulations," too, because I don't know if there's anything besides Federal.

Ms. McPherson: Okay, "all applicable regulations." Thank you.

Ms. Dudoit: So I just wanted to – and I don't know exactly who I directing this comment to, but since I've been back on my second term, there's been a whole number of times when the applications come through with all kind different information from the numbers on the map, to square footage, to amounts, and things like that. So I don't know where that's becoming a problem, but maybe it's just a matter of proofreading the packet before we get it. For me, this is important stuff that we deal with at our community, and we cannot keep, oh, just erase that, and check over here; oh, that was supposed to be 32, but it's 50 on your page. And that's just not responsible. And so I'm not faulting anybody in particular. I'm just asking that when the applications come through to us whether it's from the applicant or the Department that it be proofread so that all of the information is accurate, and we can make the best decision on those things. Thank you.

Ms. McPherson: Just to respond, it's helpful if applicants provide new information in a timely fashion to the Staff Planner. Thank you.

Mr. Sprinzel: I might just add that going back to the Urban Design Review Board, we used to just throw stuff out if it didn't have all the listed things. We had a printed list of all the things they had to submit. So it's really up to the petitioner to get this stuff right. It's not up to you to sort out what's right and what's wrong, but as Zhantell said, I get so cross when we get stuff which has no bearing on the truth. I mean, it's an insult, really, because we're giving up our time as well to try and keep things right for Molokai. I'm not getting at you, Kevin, honestly, because I think this is a great project. I really do think you should examine metal struts because they're the easiest solution to this. You're talking two or three grand, and no upheaval, no digging, no problems, and no reflection.

Ms. McPherson: Yes, Commissioner Sprinzel, the Department has put in checklists into the SMA assessment application, so take a look at the new assessment application that's on the web for downloading. It's a fillable PDF. And we are encouraging our applicants to please go through that checklist, make sure you have all the required items that are submitted. And what we're also working on is when the applications first come in, besides just confirming zoning, it's helpful if when the Department gets the application that someone checks it to make sure all the required submittals are included. And if not, it needs to be returned to the applicant.

Chair Pescaia: Anybody else? Okay. Motion? I don't know. Go ahead.

Ms. Buchanan: You going call for a motion?

Chair Pescaia: I mean, are you guys all confident that you've gotten all the information you need?

Ms. Buchanan: I think Sunetric, if they like any future projects on Molokai, they going be much more informed than this time on how to proceed. But if you going call for the motion, I'll make a motion.

Chair Pescaia: For me, I still missing details on the trench, but I will call for a motion. Go right ahead.

Ms. Buchanan: Okay. Motion to approve SMA minor permit for Ke Nani Kai photovoltaic panel relocation with – to include all the recommendations, Items 1 through 6, with the amendment made to Item no. 4 concerning the final disposition of those PVs and panels as stated by Planner McPherson.

Chair Pescaia: I have a motion by Commissioner Buchanan. Second? Second by Commissioner Bacon. Discussion?

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

It was moved by Ms. Buchanan, seconded by Mr. Bacon, then

VOTED: To approve SMA minor permit for Ke Nani Kai photovoltaic panel relocation to include all the recommendations, Items 1 through 6, with the amendment made to Item no. 4 concerning the final disposition of those PVs and panels as stated by Planner McPherson.

*(Assenting: L. Buchanan, D. Kelly, J. Sprinzel)
(Dissenting: Z. Dudoit, N. Bacon)
(Excused: R. Davis, J. Kalanihuia)
(Absent: D. Williams)*

Chair Pescaia: Three in affirmative. Two opposed. Motion fails.

Ms. Buchanan: Chair, could we open again discussion?

Chair Pescaia: Sure.

Ms. Buchanan: In reference to the missing schematics of trenching, I think on Recommendation Item no. 3, the fact that the applicant had agreed that an archaeological monitor shall be present during all ground-disturbing activities was sufficient for me in lieu of having the actual schematics here, because that's always the bottom line with this Commission is to insure the safety of our iwi kupuna. And getting them to pay for an archaeological monitor and it's in the conditions for the SMA was enough for me.

Chair Pescaia: The secondary concern to that for me how was the line – just having that information included in here, so that we don't find ourselves with a bigger line or a bigger project. I just want details to be a part of this application, because all we're approving is the trench, but we have no details on what's really going in the trench, how it's connecting to the building, if it's going to affect the integrity of the building, which are older. They're making improvements to the roof in order to support this project. It's something that has to stay in place for at least the next 20 years or the life of this project. When it was all contained on that original building, I think it was a little different. But when you're making such a long run and– I just– That was my concern was that I don't have that information, what size, type, or line is going in. And I know it's – and it's a utility line. We're burying a utility line. So those are my concerns in regards to that. Anyone else like to make a comment? And again, going back to we have a picture that says "61.27 feet." There's 65 feet, 68. Do you guys really know what you guys are doing because they didn't tell me exactly what you're doing?

Ms. Dudoit: And I think that's my concern is just the differences. A foot here, a foot there, you know, placement on the parts of the roof, and all of that. I mean, there are people who come before us with simple house projects that we put through the ringer because they don't supply us with every bit of information that we ask. And so I think for me, that's the biggest thing is accurate information, precise placement of where these things are gonna go, and making sure that we know what we saying yes to.

Chair Pescaia: And I think because it is an SMA minor permit that we can call for those kinds of details to be a matter of record. Because at some point in the future, it could be – something could come into question. Something might be faulty. I mean– And they're gonna pull it. Someone's gonna pull it, and look at it, and say, well, what did you folks approved? Have they stuck to that? And we're like, well, actually, we didn't even know what they were really gonna put in because that's all we got. And I don't wanna have my name attach to something like that.

Mr. Bacon: I was just gonna say that the fact that I assumed that the fellow that's got the problem with the glare is the one whose roof it's gonna be going on since that was in his general direction. And I think one of the things that we're talking about in terms of the trenching, and the conduits, and stuff is like – I mean, this guy might not like the glare, but he also might not like a three-inch conduit going up the side of his building. So we ought to be able to see what that is even though that's not our problem. That would be his problem. But we don't want him coming back again later and saying, oh, they did a lousy job, or something. So I think the details are pretty important.

Chair Pescaia: Right, and it's not so much what you like or don't like, but it's just making sure it doesn't have impact, negative impact, on the health, or welfare, or convenience of people. I don't wanna come back, and say, you know what? While we were putting in, we

actually had to install a big box on the bottom because we couldn't we get the unit to be mounted on the side, some sort of meter, whatever. And then the next thing, you know, there's like this whole other thing. Maybe if these guys were more up and up, I would have more faith in saying, okay, we're gonna give you the benefit of the doubt. But with them, I really would like to see everything specifically laid out so we can hold them to that. We need something to hold them to it because their word is not good enough for me.

Ms. McPherson: Those kinds of specifications were requested of the applicant at the last meeting.

Chair Pescaia: So you did ask them for these things?

Ms. McPherson: Yes.

Chair Pescaia: So that's what I'm saying, so we got back an incomplete application. Why are we looking at it?

Ms. McPherson: Because it was deferred to the next meeting.

Chair Pescaia: Okay, so we should've said up front like, we have not received all the information that was requested for this application, and we would've put it up for the next meeting. I don't wanna deny this project because I really want it to go forward, but I do want these pieces in place. So what do we do now?

Ms. McPherson: You can make a motion to defer the item to the next meeting so that you can receive the information that you've requested.

Chair Pescaia: And give them one more chance to—?

Ms. McPherson: Yes.

Chair Pescaia: Make good on this. When is Mr. Adamo due back? Do you know?

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

Chair Pescaia: Okay, we cannot wait that long.

Ms. Buchanan: Chair, I have a question now, then. And for the record, the relocation is not going on Mr. Canady's unit. That was on the record for the last. So let me just have that correction that it is not. I asked him. The second thing is does Sunetric need permission to remove the glaring panels now, or are the panels still shining into Mr. Canady's house?

That's my question because if I was Mr. Canady, and I gotta put up with this glare till the next Planning Commission meeting, I going be pissed.

Mr. Comcowich: Yeah, so in terms of that, we have it currently covered with a tarp. And then just to be clear, I think ultimately, it makes sense for the next meeting to deal with Sunetric, not us, because I think this is beyond what—as an investor—we're capable of dealing with. And unfortunately, I think you're gonna find that they're not particularly responsive, but hopefully, they'll prove us wrong.

Mr. Sprinzel: So who's actually doing the work?

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

Mr. Sprinzel: And they're not gonna come and talk to us?

Mr. Jennings: Mike Jennings, Manager, Ke Nani Kai. Mr. Canady's, the glare has been gone from there for about three, four months since we've had – we put the tarp over this. And what I can do is get a hold of Mr. Adamo, and see if he can come back, you know, to answer questions or anything like this. But as far as the panels being moved, they will be moved actually over on top of Mr. Adamo's unit. It would be 245 and 256, which will be four units over from Mr. Canady's. So I wanted to let you guys know that.

Mr. Comcowich: It's Kevin Comcowich again. In terms of your question, as the investor, what we paid for is the completed project, which would include the closing out of all permits, and that was with Sunetric. What we do is invest in PPAs. I made the assessment that, one, Mr. Canady had a substantial glare issue, which he does. And to be fair, by covering those panels, it actually unbalances the whole system, and we're incurring a pretty substantial cost.

Two, I made the assessment that it was better if we paid the fines to expedite the issue, because again, Mr. Canady has a real issue. And we have paid Sunetric in full. So this was the scenario of going back to a contractor who's been paid in full, and hope that he rectifies the process, which you guys – some of you are shaking your head, and you can understand that you would not place us to be a top priority for a contractor.

So our goal was to do the right thing, which is solve the glare issue, which we have temporarily by putting a tarp over, which comes off every two or three months, and then my ranch guys go down and cover it back up. But, you know, at the end of the day, this is – we're not on the permit. We're trying to make it right. And I think we've gotten to the point that you really need to talk to Sunetric, and they need to provide you guys with sort of the Q&A and the level of detail that we're not able to do. We can solve this problem if you say yes. We can follow your proposal. We can get the glare issue solved very quickly and get

it moved. But I understand that you want, I think, your pound of flesh from both maybe the AOA as well as Sunetric. So I think they're probably the better people in the future on this issue.

Chair Pescaia: At this point for myself, I don't need to see Mr. Adamo. It's such a big project, and he's not here, nor did – he didn't – it doesn't seem like he properly prepared anyone to speak on his behalf with some of the answers and concerns that we had. So don't worry about bringing him back from wherever he is. That's not so much my concern at this point. At this point it's having the proper plans and schematics in place on the record for the trench and the connections for this power utility line, because it's half of this project, and there's – besides the dotted line, I don't really see exactly where it's going. So just those details, I think. It's missing half of the plans. So whether that comes from Sunetric or from, I'm, guessing whoever is gonna do the work. I don't know. Are you gonna change contractor?

Mr. Comcowich: Again, I think, our obligation and our contract was to get a final contract. I think at this point, I think we've done what was the right thing to do. And we've gone as far as we can go. I mean, Sunetric is probably better. I don't deal with building and those kinds of issues. This is all new to me. So it sounds like you want a level of detail that as an investor I'm not gonna be able to provide you, nor am I going to be able to do have gone in front a committee or an SMA thing multiple times. We're here to try to solve the issue. But if you need more detail, I understand that that's you guys' role. And certainly the permit holder would be the one responsible for that.

Chair Pescaia: I think my level of concern is just – because I don't think they have to go for any other kind of building permit. We are the overseeing authority on this project? Do they–?

Ms. McPherson: They do need a building permit.

Chair Pescaia: They do need a building permit.

Ms. McPherson: Do they need it to put it on – no? Okay, to move them onto the roof, they don't need a building permit, but they did need – my understanding was they did need a permit for the original project.

Chair Pescaia: Did they need an electrical permit?

Ms. McPherson: Yes, they need an electrical permit.

Chair Pescaia: Have they submitted for that yet?

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

Chair Pescaia: For the new – for the move – for the new–

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

Chair Pescaia: If they did, then they must have–

Ms. McPherson: Some kind schematic, correct. Well, what we can do between now and the next meeting is we can find out where that submittal is. Do you need engineered plans as far as the trench goes? I mean, what level of specificity does the Chair require at this point?

Chair Pescaia: The Chair is asking for something like – I mean, it doesn't have to be engineered, totally stamped, and everything, but something that clearly shows this is the grade. I mean, is it a hillside? Is there a slope to it? If it's a straight, flat land. I don't know. If there's anything that they gotta accommodate for. If there are any pipes, are they gonna have to go around that pipe, over that pipe? I mean–

Ms. McPherson: Maybe existing trees, that kind of thing.

Chair Pescaia: Right, so that we know – I mean, unless they're really gonna follow these lines, like this straight line.

Ms. McPherson: You don't like the crayon kind?

Chair Pescaia: No, not really. Okay? And then again, how it connects to the building. What's gonna be exposed? Is it a pipe? What's encasing this? And how big the – if it's a pipe, or a cable, or whatever that's going in the ground. What exactly is going in the ground?

Ms. McPherson: It's probably conduit, was my understanding.

Chair Pescaia: Is it gonna be lined?

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

Chair Pescaia: That's like – two inches of rock. Exactly what else is going in the trench? Is there gonna be cement poured? Is it gonna have–?

Ms. McPherson: A complete description of the work proposed?

Chair Pescaia: Yes, please.

Ms. McPherson: Aye.

Chair Pescaia: Trench, period, doesn't do much for me.

Ms. McPherson: Well, I think we're gonna need a motion.

Ms. Buchanan: Chair, just for discussion, I don't think we would be here today if the investor that is standing in for the applicant didn't have the financial resources to try to mitigate an emergency fix. And so I appreciate that person coming forward to try and like what he said, make things right, make things pono.

In the meantime, I'm not even aware if you have panels covered by tarp, if that hurts the PV panels. I wouldn't put tarp on mine. And I get 36 at the Nature Conservancy. And who knows how long going take before this guys forward to do this? In the meantime, our support of alternative energy is gonna be put on hold for several months, maybe, until Mr. Adamo shows up with the schematics. So I guess I just saying if you want to take a minute to really be sure and give clear direction to Staff exactly what you looking for in order to defer, because they need to move along at whatever time – point in time Mr. Adamo actually show up.

Chair Pescaia: I don't need Mr. Adamo.

Ms. Dudoit: My issue concerning that is we wouldn't even have been sitting here for the last 45 minutes talking about this again without accurate information, if somebody had noted that we didn't have the information that we requested the last time. So the fact that I think this can be deferred would've – this wouldn't have even up. So maybe it's our fault because when we make a motion we should instead of saying just next meeting, we should say next meeting pending we get all the information that we requested, because to me, this was just like really not worth the 45 minutes we spent on it.

I don't know. At least at for me, Mr. Adamo is not the person that I wanna see here. I don't even know if it is people. It's just having a full, complete application with accurate information. And if those – how do you say that company's name? If Sunetric's people were here, that would help, too.

And I just wanna say for the record when I look at Mike, 'cause I've known him for years, he's one of my favorite people, and all of the wonderful work that Kevin has done for this island, you guys are probably the most credible part of this application right now. So I really appreciate that you guys came to stand up before us. But accurate information from the people responsible is what we need or I need.

Chair Pescaia: Exactly. No take this personal, because really, your contribution to this process has made it all the better. Like I was saying earlier, me, going off, it's not even directed at you. It's directed at the people who aren't here who failed to do their part. And so I think— I don't know. Do we need a motion to defer this? Yes?

Mr. Hopper: I would suggest again since you didn't get what you wanted that you be very specific as to what you would like. I would also add that I think maybe the most important thing with a minor permit, the staff reports are adopted as basically your findings and conclusions. You cannot have an inconsistent report. So the report would need to be revised if there's inconsistencies in it, and reviewed to make sure that whether you had done it today or at a future date, just to make sure it's consistent throughout, because I would think of it as kind of a building permit. If it has specifications in it, and it's not built based on that, someone can come in later and say, hey, you didn't build pursuant to that issue or violation, and make the person come into compliance by either getting an amendment from you guys or something else. So that's treated as kind of a final decision by you. And it states they've got to build it in accordance with this approval. And if there's ambiguity or inconsistency, that could cause serious problems for the applicant, or for the Department, and for the Commission down the line. So now you've got time to revise that. That's good. It can get revised. And just to make sure that it's all accurate when it's here, that would be very helpful, I think.

Ms. McPherson: Yes, staff can revise the assessment and the memo, revise the condition per the recommendation that was made earlier, if you concur with that as far as changing the recommended condition, and then revise the memo based on the additional information that the applicant is going to be providing, and have all that ready by this Friday, actually, is when I usually have to do that.

Chair Pescaia: Are there any pukas in your notes that you need me to fill in?

Ms. McPherson: No.

Chair Pescaia: Okay. I think I was pretty specific what I'm looking for. Anyone would like to add to that list?

Mr. Bacon: Just to be clear, I think what we're looking for, then, is like a sectional drawing of the trench itself so we know how deep it is and how long, the dimensions on that, as well as elevations on the two buildings where we see the conduits going up the side of the building, or into a box, or whatever we have there so that we're very clear on that. And that hopefully, whoever has the apartment that the conduit's going up, if it's going in the basement area and up through the wall, that's one thing. But if it's going on the outside of the building, we wanna make sure that that person knows that that's what's going to happen and they've seen the drawing. I think that's—

Ms. McPherson: Yeah, well, we may need more time to get that information prepared, for the applicant to prepare that information. So I don't know if that will be ready in time for the next meeting.

Ms. Dudoit: Well, okay, that's – I'm sorry, that's what I was going say. So maybe do we have to state that we wanna keep deferring it until you have all the information we requested and not put it on the agenda unless it's complete?

Ms. McPherson: Well, that might be a question for Mike. Mike, when they defer, do they have to defer to the next meeting, or can they defer to a date certain?

Mr. Hopper: If you want information, you can say, gather the information and bring it forward when it's prepared. That's fine.

Ms. McPherson: Okay.

Chair Pescaia: Then it'll be in the best interest of the applicant to move their . . . (inaudible) . . . on it. Okay.

Ms. Kelly: I just had a question. So who's doing the trenching? Is it still Sunetric?

Mr. Comcowich: Again, as the investor, I don't own the permit. I own the completed project. In the opportunity of going quickly, you know, we – it would be under Sunetric, I would assume as the general. I have a pretty big trencher for the Ranch, so they're more than welcome to use that. And we were there to facilitate this, again, as quickly as possible to alleviate what I think we will agree is a glare issue, again. But I think Sunetric will be answering these questions in the future, not me. I think it's beyond where we're at. But as it currently stands, I was happy to loan whatever they needed to bring the construction along as quickly as possible.

Chair Pescaia: Any further comments?

Ms. McPherson: Can I ask if the Commissioners would also like to know who is doing the trenching work besides just the specifications of the trench itself, or how that's gonna be done? Or have you just been told that to your satisfaction?

Ms. Kelly: What we're asking for is the specs, so as long as we have the specs, it doesn't matter. I mean, the applicant is responsible.

Chair Pescaia: We were just wondering if somebody had been set aside or if there was someone else to ask. Like if they were hiring a local company to do it, then maybe we

would be able to ask them for specifications or details, but that was – I think that was why. Okay, I will call for a motion from anyone.

Ms. Dudoit: I may need help with this, but I'd like to make a motion that we defer this item until such time as all the requested information is put together, and that we have a complete, consistent application with the recommended – or with the – what do we say? That the staff would review the application and make sure that all information on there is consistent and accurate with all of the conditions included, and all the additions and comments that we made prior to this. Right? Is that right?

Chair Pescaia: Sounds good. I have a motion by Commissioner Dudoit. Do I have a second. Commissioner Kelly. Discussion?

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

It was moved by Ms. Dudoit, seconded by Ms. Kelly, then

VOTED: To defer this item until such time as all the requested information is put together, and that there is a complete and consistent application, and that staff would review the application to insure that all of the information is consistent and accurate with all of the conditions included, and all the additions and comments that the Commission made prior to this.

(Assenting: Z. Dudoit, D. Kelly, N. Bacon, J. Sprinzel, M. Pescaia)

(Dissenting: L. Buchanan)

(Excused: R. Davis, J. Kalanihuia)

(Absent: D. Williams)

Chair Pescaia: Motion carried. Yes, thank you, thank you, thank you for – yeah, take that and run with it. Alright. Do you folks wanna take a two-minute lua break and stretch your leg break before we get into the second half? Yes, okay. We'll take a break, a two-minute break.

(A recess was taken at 1:55 p.m., and the meeting reconvened at 2:05 p.m.)

Chair Pescaia: Now that our audience is all in place, we'd like to reconvene our meeting with Item no. 3 under Communications. We have – oh, this is a previous request to discuss the various proposed charter amendments specifically, the district voting and abolishing the Commission on Fire and Public Safety. We understand this was an ongoing discussion. So, Clayton looks like he's ready to give us an update on that.

3. **July 13 Molokai Planning Commission request to discuss various proposed charter amendments:**
 - a. **District Voting**
 - b. **Abolishing the Commission on Fire and Public Safety**

Mr. Yoshida: Yes, Madam Chair, I believe that the July 13th meeting, this item was requested to be placed on the July 27th agenda. It was – we did have a very short discussion after a very long discussion on the civil defense sirens and the Ke Nani Kai SMA assessment. Basically was that the Charter Commission will be making a second round of these community outreach meetings after they get further along in their work. There was no public testimony that was offered at the July 27th meeting, but the Commission did request that it placed on today's agenda. So that's why it's on today's agenda.

Chair Pescaia: Does anybody know how the conversation is going in regards to these two items? Because I think we were talking about how it could possibly affect us, so if we wanted as a Commission to make comments.

Ms. Dudoit: I think at least for me, the reason why I wanted to bring it up was when we attended the meeting, one of the proposed changes within the district voting subject had to do with creating what they call small township sort of – I forget the exact terminology he used, but it would abolish the Planning Commission as it stands now, and create small town councils. And that would govern– Supposedly, the idea is that it would give us more power to control different kinds of things. And things were addressed like within the models of small township sort of councils. They run their own fire stations, and police stations, and things like that. So those were the discussions brought up. The Lanai Planning Commission decided that they wanted to address this issue, and issued a statement and a letter acknowledging their concerns and their views of district voting, I think specifically, as it pertained to them as a Commission.

The Public Safety and Fire thing was just added on 'cause those were the two hot topics of the night. So I don't know what we would do with that. I just thought it was important for the Commission to be aware of it, and then start to familiarize yourself with the issue and the discussions going on because it does affect– Well, one of the– That's what is important to understand is one of the proposed amendments to district voting which was brought up by–what's his name, Lori? Dave DeLeon. Had to do with small township sort of councils.

Ms. Buchanan: I think we said we wanted the draft, some kind of what does the – the Commission is currently working on, we wanted to review. So if they could have some transmittals.

Chair Pescaia: Okay, so let me see if I got this right. Somebody out there in the community is proposing this as a charter change, as a change to the charter. There's a –

Ms. Dudoit: Yeah, it's actually one of the Commissioners on– So it's a little bit complicated, but in my understanding, district voting and changing the way that we have our districts set up has been an ongoing discussion. So there are several different proposals to change district zoning. The one that is highlighted is the one by Mr. DeLeon. And that, specifically, for Molokai became a hot topic, which Commissioner Buchanan talked in detail about that night, because there was a statement made on AKAKU during a hearing of the Council where they said that Molokai was polled, and 75 percent of the total island population supported changing to district voting. So that was one of the reasons why his specific proposal became a hot topic. But in addition to that, as he started to talk and we started to look in detail to what he's proposing, it is inclusive of abolishing the Planning Commission.

Chair Pescaia: So is it the pleasure of this Commission to send a letter posing some sort of stance, a response, on this topic?

Ms. Dudoit: I think we have to first ask if that's – I don't know if it's in your scope, but to get accurate, up-to-date information on the proposal, and what we're looking at, and where it stands right now with the charter.

Chair Pescaia: Yeah, like – I'm sorry, what is the process? So all these people come up with ideas. They turn them out. We having discussion. All of this information is then collected by somebody. And then–?

Mr. Yoshida: Well, I guess it was a proposal from Dave DeLeon, advocated by Dave DeLeon, in a viewpoint in the *Maui News*, which came out before the Charter – he's a Charter Commission member. And it came up before the Charter Commission came to Molokai for the community meeting. He was chastised in another viewpoint by Council Chair Mateo for – he's a member of the Commission, but he's advocating a position. So that's – I guess the Charter Commission is still kinda wrestling with some of these proposals. I mean, they have your proposal regarding allowing boards and commission members to stay on until a replacement is concerned, and other types of amendments that people have been proposing to them, it just kind of became a lightning rod, I guess, for that Molokai meeting when the Charter Commission was here.

Chair Pescaia: Okay, I just trying to clarify. So all these ideas come into the Charter Commission. They then figure out – the Commissioners figure out which ones they want to put into motion. The Charter Commission then adopts it and then it goes to vote to the people, or does it go to the Council? How is it enacted? Do you know?

Mr. Yoshida: Well, I think they have until April of next year to come up with the recommendation. And then there's conferring with the County Council because the County Council can also propose amendments to the charter. If you remember from ten years ago, the Charter Commission came up with a proposal that the Board of Water – it was semi autonomous, so to speak, and so the Charter Commission came up with a proposal that the Board of Water Supply should be purely autonomous. The County Council came out with a similar charter amendment, however, that the Board of Water Supply be under the Mayor, under the administration. And so those were two proposals that were on the ballot. I think the Charter Commission is trying to work with the Council in terms of this conferring process that'll take place after they finish their work in April. But there is gonna be this process, and there is a deadline to get the amendments, the proposed charter amendments, to the Clerk's Office, so they can be placed on the general election ballot.

Ms. Buchanan: We should really work to have some really good recommendations come from this Council. The only recommendation we made formally was about the interim – changing the status of the Planning Commission to serve in the interim capacity until we find suitable replacements. And just so you know, during that one meeting that this Commissioner called for Mr. DeLeon to resign from the Commission. I also asked the Chair to remove him from the Commission because of discriminative remarks that was made on the record on his behalf concerning our community. And that's where that was. So right now, I haven't seen anything yet to come back from the Charter Commission. So maybe we need one schematic of how the public hearings are gonna be held, and if they going have any future hearings on Molokai. And maybe we can call for the Chair to come over and give us that in person.

Chair Pescaia: Shall we direct staff, then, to make – to try and make that information available to us? Yes? That would be the pleasure. I see nodding heads. Clayton, is that possible, to let us–? Is there a way that someone in Planning Department can pull for us maybe at our next meeting if there is any updates that – in this context as far as the charter amendment process is going? If there's any more dates for meetings or–

Mr. Yoshida: Yeah, we can try to get a status of where that district voting matter stands.

Chair Pescaia: Or is there something more specific?

Ms. Buchanan: This is what the Chair said at that meeting when I called him on it because the only black and white written proposal came from Mr. DeLeon at that time. At that time the Chair stated on the record that there were several proposals by several Members of the Commission. I said, where is it in black and white on the website? He said– He looked around at all of them and none of them could testify on the record that there was. So from that point till now all I know that the only one that's on the record is Mr. DeLeon coming out with a proposal to amend our district voting and other things. And so if there was anything

from that point to now where other Commissioners have come up with proposals to the Commission, then maybe that's what we need to know. And maybe they can report on that. Just one update. Maybe the secretary, or somebody, maybe the Chair like come over.

Mr. Yoshida: This is regarding district voting?

Ms. Buchanan: Just everything. The whole shebang.

Mr. Sprinzel: May I ask where this 75 percent of the people voting comes from? That's really shebai, isn't it?

Ms. Buchanan: I believe it was a targeted phone interview.

Chair Pescaia: Of four people. Okay so, Clayton, is that possible?

Mr. Yoshida: We can check with the Charter Commission staff and see if we can – whatever they have.

Chair Pescaia: Okay. So let's keep just that open – without the a and b, but keep the to discuss various proposed charter amendments on the next agenda, so we can keep having this discussion as updates are made available to us.

Ms. Dudoit: And just to know, we do have a Molokai member on the Charter Commission that is accessible. So if at some point, Auntie Stacy says at some point we wanted her to come and make a presentation, or talk story, or we could ask questions. That might be one good start.

Chair Pescaia: That would be awesome. Can we invite–?

Ms. Buchanan: I move that we direct staff to invite her to give us an update.

Chair Pescaia: Motion by Commissioner Buchanan. Second? Kelly.

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

It was moved by Ms. Buchanan, seconded by Ms. Kelly, then unanimously

VOTED: To invite Charter Commissioner Crivello to give the Molokai Planning Commission an update on pending proposals and overview of items pertaining to district voting and the Molokai Planning Commission.

Chair Pescaia: Unanimous. Ms. McPherson, could you please invite Charter Commissioner Crivello to our next meeting to give us an update on the pending proposals, and just maybe an overview of especially the ones that have to pertain with district zoning and anything else that might be in our purview? If she would oblige. And if she cancel the meeting, give her the next date.

Ms. McPherson: I think Clayton's in charge, but we can work together on that.

Chair Pescaia: Okay, shoot. Thank you. Okay. On to Chairperson's report.

Unidentified Speaker: No, he not pau yet.

Chair Pescaia: Oh, you not pau yet?

Mr. Yoshida: No, not on the charter.

Chair Pescaia: Yeah, on the charter topic. You done on charter topics? Okay. On to Chairperson's report: status of the Commission's subcommittee on rule changes report. Clayton?

G. 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**

Mr. Yoshida: We don't have any change in the status from our report from the July 7th meeting. The proposed rule amendments have been reviewed by the Current Division Planners. Their comments have been submitted to the Department's Administrative Officer, Administrative Planning Officer, Joe Alueta, for discussion with the Planning Director and Deputy Planning Director.

Chair Pescaia: Okay. So that's where it's at. Planner McPherson?

Ms. McPherson: Yes, Nancy McPherson, Staff Planner. You did at the last meeting request that I look at ways that we may create categories that – and figure out a way to amend the rules so that you can defer items like interior renovations to the Department for

SMA exemption without having to put it on the Planning Commission agenda. I'm in the process of doing that now. I need a little more time to work on it. So I'm gonna bring it back to you as soon as I can. And I'm also gonna discuss it with our Corp. Counsel.

Chair Pescaia: Thank you. Alright, any further discussion? Seeing none, Director's report: pending and closed applications.

H. DIRECTOR'S REPORT

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

Mr. Yoshida: Thank you, Madam Chair, Members of the Commission. We have circulated our open and completed Molokai TMK listing. Is there any questions?

Ms. Buchanan: Chair, I have a question for Nancy. Nancy, what is "CPA" for this one, the Chopra Hale Condo, because it's been on here for a while?

Ms. McPherson: That is a community plan amendment and a community plan amendment requires an environmental assessment. They have just submitted their draft EA. So, yes. And they did circulate for preliminary comments. We didn't really submit any. I think I sent them an e-mail, but if you would like to comment on that EA, please let me know. We get into a little bit of- I'll defer to Mike Hopper on this. But, Mike, where are we at as far as having the Commission make comments on a draft EA that is then going to be used to support a community plan amendment and change in zoning request? Is that acceptable?

Mr. Hopper: It happens all the time.

Ms. McPherson: Okay. I will advise the applicant that you need to be a commenting party.

Ms. Buchanan: Okay. The open project from Arthur Parr for the remodel and addition, Kaunakakai, that's not the Veterans', yeah? The Veterans are no longer on here. They have everything they need, right? This is on page 2 of 3, no. 5 down, no. 6. Or is that the Credit Union?

Ms. McPherson: Page 2 of 3, Molokai Community Health Center is what that is. And that is a landscaped planting plan approval, and that is assigned to Candance Thackerson on Maui. I can check on the status of it for you.

Ms. Dudoit: Nancy, can you give us an update on- Shucks, I just missed it. I saw it over here. Right here, the ATF improvements for D&J Ocean Farms, Incorporated. Because

from my understanding, the hold up on that application has to do with some issues with State responsibility of cleaning the ditches over there.

Ms. McPherson: There is a back and forth going on right now between the State Department of Transportation because of the fact that Keawenui Stream goes under the highway right there and Kamehameha Schools Bishop Estate. They are working that out. Munekiyo and Hiraga are their consultants. There was a letter from the Department of Transportation. They're in the process of drafting a response to that letter. I do not know the status of any studies or anything else like that. It's kind of a he said, she said situation. And so I've advised them to use the ahupuaa planning principles and try to work this out because there's the mauka side, the makai side, and then the – where the highway goes and the transportation right-of-way, that's the pinch point. And that's where the erosion's occurring. And so they need to plan it as a system. So I've encouraged them to do that. If you know more details about that situation, please give me that information because I'm not ready to say that the application is complete yet. And we have– I take it back. We have transmitted out for agency comment, and we have been getting those comments back, but I'm not ready to take it to Commission yet. But you will – we are looking at September 14th, actually. We're trying to get it on to the September 14th agenda.

Ms. Buchanan: Nancy, isn't Kamehameha Schools doing an environmental assessment for that property?

Ms. McPherson: No, they're not. They're coming in for an SMA minor and an SMA exemption for part of the– Yeah. But the Commission did request that the Department of Transportation do an EA and an SMA major for the culvert improvements. And they have not come back with that yet. So I am going to communicate with them about that.

Ms. Dudoit: I was just wondering because I know that the business portion of it is depending upon this application being approved, or denied, or figuring out some way so that they can move forward with their projects. And it's sort of in a lock between different community members and groups. And it just seems really unfair that between Kamehameha Schools and the Department of Transportation that those things aren't being pursued in a timely fashion to try and figure something out.

Ms. McPherson: Yeah, I haven't seen anything between community groups. What is the issue is between the landowner and the State Department of Transportation regarding the drainage. So that's the issue that they're trying to resolve right now. And as soon as they resolve it, we can schedule it for Planning Commission. And I am pressuring them to resolve it.

Ms. Buchanan: Chair, on Item D, G, the shoreline area rules, I don't know if Clayton was aware of if any of the rule changes before the Board of Land and Natural Resources on this

Friday is gonna affect any type of work that we do. You aware, Clayton, of any? Because there's proposed rule changes in the conservation district which going affect Walau and any shoreline. It's Sam Lemmo and the Office of Conservation and Coastal Lands. It's some pretty significant proposed rule changes.

Mr. Yoshida: I'm not aware, but I guess we can review the proposed changes.

Ms. Buchanan: Nancy, can you ask your Department, your Coastal Zone Department, if we going be affected by any of the proposed rule changes on Friday that they hearing on Friday?

Ms. McPherson: Is the hearing here?

Ms. Buchanan: No, it's the Board of Land and Natural Resources on Oahu.

Ms. McPherson: It's on Oahu? Yeah, I'm meeting with that team Thursday at 1:30, so I will definitely bring it up. Yes.

Mr. Bacon: Question for Nancy. Okay, when were talking about yesterday about the shoreline review and the study—

Ms. McPherson: The SMA boundary or—?

Mr. Bacon: No, it was the shoreline, establishing the shoreline, which we talked about out at—

Ms. McPherson: Shoreline certification?

Mr. Bacon: Right, shoreline certification. And you were saying that it doesn't include inside the harbor because that's an artificial boundary. But isn't the purpose of establishing the shoreline and everything else to establish what the setbacks should be so that there's less chance of polluting the ocean whether it's in a harbor or outside a harbor?

Ms. McPherson: Yes.

Mr. Bacon: I mean, it seems like that line has to be established and verified and certified so we know what the setbacks would be. It's regardless of whether it's an artificial line or not.

Ms. McPherson: Well, we've — the Environmental Planners Team, which I'm a member, has been looking at shoreline issues pretty extensively for the last few months. And I am meeting with the team tomorrow in part to discuss the specific area in question. But what

I have been told by our Seagrant Specialist, Tara Williams – no, Miller Owens, rather, is that the DLNR states that if you have a shoreline, which is subject to the wave action, and then you have a harbor that goes in like this that the shoreline stops where the entrance to the harbor is. And that's a DLNR – that's a State call. So I can try to get that specific citation for you, but we are– I will ask about the setback issue because, yes, it does make sense to at least know where – be able to estimate the shoreline. I think the idea being that when you have a harbor, many times, the harbor – the whole lining of the harbor is armored somehow with rock or whatever. And so it's basically a fixed shoreline, but we all know that there are a number of them here on Molokai that aren't armored that way, and there may be development that's proposed on those areas. And we do need to have a setback, and we need it to be accurately set from the shoreline. But the other thing is also, they look at the action of the ocean. And inside a harbor is somewhat protected. Now, if there's a big storm, as we all know, there's gonna be waves coming into that harbor, and they're gonna be affecting the shoreline also. But they're not necessarily subject to the continuous erosion effects of the ocean, open ocean, and waves. I can't tell you for sure that that's part of the criteria, or why they make those kinds of judgements, but I can find out. I can ask more questions.

Mr. Bacon: Because in actuality, the most important thing is what the setback establishment is. I mean, that's why we get the certification so we know what that setback is gonna be. And that's because we wanna keep development away from the ocean. So it should be established where that is. That we have that right setbacks.

Ms. McPherson: Well, if the proposed development is far enough out of the shoreline setback even based on an estimated shoreline, based on a site visit, and measurements, that sort of thing, then in that case, we can waive the State certified shoreline. But they have to be far enough outside of the shoreline setback area to be eligible for that in many cases. Are there any more questions about projects on the list?

3. Discussions with Maui Electric Company on liability for power pole installations on private property. (N. McPherson)

Mr. Yoshida: Moving to Item 3, I'm not aware of any change in status on the liability for power pole installations issue on private property.

Ms. McPherson: Nancy McPherson, Staff Planner. I did e-mail MECO again. My e-mail has been transmitted to higher ups, and I'm awaiting response.

4. Status of Molokai Planning Commission vacancy

Mr. Yoshida: Moving to Item 4: the status of the Planning Commission vacancy, well, there is technically, no vacancy on the Commission. However, Commissioner Williams has not been to a meeting since July of last year. And his camp says that he did submit a letter of resignation to the Mayor's Office in early June. The Mayor's Office said they never received it. Nina asked them to drop it off at the Molokai Office, a copy of the signed resignation letter, and they haven't done that yet. So we can't move forward and having the Mayor appoint a replacement until we get a signed letter of resignation.

Chair Pescaia: Because there's nothing in place for us to remove him?

Mr. Yoshida: I think it would have to— There is a process for removal. I think it involves the Mayor and the Council. That will take some time. So we're trying to get a letter, a signed letter of resignation from Mr. Williams as soon as we can.

5. Agenda items for the August 24, 2011 meeting

I. NEXT MEETING DATE: AUGUST 24, 2011

Mr. Yoshida: The next meeting is on August 24th. Currently, we don't have any agenda items. And – well, other than Ms. Kawelo will be asked to speak to the Commission at the next available meeting. But we don't have any SMA assessments at this time to bring forth to the Commission, so in all likelihood, I think the August 24th meeting will be cancelled. And we'll try to put more items on the September 14th meeting. But we'll probably make that decision early Monday.

Chair Pescaia: Awesome. Anything else? No? With that, we've had a very productive day, and we would like to announce that our next meeting on – oh, no, you going let us know. And with that, meeting adjourned. Thank you.

J. ADJOURNMENT

There being no further business to come before the Commission, the meeting adjourned at 2:37 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Mikiala Pescaia, Chairperson
John Sprinzel, Vice-Chairperson
Debra Kelly
Lori Buchanan
Nathaniel Bacon
Zhantell Dudoit (12:20 p.m. - 2:37 p.m.)

Excused

Ron Davis
Janice Kalanihuia

Absent

Don Williams

Others

Clayton Yoshida, Planning Program Administrator
Nancy McPherson, Staff Planner
Michael Hopper, Deputy Corporation Counsel