

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
NOVEMBER 14, 2012**

*** 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 Chairperson John Sprinzel at 12:00 p.m., Wednesday, November 14, 2012, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

Chair John Sprinzel: We have a quorum. I declare the meeting opened, called to order.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Is there any public testimony on any planning issue, which the people can't for till the item to come up? There being none, public testimony is closed.

C. APPROVAL OF MINUTES OF THE JULY 25, 2012 and AUGUST 22, 2012 MEETINGS

Can we have somebody approving the minutes for July 25 and August 22? Nat approves. A seconder please? Thank you very much. A seconder.

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

It has been moved by Commissioner Bacon, seconded by Commissioner Tancayo, then unanimously

VOTED: to approved the minutes of the July 25, 2012 and August 22, 2012 meetings.

Chair Sprinzel: Unanimous. The minutes are passed.

Chair Sprinzel read the following item description into the record:

D. COMMUNICATIONS

1. SPECIAL MANAGEMENT AREA EXEMPTION CONCURRENCE

- a. **MR. WILLIAM SPENCE**, Planning succinct, 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:

MR. CLEMENT REYES, JR. and MRS. ANDREANA REYES submitting a Special Management Area Assessment for replacement of windows, doors, roofing, interior and exterior paint, and rehabilitation of kitchens, bathrooms, floors, walls and landscaping, and installation of a large fence at easement trench on an approximately 1,056 square foot single family home and an approximately 864 square feet accessory dwelling on a parcel approximately 13,305 square feet in the Interim District located at 240 Ala Malama Avenue, TMK: 5-3-008: 017, Kaunakakai, Island of Molokai. (SMX 2012/0431) (Valuation: \$40,000) (L. Callentine)

The Commission may take action on this request to concur or not concur with the recommendation for SMA exemption.

Ms. Livit Callentine: Thank you, Mr. Chair, and good afternoon to you and all the Commissioners. Livit Callentine, Planner for the Department of Planning. You sort of just gave the whole summary for the project there, John, so I'm not going to repeat all of that. Very succinct. This project is for restoration/rehabilitation of two existing single-family homes, and there is no ground altering activities proposed, and the homes were built in '73 and '75, and the Department of Health consulted -- we consulted with the Department of Health on the proper procedure to follow with single-family homes of this era; according to their administrative rules pertaining to lead based paint activities, renovation of single-family homes is not subject to the rules, however, in the back of your report, we attached two exhibits, Exhibit 8 and Exhibit 9, which are about how to take precautions in the presence of lead in your home, and if you're going to be renovating, giving some practical tips for how to actually renovate safely. So there's no demolition -- let me point out, I guess this is a good time to say the difference between this and a demolition of a single-family home that was built prior to 1978 is the demolition is subject to Department of Health rules, but the renovation is not subject to their rules. You went ahead and specified the scope for us, Mr. Chair. I will note that the replacement of doors and windows will require a building a permit and Department of Health will have to sign off on that building permit so

they should be reviewing any concerns at that time that they might have. The State Historic -- I guess that's all I need to say. The department determined that this project is not a development and, therefore, we have proposed that you concur with our determination that it is an exempt action.

Chair Sprinzel: Thank you, Livit. As someone who watches this old house every week, and has been for 30 years or thereabout, I have never seen a renovation of a house where they didn't - an old house - where they didn't bother about lead.

Ms. Callentine: I'm sorry, where they didn't?

Chair Sprinzel: Where they didn't. I cannot understand how this can be exempt from lead rules. But that's just my view of the thing. Okay, public testimony. Is there any public testimony on this project? There being none, public testimony is closed. Commissioners? Lori.

Ms. Lori Buchanan: Sorry, Chair, I have a question for staff 'cause wasn't real clear to me. Are there any additions of rooms or bathrooms to this plan right now other than what is existing?

Ms. Callentine: There are no proposed additions or expansions of any kind.

Ms. Buchanan: And the fencing of the easement is only on one side?

Ms. Callentine: Yes, because the easement runs on the back of the property and it's at a slope, so it's really for safety to keep people from falling into the easement -- into the drainage channel.

Ms. Buchanan: Alright. Okay. Thank you.

Ms. Callentine: Thank you.

Chair Sprinzel: Anyone else? Well, in which case, may we have a proposal? Alright, Nat, please?

Mr. Nat Bacon: I just propose that we concur with the department's assessment.

Chair Sprinzel: Any seconder to that? Thank you. Any discussion on the motion? May we vote please?

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

It has been moved by Commissioner Bacon, seconded by Commissioner Tancayo, then unanimously

VOTED: to concur with the department's assessment.

Chair Sprinzel: Unanimous. Thank you very much. That was easy. The next item, I figure will not be so easy.

Chair Sprinzel read the following item description into the record:

E. UNFINISHED BUSINESS

1. SPECIAL MANAGEMENT AREA EXEMPTION CONCURRENCE

- a. **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:**

MR. LUIGI MANERA on behalf of SWENSON REAL ESTATE D/B PENSION RET TR submitting a Special Management Area Assessment for replacement of termite and water damaged framing, flooring, and siding and replacement of damaged concrete footings and replacement of roofing, exterior stairs, and electrical system located at 245 Kolapa Place, TMK: 5-3-008: 010, Kaunakakai, Island of Molokai. (SMX 2011/0184) (Valuation: \$75,000) (L. Callentine) (deferred at the October 24, 2012 meeting.)

The Commission may take action on this request to concur or not concur with the recommendation for SMA exemption.

Chair Sprinzel: This was deferred at the October 24th meeting, I wasn't there, but I have listened to the DVD, CD, whatever, and you did spend a lot of time discussing this. I see, in response to our request, we have Luigi's description of the work as was requested. So if there's any public testimony on this matter, can we hear it now please? There being none, public testimony is closed. Commissioners? As no Commissioners wish to make comment, I would like a motion please to concur with the --

Ms. Zhantell Dudoit: Motion to concur.

Chair Sprinzel: Zhantell, thank you. Seconder? Douglas, thank you.

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

It has been moved by Commission Dudoit, seconded by Commissioner Rogers, then unanimously

VOTED: to concur.

Chair Sprinzel: Carried unanimously. Wow. This is going exceptionally well. Third item.

Chair Sprinzel read the following item description into the record:

2. SPECIAL MANAGEMENT AREA (SMA) MINOR PERMIT

- a. **MS. ARLEONE DIBBEN-YOUNG of NENE O MOLOKAI requesting a Special Management Area (SMA) Minor Permit for construction of approximately 2,800 linear feet of predator exclusion fence, one hundred twenty (120) square foot storage shed set on pre-cast concrete blocks, and ongoing maintenance of an existing drainage way located in the established Koheo Wetland and Ka Lai O Ke Kioea Bird Sanctuary at TMK: 5-3-007: 039, Kaunakakai, Island of Molokai. (SMX 2012/0282) (Valuation: \$14,000) (L. Callentine) (No action taken at the September 26, 2012 meeting and the item was deferred at the October 10, 2012 meeting.)**

The Commission may take action on this request.

Chair Sprinzel: No action was taken at the September 26 meeting, although, once again, we did spend a lot of time discussing it, and the item was deferred at the October 10 meeting. So is there any public testimony on this matter? There being none public testimony is --

Ms. Buchanan: Chair?

Chair Sprinzel: There being none, public testimony is closed. Commissioners, please? Lori?

Ms. Buchanan: Thank you. I would like staff to give us an update from the last meeting that was deferred to this. What additions have been made after the deferral till now?

Chair Sprinzel: Okay, Livit?

Ms. Callentine: Yes. Thank you, Mr. Chair, and thank you for the question, Commissioner Buchanan. In the interim, as I understand it, the applicant has had a survey drawn up but has not -- it hasn't been completed, and it will be submitted to the state. I think she would like a few minutes of your time to explain what she's done. Also, the department completed its environmental assessment evaluation, and we issued an exemption for the project because it does have trigger for Chapter 343, which is use of the shoreline area, however, the project does qualify as an exempt action under Exemption Class 1, which is operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features involving negligible or no expansion or change of use beyond that previously existing; and Exemption Class 4, minor alterations in the conditions of land, water, or vegetation. So with that, I'd like to turn the mike --

Ms. Buchanan: Hang on.

Ms. Callentine: Yes?

Ms. Buchanan: I have a question. Planner Livit, that determination was made between the time of the deferral and today's meeting --

Ms. Callentine: That's correct.

Ms. Buchanan: Citing the exemption from 343 for class 1 and class 4. Where can I find that information in my packet for this meeting today?

Ms. Callentine: It's not in your packet. It's just an update that we're providing. Typically, with minor permits or exemptions that have a trigger but that are exempt from the Chapter 343, we don't include that as part of the application and often only actually there's a worksheet that's prepared by the department, which is never really shared, it's never, to my experience, been shared with a commission, and then there's a letter that's written based on that worksheet and that typically occurs with the approval letter if there's an approval of a project, in that approval letter, we'll also have a paragraph regarding the Chapter 343 and the assessment, but because this project hasn't gone yet to that stage, I went ahead and conducted the assessment since we had questions, at the last time this item was heard, there were questions about whether or not this project was subject to an environmental assessment, and so we took a look at that and found that, although there is a trigger, it is an exempt action.

Ms. Buchanan: Thank you, Planner. And the trigger -- so you determined, this is just based on memory, I would have to go back and look at the minutes, but prior to this, in the first meeting, you said that there was no trigger for Chapter 343 and that such a

determination was not made, which resulted in the department coming forward with recommendations for concurrence of exemption, and since then, you're saying that there was a Chapter 343, according to class 1 and class 4, citing those as exemptions for 343, it would have been nice, and I think in the future, if the department has made a determination, and you stating such on the record, I think it would be irresponsible the department not to furnish this Commission with the findings and conclusions of that determination, and under class 1, you would be citing the negligible improvements, and under 4 would be minor alterations, and, as a Commissioners, I would like to see that conclusion and findings of fact from staff.

Ms. Callentine: That's a good question. Thank you, Commissioner. I take that and note that.

Chair Sprinzel: Any further comments from the Commissioners?

Ms. Buchanan: I don't think staff was done with her --

Chair Sprinzel: Oh.

Ms. Callentine: Okay, you also -- you said that you thought, at the last hearing, that I said that this -- there was not a trigger, and the minutes have not yet been prepared for the meeting as far as I'm aware, and I am -- I am not aware that I talked about there not being a trigger, but your memory may be better than mine. I apologize if that's the case. Okay. I'm done. Any other questions, Commissioners?

Ms. Buchanan: I do have.

Chair Sprinzel: Lori.

Ms. Buchanan: Okay. So between that time and this time, the only difference is is that the department has done their own environmental assessment and based on the exemptions offered up in class 1 and class 4 to 343, is everything then status quo and there have not been any changes from the recommendations from the last meeting?

Ms. Callentine: No. The department has not prepared a new recommendation or we have not amended our recommendation.

Ms. Buchanan: But the applicant is wanting to present or make a statement?

Ms. Callentine: Yes.

Ms. Buchanan: Okay. Thank you.

Ms. Callentine: Thank you.

Chair Sprinzel: Next? Okay. There being no more comments, can we have --

Ms. Callentine: Mr. Chair, will you give the applicant a chance to speak?

Chair Sprinzel: Would you like to speak?

Ms. Arleone Dibben-Young: Just wanted to make everyone aware that on November 2, a surveyor came over and did a shoreline survey. The map has not yet been prepared but it should be going to the state by Friday of this week. It's going to take about three months to have it. I'd like to be able to proceed with the fencing prior to that because of the impending rainy season. There is no movement in the fence whatsoever from the original placement to where the shoreline survey is. It's all based on the existing shoreline. Thank you.

Chair Sprinzel: Thank you, Arleone. Lori?

Ms. Buchanan: Okay, Chair, I have a question for staff now. Sorry, Planner Livit, you went to sit down. I'm sorry. Apology. Okay, so am I really like off or has the request was it always the -- no. Was the not the first request for a concurrence of an exemption and now you're bringing a minor permit forward? That's a major change.

Ms. Callentine: Let me go back and take a look at my --

Ms. Buchanan: I mean I'm happy. I'm glad to see that. But that would be a significant change in the application since its deferral.

Mr. Clayton Yoshida: Mr. Chair, yeah, I guess looking at our latest report, which was for the October 10, 2012 meeting, it always was a special management area minor permit as there were conditions that were recommended by the department, and one of which was a sticking point was the provision of the certified shoreline survey and how long of a period after approval the applicant would have to provide the certified shoreline survey. So from the beginning, from the September 26 meeting, which was the first meeting, and the matter was deferred to the October 10 meeting, when the Commission took it up again as a minor permit request, and the Commission, basically, deadlocked, two to two, on various motions that were offered. To this meeting, it's always been a minor permit request.

Ms. Callentine: Thank you, Clayton.

Ms. Buchanan: So, Chair, I need a clarification. The applicant stated, on the record, that they were indeed going to do a shoreline survey, and that the surveyor had come out, and

that report would be available in about three months, and that report would be the report of a certified shoreline. Is that correct?

Ms. Callentine: That would be what would be produce would be a map, a shoreline map, with the certified shoreline shown on the map and that could -- we could bring that to you as soon as it's done. Normally, that would be going in the project file but if you want copies if you want it distributed for you to see --

Ms. Buchanan: No. I just wanted to know if it would be a certified map with the stamp on top.

Ms. Callentine: Correct.

Ms. Buchanan: Okay.

Ms. Callentine: Signed by the Chairman of the Board of Land and Natural Resources.

Chair Sprinzel: Anyone else? Then I would be happy to entertain a motion.

Mr. Bacon: I make a motion that we concur with the department's assessment.

Chair Sprinzel: Do we have a seconder? Sherry. Thank you. All in favor please --

Ms. Buchanan: Mr. Chair?

Chair Sprinzel: Yes? Yes? Yes?

Ms. Buchanan: Discussion.

Chair Sprinzel: Oh, discussion.

Ms. Callentine: Staff has a question, if I may. When we posed the recommendations to you on September 26, 2012, we had recommended three conditions, and the first condition reads, currently reads because the Chair -- I mean, sorry, the Commission did speak about amending this condition, so I think we need to be clear on what is the wording of this condition no. 1, if you're going to take action today, and here's the way it --

Chair Sprinzel: Would you like to read it?

Ms. Callentine: I certainly would. Thank you. Okay, the way that it was written originally was:

That the applicant shall submit to the department a shoreline survey certified by the Board of Land and Natural Resources prior to initiation of construction.

And then the amendment to that:

Within one year of approval.

Chair Sprinzel: But she could start.

Ms. Callentine: So we strike "prior to initiation of construction," and replace it with "within one year of approval."

Chair Sprinzel: Yes.

Ms. Callentine: So I just wanna make sure that's you all --

Chair Sprinzel: The second item was?

Ms. Callentine: That was the only one, Mr. Chair.

Chair Sprinzel: That's the only one?

Ms. Callentine: Yes.

Chair Sprinzel: Okay. Can we have a -- would you like to add that to your --

Mr. Bacon: Well, it was my understanding that that's the way it stood before.

Chair Sprinzel: Yeah. Yeah.

Mr. Bacon: And the question was: Could we extend it to ten years? No. But we left it at the one year in our discussions and that's what I was basing my --

Chair Sprinzel: Okay. And we all agree?

Mr. Bacon: That's what I was basing my concurrence on that they had at least a year because the shorter period of time was questionable.

Chair Sprinzel: So the motion is to accept the Planning Department's special whatever it is with the --

Ms. Callentine: As amended.

Chair Sprinzel: As amended.

Ms. Callentine: Yeah. Thank you.

Chair Sprinzel: All in favor, please raise your right hands? Oh, any discussion?

Ms. Buchanan: Thank you, Chair.

Chair Sprinzel: Lori.

Ms. Buchanan: Yes. I would like to have some discussion. Thank you so much for that. My first would be to staff. It's been -- the first time we heard the project was in September 26, and today's Commission meeting is November 14, and we have had something else in-between that. It would have been good if staff had at least put in our packets the original application for the minor permit with the three conditions because, at this point, I think the first condition is moot, and the reason why for this because the applicant just stated on the record that they're -- that the points have been taken for the survey and that it's already in the midst. So those conditions are not applicable at this time, I mean it could be, but it just -- it's a moot discussion. And I would want staff -- what was the second and third?

Ms. Callentine: The second condition says, "That the applicant shall employ best management practices for proposed work in the wetland to minimize the impact on the area's existing hydrology, maintain onsite filtration and prevent polluted runoff from storm events, and that full compliance with all other governmental requirements shall be rendered."

Chair Sprinzel: Council wants to just make a comment, please, and we welcome Richelle as our new Corporate Counsel.

Ms. Richelle Thomson: Thank you. I just wanted to add, regarding condition no. 1, that it's -- the shoreline is not certified until it's concurred upon with BLNR, so that condition would still be a valid condition.

Chair Sprinzel: Yes. Three months would be if she brings it, "she" being Arleone, brings it to us within three months. That's within one year isn't it? We'd have no objection to that would we?

Ms. Buchanan: Okay. Planner Livit, did that -- what you just read included conditions 2 and 3?

Ms. Callentine: Yes, it did.

Ms. Buchanan: It did.

Ms. Callentine: I only read conditions 2 and 3.

Ms. Buchanan: Okay.

Ms. Callentine: I had previously -- I'm so sorry that you don't have it before you.

Ms. Buchanan: Okay.

Ms. Callentine: I had put in my request for the agenda that to remind the Commissioners, all of you, to bring your old packets with you.

Ms. Buchanan: Yeah. Well, I grab the one, it was the wrong one.

Ms. Callentine: Oh ...(inaudible)...

Ms. Buchanan: I got about 900.

Ms. Callentine: I understand. I understand.

Ms. Buchanan: So I want Planner Livit to read the staff recommendations into the record, and then -- first, before we make a motion.

Chair Sprinzel: Well, we have the motion.

Ms. Callentine: Don't we have a motion on the floor?

Ms. Buchanan: We do have a motion, but I just wanted you to -- I wanted to hear, for myself, the recommendations from staff, recommendations 1, 2, and 3.

Ms. Callentine: Okay.

Ms. Buchanan: And Suzie's giving it to me. She's so nice.

Ms. Callentine: Okay. Excellent. Thank you, Suzie.

Ms. Buchanan: Okay, I see 7 and I see 3.

Ms. Callentine: Are you saying you want me to read into the record the SMA assessment findings of fact?

Ms. Buchanan: The recommendations.

Ms. Callentine: Just the recommendation. Okay. Sure thing.

Pursuant to the aforementioned, findings of fact, the department recommends approval of the SMA minor permit subject to the following conditions:

No. 1: That the applicant shall submit to the department a shoreline survey certified by the Board of Land and Natural Resources within one year of approval.

And I want to -- I actually want to amend that. I do. Just because it could be approval of the minor permit. That's all I want to add: "approval of the minor permit" so we know what approval we're talking about.

No. 2: That the applicant shall employ best management practices for proposed work in the wetland to minimize the impact on the area's existing hydrology, maintain onsite filtration and prevent polluted runoff from storm events; and

No. 3: That full compliance with all other governmental requirements shall be rendered.

Chair Sprinzel: Nat?

Mr. Bacon: Yeah, in that first one, I thought there were some verbiage in there about the fact that they could build the fence or erect the fence before that approval actually met but I didn't hear it this time or was that in the original something? Anyway, I just want to make sure that's --

Chair Sprinzel: That was in the original but we cut it out and replaced it within one year so it actually could start as long as -- and we could then stop it or make them take it down if it wasn't done within a year. I think that satisfied everybody. Okay? So we have a motion, proposed and seconded, anymore comments?

Ms. Buchanan: Yes, I have more discussion. I did want to make clear, Commissioner Bacon did have a stipulation so I did want staff to clarify that please.

Ms. Callentine: Sure. Okay. Okay, so the recommendation is, and it reads in the report, "Pursuant to the aforementioned, the department recommends approval of the SMA minor permit," meaning they will have approval to go forward with the project, "subject to the following conditions:" and the first one being, "That the applicant shall submit to the department a shoreline survey certified by the Board of Land and Natural Resources within one year of approval of the minor permit." And no. 2 -- do you want me to read them all again, Lori?

Ms. Buchanan: No.

Ms. Callentine: Okay. Thank you.

Mr. Bacon: I guess my clarification was it's the "aforementioned" which said that they could start before that was actually in our or in the department's possession, right, the certified shoreline? I just want to be sure that, you know, we don't have --

Ms. Callentine: Yes.

Mr. Bacon: Okay.

Ms. Callentine: What the aforementioned consist of is the entire record that's in the report, the general description of the property, the description of the project, a discussion of the environmental, cultural, and historic resources, and also the special management area assessment findings of fact, and that's why I was asking earlier: Did the Commission want me to read into the record the findings of fact? So, essentially, the recommendation prior to the aforementioned is everything in the report that came before the recommendation. Did that answer your question or are you still -- it looks like you may still have a question. Go ahead.

Mr. Bacon: Okay, I just want to be sure that the things that it said before was that they could commence with the construction of the fence before the certified shoreline map was actually in the possession of the department.

Ms. Callentine: Yes, Commissioner Bacon, the condition originally required that they would have to do the certified survey and obtain the certification prior to initiation of construction. We struck that phrase, "prior to initiation of construction," and replaced it with, "within one year of approval."

Chair Sprinzel: Lori?

Ms. Buchanan: I can validate Commissioner Bacon's concern because the conversation was a lot more convoluted than that at the September 26 meeting because there were

multiple actions at that time that was being considered and I think that's why I asked for the applicant to defer or to withdraw the application at that time pending further information. So Commissioner Bacon is correct in his asking of a validation of what the thoughts were I mean because we don't have the entire aforementioned application in front of us with changes and whatever along the way. And if Planner Livit cannot explain that at this time, I don't know if the Commission is happy with that, but, at this time, this is all what's in front of us today, a minor permit that can be conditioned, and so from the discussion of conditions while -- 'cause we have a motion on the floor, I would like to add, I'm not going to ask for a friendly amendment at this time, but for discussion, that a no. 4 of conditions be added, and that would be from the date of the erection of the fence line, that the staff, in conjunction with the applicant, make a report back to this Commission of any complaints from the public or any adverse actions that could have been reported to staff and the public as a result of that action. So it's a minor permit, it's not a conditional use permit, otherwise, I would say one year she needs to come back to this board and make a report that the construction of her fence did not adversely impact her neighbors and wildlife and animals and all that kind of stuff.

Chair Sprinzel: Lori, I agree very much with all your thinking on this, but in all the years I've been involved and I'm sure in all the years you've been involved, we've never put such a restriction or such a demand on anyone who has been before this Commission or before the Maui commissions. It's just it seems, you know, to ask the public to complain or to -- it seems just a little bit odd.

Ms. Buchanan: Okay. Well, for the record, actually we have made many several such conditions in the past, some of them have been for the transient vacation applications, as well as the store east, Manae store applications, the conditional use permits, and we have made, in the past, types of requests because the onus for my condition is because Chapter 343 is being exempted under an environmental assessment, an internal environmental assessment by the department citing 1 and 4 as the reasons for doing that and not having those determinations in front of us, the trigger for 343 in order to have to follow HRS and notify adjoining neighbors within 500 feet was not triggered, because the neighbors within 500 feet was not triggered and did not have an opportunity to participate in this discussion in a public way, as a default, I think I'm just taking that extra step. We did get a letter of support from the district manager for the Department of Hawaiian Home Lands, but every neighbor within 500 feet of that proposed project was not notified, and so that's my onus for saying -- because people are going to say tomorrow, Chair: Whoa. There's a fence here. How come nobody told us. And the simple thing is if you got a problem with it, if it's now impacting a historical way that you traversed as a native Hawaiian under your rights and whatever, then you can put in a complaint with the County of Maui because we permitted the action today, and it's an awesome project, okay, that's not even part of the discussion, because we did that action today, we're held accountable. And so within a year, if this had adversely impacted someone, you're going to hear about it, and all I'm saying is that the department needs to come back at that time to review because of the

conditions that are set before us today. I don't have that environmental assessment internal by staff.

Chair Sprinzel: That makes sense. Arleone, would you agree to that fourth condition?

Ms. Dibben-Young: No ...(inaudible)...

Ms. Callentine: Mr. Chair, may I explain something? Hang on. Hang on just a minute. Okay, hang on just a minute, Arleone. The way that I -- I mean I agree. If there are complaints about any sort of a problem in the community, you know, the authorities, the government, the proper agency needs to investigate. So what happens is if there is a complaint that's filed with the County of Maui, a request for service is created, a number is given to the project, to the request, and that is then divided up and spread out to whichever department the first person that receives the request decides it needs to go to so it might go to the zoning division of the Planning Department, it might go to the building department for whatever reason; it would probably come to Planning --

Chair Sprinzel: I think you're going into a little too much detail here.

Ms. Callentine: Okay.

Chair Sprinzel: Lori, could you read that out again clearly, your fourth item?

Ms. Buchanan: Hang on.

Ms. Callentine: And specify "frequency" when you do that too.

Ms. Buchanan: Okay, but I would like Corporation Counsel to read to me the exemptions of class 1 and class 4 under Chapter 343.

Ms. Thomson: It's just going to take me a couple of minutes to pull that up, but I'd be happy to.

Ms. Buchanan: Could we call for a five-minute recess, Chair? We have a motion pending, but can we take a recess right now while she pulls up that information?

Chair Sprinzel: Certainly.

Ms. Buchanan: Okay. Thank you.

Chair Sprinzel: Five minutes on the clock.

(A recess was called at 12:43 p.m., and the meeting reconvened at 12:45 p.m.)

Chair Sprinzel: Corporate Counsel will address Lori's question.

Ms. Thomson: What I'm going to read from is the environmental assessment exemption list for the County of Maui. As a general note, before you get into the exemption list, there's a note that the following type of projects will not be exempt, no. 2 is a project in a statutorily defined area including, but not limited to, critical habitats, special management areas, etcetera, etcetera, wetland sanctuaries, special habitats, shoreline areas, tsunami inundation areas, etcetera, except where the work is eligible for exemption and there is not negative impact on the conditions that define those areas. That's a general note prior to getting into the exemption list.

Exemption Class 1 is: Operations, repair or maintenance of existing structures, facilities, equipment, or topographical features involving negligible or no expansion or change of use beyond that previously existing.

And then there's a very -- a pretty detailed list of the types of projects that would fit into that exemption class.

Four, Exemption Class --

Ms. Buchanan: Excuse me, Corp. Counsel, so this project would fit into that exemption class?

Ms. Thomson: The Planning Department went through the analysis, it's an environmental assessment analysis, to determine if there is a trigger, and, from what I understand, they determined that there was a trigger because the action is occurring in a shoreline area. And then the second part is if there is a trigger, is it exempt. So it's a staged analysis. And so after the department determined that there was a trigger, then they went through the exemption analysis and decided that the action was exempt under two different classes of exemption.

So that was Exemption Class 1 that I just read. Exemption Class 4 is: Minor alteration in the conditions of land, water, or vegetation. And there are some examples of those types of projects, and I could read those if you want to.

Ms. Buchanan: Corporation Counsel, Chair, can I call for an executive session to consult with my Corporation Counsel on my rights as a Commissioner and my duties?

Chair Sprinzel: Anybody in favor of a session? One, two --

Ms. Buchanan: I don't think we have to have a motion. It's my right, as a Commissioner, to call for executive session to consult about my rights with my attorney.

Chair Sprinzel: May I suggest we have a five-minute adjournment and you discuss it with the Corporate Counsel? No?

Ms. Buchanan: Corporation Counsel, can you jump in and save us?

Ms. Thomson: We might be able to just handle this on the record if you'd like.

Ms. Buchanan: No. I would not.

Ms. Thomson: Okay.

Ms. Buchanan: Corporation Counsel, Chair, point of order. Commissioner has requested executive session to confer on our rights on a Sunshine Law issue for this Commission. I think it would be wise to adjourn to --

Chair Sprinzel: Granted. Granted. Adjourn.

Ms. Buchanan: Yeah. Thank you.

***(The Commission went into Executive Session from 12:50 to 12:55 p.m.)
(Commissioner Bacon was not present in the Executive Session)***

Chair Sprinzel: ...(inaudible)... of what we have changed, so I'm not sure what the procedure is. Perhaps Corp. Counsel can tell me but I would assume we should have a new motion to defer.

Ms. Buchanan: But maybe you gotta take care of the motion on the floor now.

Ms. Thomson: Yes. You'd want to take care of the motion on the floor now, call for a vote, and, you know, see where that leads you and then ...(inaudible)...

Chair Sprinzel: Okay. Let's have a vote on what's on the table, which only has three conditions.

Ms. Dudoit: The other option is they could withdraw their motion.

Chair Sprinzel: Yes. That's possible. Sorry?

Mr. Bacon: I say why not vote on that? What difference does it make?

Chair Sprinzel: Okay, let's vote on the -- now, is this motion with three conditions or four conditions? We haven't quite ...(inaudible)... through at the moment. Yes, Lori?

Ms. Buchanan: Three conditions with the first condition being amended as stated on the record.

Chair Sprinzel: ...(inaudible)... ok.

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

It has been moved by Commissioner Bacon, seconded by Commissioner Tancayo, then

VOTED: to accept the Planning Department's recommendation as amended.

(Assenting: N. Bacon; D. Rogers; S. Tancayo)

(Dissenting: L. Buchanan; Z. Dudoit)

(Excused: R. Davis; M. Jennings; J. Kalanihuia)

MOTION FAILED.

Chair Sprinzel: Motion is denied. I will take a new motion, please. Zhantell.

Ms. Dudoit: We would like -- I would like to make a motion to defer this matter until further information is gathered.

Chair Sprinzel: Is there a second?

Ms. Buchanan: I'll second.

Chair Sprinzel: The motion is second. All in favor of the motion raise your right hand. Oh, discussion. Okay.

Ms. Callentine: If this motion passes, I would want to know what other information, you know me, I'm like, okay, what do you want?

Chair Sprinzel: Thank you, Livit. Okay. Is there anymore discussion on the motion to defer? Sherry.

Ms. Tancayo: I just have one question. If we get a rainy season, which I hope we do, I have some concerns about protecting the birds also because I've seen, recently, some tire

tracks in there so, obviously, they're still driving in there. So I would like to see them be able to start the fence. I mean if this isn't finished or whatever, we don't get this paperwork or we defer it, we can always make them pull it out, right?

Chair Sprinzel: Well, that was the terms I suggested originally. I said we would cover it because and -- but that would be at the end of the year. We could take it down at the end of the year.

Ms. Tancayo: Right. I understand that. But I mean even if we defer it now, we get the rest of this information, because --

Chair Sprinzel: Can she put up a temporary fence?

Ms. Tancayo: Can we still put up the fence 'cause we can still make her take it down, I guess in talking to counsel, and then also that the recommendations or liability or whatever, if the department has clarified that they deem as an exemption for specific reasons, we're covered by going with the department. Am I correct on that?

Ms. Thomson: The Molokai Planning Commission is the authority in the SMA, so if this body does not believe that the determination of the Planning Department regarding the EA exemption is correct, then, you know, you need to explain why you don't ...(inaudible)... As far as allowing a temporary fence, I think that that might be ...(inaudible)... an emergency permit but I'm not sure. I'd have to look into it.

Chair Sprinzel: But we're talking two weeks. We have a meeting in two weeks, don't we?

Mr. Yoshida: The next meeting is December 12.

Chair Sprinzel: Thank you. Oh, that's a long time. Yes, because of the Thanksgiving.

Ms. Dudoit: So I think the issue is that we're being asked, as Commissioners and as the authority, to make a decision based on hearsay to this point because the paper that we're reading on and the recommendations that we wrote down on today's agenda is not clearly stated. In addition to that, the department, all of a sudden, after two meetings, discovered a trigger that made them go out to do the assessment. We don't have any idea what the trigger was, any kind of documentation. We don't have anything to look at except for the planner verbally telling us what's going on and us trying to remember what happened from meeting to the next. So I think that more of the issue is the department's efficiency in putting down accurate information so that when we make a vote, it's a very well informed and clear statement of what we are trying to decide on 'cause I, personally, am confused, and there was so much discussion on whether or not the fence line could start, couldn't start; yes, you can give the permit, then can start, and then we'll get the shoreline

assessment later. So I'd like to know what the trigger was. I'd like to be able to research for myself what kinds of exemptions the department was looking at. And it needs to be on paper so that I can protect myself.

Ms. Dibben-Young: ...(inaudible)...

Chair Sprinzel: Which is? The letter --

Mr. Bacon: What letter are we talking about here?

Ms. Dibben-Young: This is the SMA, this is the Chapter 343 exemption worksheet ...(inaudible)...

Ms. Buchanan: Chair? Either -- yeah, gotta recognize the -- 'cause all of this on the record and we can't hear anything.

Ms. Dibben-Young: Okay, I have in my hand the letter I received regarding the environmental assessment and exemption from Chapter 343. I have the worksheet from the county. And I have my letter. And I can go over and make copies at the drug store. I can make 15 copies if you wanted this or, Livit, do you have a copy machine?

Ms. Callentine: There's a copy machine in the ...(inaudible)... in the county office.

Ms. Dibben-Young: In the county office? ...(inaudible)... ten minutes?

Chair Sprinzel: Will that make anybody happy if we have that so we can make a decision? Lori?

Ms. Dibben-Young: And this is signed by Clayton.

Chair Sprinzel: Well, I suggest you go -- Livit, you copy them just for us. We have a bit of time to read it through.

Ms. Dudoit: Okay, so I going say, I going --

Chair Sprinzel: You what?

Ms. Dudoit: It's not - and I going try to be as nice as possible - number one, we need to have this in a -- all this paperwork, agenda, I mean under the Sunshine Law, under the rules that we abide by, things need to be printed on the agenda, this is law, printed on the agenda, even for people to review, the public could come, look at our agenda, and see everything that we doing. We supposed to advise the public within a certain amount of

days with all the information that we have. This is not right. If we have to wait till another meeting to have the information furnished to us properly, to have the information furnished to the community properly, that's our responsibility. So it should not be acceptable that we are able to get from the applicant, or anybody else, papers to go run, on the floor, just go run copy and bring back because in addition to that letter, we also need to have the conditions 1, 2, and 3 stated clearly, in writing, on our -- as a part of our records, the recommendation from the department. In addition, we need to be able to review the new information that is put on our documents so that we can do our homework before we come to the next meeting.

Chair Sprinzel: I agree. I'm disappointed that we didn't get all this in our notes and I guess it is law that we should have them because you changed stuff and we haven't had a printed copy of it.

Ms. Callentine: Mr. Chair, may I speak for a moment? You know, at the last meeting, there were four motions put forth, they got seconds, but none of them carried. So at the end of that discussion, there was an automatic deferral. There was not vote taken so there was no amendment to any of the conditions. That needs to happen at the time that you're actually making a decision to approve something, then you make sure you've got the conditions on there that you want. Staff was not directed to make any changes to the report or to provide any additional information for you. The scope of the work has not changed. There have been no changes. The fact that you don't have your previous reports with you, I'm sorry, you know, you need to bring them. And in regards to the environmental assessment, that is a -- that is a very standard practice that takes place with every SMA assessment, it's part of the application packet that an assessment is done. They are not brought to the Commission unless there is -- unless there is a trigger that they're not exempt for. If it's an exemption, it's not brought to the Commission. Thank you.

Ms. Dudoit: But according to our --

Chair Sprinzel: Zhantell.

Ms. Dudoit: But according to our Corporation Counsel, the Commission is the authority on this decision. So how are we to know if those exemptions are accurate or if we agree with them and make a responsible decision if we don't seem them? And then further more, you just stood here telling us that there was no amendment done to the motions. Well, that confuses me a little bit because -- because on the first meeting -- hang on. It's my turn. On the first meeting, it was clearly stated that condition 1 said that the construction could not start until the shoreline assessment was certified. Now, when you came to the meeting today, you said, oh, we had discussion and we struck that because we said she can have the shoreline assessment within one year and she can start construction. That's what

Commissioner Bacon was trying to clarify. So now I'm confused 'cause if there was not amendment made --

Ms. Callentine: Okay, let me clarify. Let me clarify. I understand what you're saying. I think I understand where we're not connecting. When I say there were not changes, I didn't mean that you didn't discuss changes to the conditions. What I meant was there were no changes to the project as proposed. Now, you did discuss changes to the conditions, but since you didn't vote to change the condition because you didn't vote to approve the minor permit, there was no change to be made. That was to be determined at the next meeting ...(inaudible)...

Ms. Dudoit: But, Livit, when you read condition no. 1 to us, it didn't include the original recommendation. You eliminated and struck out the --

Ms. Callentine: But we have since clarified that, Commissioner. We have clarified that. We've read all through the conditions several times. It's asked and answered.

Chair Sprinzel: I have no idea where we are at the moment because, normally, we make the conditions as we vote, so the original conditions stood. If we want to change them or add to them, now is the time to do it. We don't need anything else. Now, Lori wants to add a fourth condition, and you want the first one as it was or changed?

Ms. Dudoit: No, no. I think the discussion on the floor right now is that we are -- we made a motion to defer, and we're having discussions on the reasons why and the information that we needed. And I think the only reason that the conditions became a part of that is that I am stating that there was so much discussion done that, even today, I was confused because when Commissioner agreed to the recommendations done by the department, it should have been read as originally stated and then Commissioner could have amended and said we're going to strike out that construction has to wait until the shoreline assessment is certified. But the way that the planner read it to us, it was as if that was already struck out of the motion. It was already struck out of the condition. So all I'm saying is the whole subject was that's why we need to have it reprinted when we're --

Chair Sprinzel: But you've got it printed in the original form and we can now change it. The original form --

Ms. Dudoit: No we don't have -- our discussion is to, right now, on the deferral, is the reasoning why we wanted to have a deferral.

Chair Sprinzel: Okay, let's have a vote on the deferral.

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

It has been moved by Commissioner Dudoit, seconded by Commissioner Buchanan, then

VOTED: to defer this matter until further information is gathered.

(Assenting: L. Buchanan; Z. Dudoit)
(Dissenting: N. Bacon; D. Rogers; S. Tancayo)
(Excused: R. Davis; M. Jennings; J. Kalanihuia)

MOTION FAILS.

Chair Sprinzel: Okay, the motion is not passed. So now let's go on with this. What are we going to do? We can pass it as requested by the Planning Department with whatever conditions we want to put in. The initial conditions are there.

Ms. Dudoit: This is not a conditional permit. This is an SMA minor permit.

Chair Sprinzel: Which can have conditions. It can have as many conditions as we add to it. In fact, when all this nonsense started, I asked Lori to reread the fourth condition she wanted because it wasn't very clear.

Ms. Buchanan: Chair, following the first meeting, there were several conditions that I brought forward as a Commissioner. I think I was trying to fit, you know, around being in a square whole...(inaudible)... I think what inherently is bothering me is that the department deemed this not a development. Having worked in conservation for, professionally, for the last 15 years of my life, many of that dealing with multiple landscapes. I would say I would have been more comfortable had this come in as a conditional use permit because, not to be put the onus of great economic burden on the applicant to do an EA, which I thought was really what needed to be done, because in essence, you're taking an area and you're developing it into a wetland bird sanctuary, maybe not -- not now, but when you restore an area and you make that area attractive to attract what you're trying to get in the end, which is wildlife for protection, you are developing something that was not previously there historically. And that's on the record. It's new land. It's not old land. It hasn't historically been there as a wetland. It's new land that is being developed into a wildlife refuge sanctuary whatever. Nobody here does not want to see that happen, but I think when you do not allow your public to participate in that discussion through a trigger, which environmental laws, like Chapter 343, are put in place to do, then the onus becomes on you and all I can do is draw on my knowledge, as a conservationist and as a Commissioner having to deal with all levels of government, and so I think this Commissioner is very happy at this point to say that I'm not in agreement with staff's recommendations or report that this is not a development, nor that I can agree that the triggers of 343 are exempt through a negligible action. Thank you.

Chair Sprinzel: It's sad that the birds can't speak.

Ms. Callentine: Mr. Chair, may I point out and direct the Commissioners to look at the assessment that was Attachment A to the memo report and this project, from the beginning, was determined to be a development as placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste. It was never determined to be not a development. There are parts of it that are not a development, such as routine maintenance or dredging of existing streams, channels, and drainage ways, the routine maintenance, but it was always determined to be a development. Okay. Yes. Thank you for the question.

Ms. Buchanan: Then, Chair, I'd like to also go on the record, under development, where the cause was that the action may qualify as not a development except when the action may have cumulative impact. Let me just touch on cumulative impact for a real short second. Creating a reservoir for wildlife where there is none now may be a cumulative impact that neighbors may feel because we all know that wildlife does not stay where they supposed to stay unless they're contained. This is an open containment. It's not an enclosed enclosure type of structure that will restrict wildlife from exiting or entering, ingress and egress, so you're creating a reservoir or wildlife to come. And the reason why I'm just putting this on the record is there are multiple cases currently in the State of Hawaii where landowners are being impacted by wildlife, threatened and endangered federally protected species, such a nene goose and other wildlife, that don't stay on the line of their property but traverse into private property, and then it becomes an issue. And having an entire subdivision that belongs to the Department of Hawaiian Home Lands that are inhabited by native Hawaiians, who did not have a chance to participate in the discussion, I would err on the side of caution as a Commissioner for full disclosure of any project that may have a cumulative or adverse impact in the long run, the impacts for birds are great, but we're trying to include everybody.

Chair Sprinzel: Well, folks, we can talk about this for the next four hours. We're not going to agree. It's four to two at the moment or three to two at the moment, so there's no way we're going to agree. There's no motion we can agree on. So I think we'll just have to abandon it. I really have no suggestions as to what to do unless somebody has a motion, which they think will be passed by this Commission.

Ms. Buchanan: Maybe Commissioners would feel comfortable if Corporation Counsel explained their options at this point.

Mr. Doug Rogers: What about all the people that came and testified for it? There was actually quite a few.

Chair Sprinzel: And nobody testified against it at all. Not one. Not one person. And it was publicly announced so there would have been plenty of opportunity.

Mr. Rogers: That was my point exactly.

Ms. Dudoit: But I mean if you took a roll call, there weren't very many neighbors, if any at all.

Ms. Dibben-Young: ...(inaudible)...

Mr. Rogers: What's his name - Rocky? He's like right inside it.

Ms. Dibben-Young: Everyone that testified was a neighbor. One of the neighbors has lived there for 25 years. By the way, that wetland has been there since about 1916. It has never changed anything. The only thing I'm asking for is a fence to protect the existing birds that are there from feral dogs. I have never had a complaint about what's going on at the wetland. I have talked to most of the people in Kapa`ahea personally because they come on the field trips with their children. They come volunteer. The only problems I've had was this one neighbor, in Kapa`ahea, who was ordered to cease and desist to stop dumping garbage in the wetland. They also built a pigpen in the wetland. And, currently, I have three -- I have one trespassing charge and three harassment charges against them. Those are the only people that I have ever had a complaint with. So as far as working on the site since 2001, the neighbors, including neighbors from Kapa`ahea, are happy because the wetland no longer stinks. There's no longer a lot of ATV use. People are no longer driving up to the beach and taking away truckloads of sand off of the dune that used to be there. Okay. So the neighbors that I've talked to are all happy. This was in the paper two weeks ago. I have not had a single phone call against the project; instead, I got phone calls that said, well, it's really great. How can I help? Thank you.

Ms. Buchanan: Chair, since you allowed the applicant to re-testify, can I ask a question?

Chair Sprinzel: Of course. I'd love to get a solution to it.

Ms. Buchanan: Arleone, where is your wetland plan and was that attached to the first document?

Ms. Dibben-Young: I am not required to submit a wetland enhancement plan with my application. This is strictly for the four-foot tall fence to keep out dogs. I'm not required to submit that, nor my insurance policy, nor anything else.

Ms. Buchanan: Then I cannot concur. I cannot because what I'm eluding to is, again, a development of an action that may have cumulative impact because I'm creating a

reservoir for wildlife and I don't have any plan to see what the carrying capacity of that acreage is and so I can't do that. Sorry.

Chair Sprinzel: There is clearly to consensus on this so I'm afraid we're going to have to move on.

Ms. Thomson: Effectively, if there's no decision made, then it's going to be deferred.

F. CHAIRPERSON'S REPORT

Chair Sprinzel: Okay, Chairperson's Report. Japan was wonderful. Thank you. Director's Report. Clayton.

G. DIRECTOR'S REPORT

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

Mr. Yoshida: Thank you, Mr. Chair. The department has distributed the list of pending and closed Molokai applications if there are any questions from the Members.

Ms. Buchanan: What is the status of the Grace Pacific HMA plant? Page 1 of 4.

Ms. Callentine: This is the hot mix asphalt plant. Okay, the status - this is Livit again - the status of this project is -- it is -- it's out for agency comment, and the applicant is currently addressing agency comments. I did a site inspection on June 12. Comments were sent -- request for comments was sent out on August 1. I sent a reminder on September 5. And the applicant is currently addressing the agency comments.

Ms. Buchanan: Director, what is the status on the Board of Variance and Appeals for the model train tunnel, page 1 of 4?

Mr. Yoshida: I'm not aware if any kind of hearing is scheduled before the board at this time.

Ms. Buchanan: Livit, can I -- go ahead.

Ms Callentine: Well, I have a note. This came up back in April and so Deputy Director, Michele McLean, was here that day at the meeting just prior to this email and she requested updated information from Trisha Kapua`ala, who is the planner for the Zoning Division who handles all of the variances, and what -- and this was back in April so there's

been no update to me, I just happen to be carrying this around in case anybody ever asked so, but sorry, I don't have an update beyond April, but what she explains, what Trisha explains back to Michele is that the appeal is pertaining to a garage storage structure located in the setback. The -- okay, she says, "The variance meeting to determine the hearings officer was scheduled for April 26." And it says, "The only remaining issue on the property is the one pertaining to setback, meaning the train tunnel is okay," according to one of the other land use -- plans examiners in the Zoning Division. So I don't know -- I mean we could look up -- we could look it up and see what the status of the variance is if you would like. I'd be happy to do that. I can give you the variance number and you can also look it up online if you'd like to. Okay, it's BVAA 20120001, so it's the first one in 2012, that's what that number means.

Ms. Buchanan: And, Director, the change in zoning for Makua Trucking from interim to M-1?

Ms. Callentine: Yes. On that one, staff is in the process of reviewing this application right now. I have done a site inspection. And I expect to have the review -- actually, that's what I'm doing this after is completing the review on this project.

Ms. Buchanan: And in your review, you checking for consistency with the Molokai Community Plan?

Ms. Callentine: Yes. That would be part of my review. Do you have a concern about that that I should know?

Ms. Buchanan: Well, I -- well, I'm glad -- well, you get paid to sit and read that stuff all day, I don't. I get plenty stuff to read on my own. But I think just because it's heavy industrial --

Ms. Callentine: Yes.

Ms. Buchanan: So the designation within Kaunakakai Town for the heavy industrial along a main corridor is my concern.

Ms. Callentine: Okay. Thank you.

Ms. Dudoit: What about the status on Malama Cultural Park?

Ms. Callentine: Okay, that one too, I have placed a call to Zach Helm and we have not had a chance to meet yet about it, so that is another one where I think there's -- I'm not sure, actually. The truth is I'm not sure. There have been no calls to me about the project and it's another one where I just need to have the time to sit down and figure out if they're still wanting to even -- I mean even interested in the project any longer.

Ms. Buchanan: Has there been any development with the Havey Teves Trust application? He was the one that wanted water. Did he withdraw his application? We didn't do anything. While I wasn't here, did you guys approve his water use?

Chair Sprinzel: We passed that. Teves?

Ms. Buchanan: Yeah.

Chair Sprinzel: Yeah. We passed that.

Ms. Buchanan: You let him draw water from that --

Chair Sprinzel: From the water on his own land. Yeah.

Ms. Buchanan: With no conditions?

Chair Sprinzel: As far as I'm aware, no. Well, the usual ones.

Ms. Callentine: For the Teves project, Commissioner Buchanan, for the Teves project, I don't remember what, I know there were conditions, I don't remember exactly what they are because I didn't bring the letter with me, but I do know I had extensive conversations with Charley Ice, from the Commission on Water Resource Management, and he was able to provide, and it's something you all might want; if you don't have it, I'd be happy to provide it, it's the aquifer map and exactly how many -- how much water is permitted to be drawn from that aquifer, and what percentage of the water has been allocated to permits, and what's available, and the Commission decided there was enough water that it wasn't a concern.

Ms. Buchanan: Ooh, dangerous when we decide how much water is everywhere, but I just was wondering if that permit would have been a conditional permit until such time the county had made water available and then that permit would cease to end. So just hindsight. Forget it, Chair. Thank you.

3. Scheduling of the Public Hearing on the following:

MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 12-111 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill amending Chapter 19.40, Maui County Code relating to the duration of Conditional Permits. (J. Alueta)

Mr. Yoshida: Okay, if there aren't any other questions on open and closed Molokai applications, we did distribute copies of Council Resolution No. 12-111 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill amending Chapter 19.40, of the Maui County Code, relating to the duration of conditional permits. This was received on October 23, so we have 120 days to have the commissions have a public hearing and provide their recommendations back to the council. We're looking at a public hearing possibly the January 9 Planning Commission meeting, if that's okay with the Members, at 12:00.

4. Agenda items for the December 12, 2012 meeting.

Okay, if not, our next meeting is December 12. We don't have any define items yet except for the Koheo Wetlands SMA minor permit, which defaulted into a deferral today.

Again, we'd like to welcome, again, Richelle Thomson, your Deputy Corp. Counsel. She's had a lot of experience or she advises the Maui County Cultural Resources Commission and also the Hana Advisory Committee, amongst various other assignments, and so she'll be advising this Commission since Michael Hopper has been your advisor for almost six years.

Okay, with that, we'd like to wish all of you a Happy Thanksgiving, and our next meeting is on December 12.

H. NEXT MEETING DATE: DECEMBER 12, 2012

I. ADJOURNMENT

Chair Sprinzel: Thank you folks for coming. Meeting is closed.

There being no further business brought before the Commission, the meeting was adjourned at 1:30 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

John Sprinzel, Chairperson
Lori Buchanan, Vice-Chairperson
Nat Bacon
Zhantell Dudoit
Doug Rogers
Sherry Tancayo

Excused

Ron Davis
Michael Jennings
Janice Kalanihuia

Others

Clayton Yoshida, Planning Program Administrator
Livit Callentine, Staff Planner, Molokai
Richelle Thomson, Deputy Corporation Counsel