

**LANA'I PLANNING COMMISSION
SPECIAL MEETING
OCTOBER 2, 2013**

APPROVED 11-20-2013

A. CALL TO ORDER

The special meeting of the Lana'i Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 6:00p.m., Wednesday, October 2, 2013, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Mr. John Ornellas: Today's, today's October 2nd, 2013, and we are convening the Lana'i Planning Commission on this date. In attendance is Joelle Aki. Aoki, I'm sorry. I'm sorry. How quickly we forget. Okay. She's still Joelle Aoki. We have Shelly Barfield; Kelli Gima; myself; Stacie Lee Koanui Nefalar. How's that? Koanui Nefalar. Hey, I went to a Hawaiian language school last night. Boy, this is another tough Hawaiian name, Stuart Marlowe, and Beverly Zigmond. So we do have quorum, and we'll go on to item B, approval of the minutes of July 17, 2013 and August 21, 2013. And Leilani, that would be – we would be current, yeah, with the, with all the minutes, right? So these are the last two.

B. APPROVAL OF THE MINUTES OF THE JULY 17, 2013 AND AUGUST 21, 2013 MEETINGS.

Ms. Beverly Zigmond: Mr. Chair?

Mr. Ornellas: Yes, ma'am.

Ms. Zigmond: I did not send around corrections because I didn't have time to read them because they came in pretty late, and I –. It's not that I doubt Leilani, I certainly doubt you, but I just have a hard time approving something I haven't had a chance to read.

Mr. Ornellas: Understood. Members, would you entertain a motion to defer until our next meeting which is October 16th? Is that correct Leilani? Yes, October 16th. Yes sir? Stuart?

Mr. Marlowe: If anyone else has still read them and doesn't have any questions, why can't we have a motion to go forward?

Mr. Ornellas: We could. Okay, well, I will entertain a motion to defer it, and if it doesn't pass muster then we continue on. How's that? Okay. So, can I hear a motion to defer approval of the minutes of July 17th and August 21st, 2013?

Ms. Kelli Gima: I make the motion to defer the approval of July 17th and August 13th.

Mr. Ornellas: 21st.

Ms. Gima: I'm sorry, 21st, to our next meeting which is October 16th.

Mr. Ornellas: 16th. Do I have a second?

Ms. Zigmond: Second.

Mr. Ornellas: Second by Beverly. Any more discussion? Hearing none, all those in favor say aye. Okay, all in favor of deferring, raise their – say aye. All those opposed say nay.

Mr. Marlowe: Nay.

Mr. Ornellas: Okay, so it's six ayes and one nay. My math is correct Shelly?

Ms. Shelly Barfield: Yeah.

Mr. Ornellas: Okay, great. Thank you.

Mr. James Giroux: Just for the record, sunshine law requires the minutes to be available to the public 30-days. So as far as staff goes, just make sure that if somebody does asks for these that that you let them know it's available but they haven't been adopted yet, and so it will be marked draft.

It was moved by Commissioner Kelli Gima, seconded by Commissioner Beverly Zigmond, then

VOTED: to defer the approval of the July 17, 2013 and August 21, 2013 Lana'i Planning Commission meeting minutes until the October 16, 2013 meeting.

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Koanui Nefalar, B. Oshiro, B. Zigmond

Dissenting: S. Marlowe

Excused: P. Felipe)

C. UNFINISHED BUSINESS

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 13-66 containing A Bill for an Ordinance Amending Section 19.510.040, Maui County Code relating to Change of Zoning Protests. (J. Alueta) (previously discussed at the August 21, 2013 meeting.)**

The Commission may take action to provide its recommendation to the Maui County Council.

Mr. Ornellas: Thank you. Alright, so going on to item C, unfinished business.

(Chair John Ornellas read the above project description into the record.) The planner is Joe Alueta, previously discussed on the August 21st, 2013 meeting.

Mr. Clayton Yoshida: Good evening Mr. Chair and members of the Lana'i Planning Commission. Clayton Yoshida, Planning Program Administrator, Planning Department. I am subbing for Joe Alueta as the Council Planning Committee decided to have a special meeting this afternoon on bills relative to amendments to the duplex district, apartment district and hotel district, which Joe was the primary staff member on. Again, you have before you the Council Resolution 13-66 attempting to clarify interpretations regarding protests on change in zoning applications. It is in – Joe went over the main points of the bill the last time, but the bill is again Ramseyer. So that which is bracketed is to be, proposed to be deleted, and that which is underlined is proposed to be added. Essentially right now the way the ordinance is structured we're looking at if 40% of the land is in protest. But the Council is proposing to change that to 40% of the parcels within the 500 foot radius is in protest. Then it requires a, not a simple majority vote, but currently it's a vote of at least seven council members. But the council is proposing to change that to at least six council members.

Again, the rest is to kind of clarify some experience we've had relative to protest for change in zoning applications. One is that we can count publically owned parcels such as roadways and parks in the computation. Also that – let's see – a person can withdraw a protest later. And that if any member, if any owner of a parcel is in protest the whole parcel will be counted as being in protest. So if there are say you and your four brothers own a piece of land, if one of you is in protest of the zoning change, then the parcel will be counted as being in protest, even if the other four are silent. If one member is in – owner is in protest, then the whole parcel will be counted as being in protest. This doesn't come up very often, but we have faced some recent experiences say with the Hanzawa Store change in zoning, and the council resolution to change the Kaanapali Golf Course zoning to – from apartment to park. Also I guess that the – if the – if the change in zoning is introduced by resolution from the director or the council then this protest clause does not apply.

We faced the case in the Kaanapali Golf Course where the owner was in protest. Kaanapali Golf Course is owned by the employee retirement system and the successors of AMFAC, and they opposed the zoning change from A to apartment to golf, PK-4 golf course because they felt that it was devaluing the appraisal value of the land. So we just had these questions about do we count parks, do we count streets, and the council trying to clarify that.

Mr. Ornellas: Thank you Clayton. Any questions for Clayton?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: Clayton, what did Molokai do?

Mr. Yoshida: Molokai recommended approval, and Maui recommended approval.

Mr. Ornellas: Any other questions members?

Mr. Giroux: I don't want to take up too much of your time, but I, I was in the center of one of these protest issues so I was really put on the spot as far as making these interpretations so I put a lot of pressure on the department to put something in writing so that Corp Counsel, every time this came up, wouldn't have to reinvent the wheel as far as, you know –. Because one of the biggest things was, you know, if it's vague as far as area versus number, the advantage to a large landowner, sometimes it would be an advantage, and then sometimes it would be a disadvantage. So when you're coming up with an interpretation, somebody's going to be pissed off because you chose one or the other. So we wanted that to be clear. We don't care which one it is because 50% of the time it's going to disadvantage somebody or advantage somebody else, but it needed to be interpreted consistently because the way it was originally written kind of just threw it out there and said, well, whatever the interpretation is and that wasn't satisfactory to Corp Counsel.

A lot research went into whether or not public owned lands should go into that calculation and that was really frustrating because like most things now in American law you're going to get a majority, a minority opinion. So I found one case that I relied on which was in the 9th circuit and Mr. Nishiki found another case he relied on that was in Baltimore. And I, you know, it's basically battle of the experts of well are you going to include public lands as being a parcel, and you're going to use that as a percentage, or you're you exclude it and not put that as part of? And again it, it's not a matter of which one. It's we need to pick one because 50% of the time it's going to disadvantage some people and it's going to advantage other people.

In part, the bottom line is that at the end of the day all the council needs to know is if they meet this certain criteria do we need a super majority. And instead of the whole processes sidelined by a collateral protest issue, we just need to know the community has spoken, this the percentage of the community that doesn't like it and is going to be impacted, now council can weigh and use its rules and its codes to make a decision instead of using the, the ambiguous law as a tool to either postpone or void decision making. So basically what, what this does is it just, it makes it clear that these are the choices that Maui County is gonna choose, and this is going to be unique to Maui County because the law, if you research it, is all over the place. And then if it's an advantage to you, in your position, you're gonna advocate for that. So that, that takes this away from the process because zoning is a, a – it's a legislative act and once it's in the hands of the legislators, just like our shut down of the Federal government in the last few days, they should vote because people are waiting for a decision. Whether people like it or not, they should know about it. But that shouldn't, shouldn't stop them from taking action and, and finishing the process that takes years, sometimes years and years to get to. So we saw a mom and pop store get sidelined and basically blasted off of Maui County because the politicians decided well there's a lot ambiguity and we don't want to take action. We want to eliminate that. We want the politicians to say the reason we've voting against it is because it's not appropriate for the community. It's not, well, we're not just going to take action because we don't understand the ambiguities of this law.

So what you're doing is you're looking what the department has chosen as far as what they

want to basically codify. And once it is codified, it does really clarify the process, and hopefully we don't run into that same issue. Because you're always gonna have people who are going to come forward and say we don't like it. But at the end of the day, it's, it's, it's the policy maker who has to weigh that and say, well, are there other reasons why this is not appropriate for the community? And so that's the whole purpose of the protest rule. And almost every jurisdiction that has zoning has a protest clause in it, so you're gonna be at the front line of choosing, creating law.

Mr. Ornellas: Thank you for the dissertation. Closing arguments. Yeah before we get to the – before we go for the – anymore questions from the counsel, Pat, do you have any? No? Pūlama, do you have any? Alright. Clayton, seems like you have something to say? You want to continue?

Mr. Yoshida: No, we just, we just have our recommendations.

Mr. Ornellas: Yeah. And you recommend that, the County recommends that we approve it?

Mr. Yoshida: Yes, you recommend approval back to the Council.

Mr. Ornellas: Okay, thank you. Do we have any more discussion on this? Any questions for Counsel or from the Planning Department? Okay, hearing none, can I hear a motion to approve Council Resolution 13-66, the bill amending – containing a bill for an ordinance amending Section 19.510.040, Maui County Code, relating to change of zoning protest? Can I hear a motion for approval?

Mr. Marlowe: So move.

Mr. Ornellas: Okay. Second?

Ms. Zigmond: . . . (inaudible) . . .

Mr. Ornellas: It was Stu. Stuart Marlowe. Do I have a second?

Ms. Aoki: Second.

Mr. Ornellas: Alright, Joelle Aoki seconded it. Any more discussion? Hearing none, all those in favor say aye? All those opposed say nay.

Ms. Stacie Koanui Nefalar: Nay.

Mr. Ornellas: Stacie, you said nay? Okay. So again it's back to six, one. Six yays and one nay. Thank you.

It was moved by Commissioner Stuart Marlowe, seconded by Commissioner Joelle Aoki, then

VOTED: to recommend approval of the proposed bill to the Maui County Council

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Marlowe, B. Oshiro, B. Zigmund
Dissenting: S. Koanui Nefalar
Excused: P. Felipe)

D. COMMUNICATIONS

- 1. MR. RALPH MASUDA, Vice-President of PŪLAMA LĀNA'I (formerly CASTLE & COOKE RESORTS, LLC) requesting a 5-year time extension on the Special Management Area Use Permit and Project District Phase II condition on the period to complete construction of the Residential and Multi-Family Development at Manele project on approximately 868 acres of land at TMK: 4-9-017: 001, 002, 003, 004, & 005 and 4-9-002: 049, Manele, Island of Lana'i. (95/SM1-015) (95/PH2-001) (J. Prutch)**

The Commission may take action on this request.

Mr. Ornellas: We'll go on – we'll go on to section D, Communications. And we're gonna go to number 1 (*Chair John Ornellas read the above project description into the record.*) And Joe is the planner. Joe, you wanna give us a –

Mr. Joseph Prutch: Yes please. Can everybody see me over here? Sorry, I guess I can move over. I just have – hold on a second. Okay, good evening everyone. Nice to see a few of you on the big island. Had a good time over with HCPO, and it's good to be on Lana'i where it's nice and cool. Okay, so today of course we have the Manele residential and multi family development. Sorry. I would say the applicant, Pūlama Lana'i, they're requesting the SMA Use Permit time extension, and they're also requesting the Project District Phase II approval time extension to be able to complete the construction on the Manele residential multi-family development and the related improvements.

Just kind of a little summary. I mean, you guys know this project. It entailed 166 single-family residential lots and 53 multi-family lots. Single-family lots range larger than a half acre in size. The applicant would be selling the lots, not the homes. So people can construct their own home on the lot. The multi-family units were located in two clusters known as the Fairway Terraces, site A; and the Terraces at Manele, site B. You got a handout today to help you with this. I printed out the color aerial so you can see what's been done, what's there. I mean, you know, but sometimes it helps to see the aerial. And then also the site plan too it gives you an idea of where things are, what's been developed, where the parking is and things like that so I'll be referring to this as I go along.

Also part of it was 40 foot pedestrian easement along the shoreline was established, and two

public parking areas were established. One near the hotel with eight parking spaces, and one over on the far, I believe, west side with five parking spaces. That's all been established as well.

Give you a little history of the application. This project was approved back in December of 1995. 1995, it was granted by the Lana'i Planning Commission. 1996 the phase III approval was granted by the department. 1998 the final compliance report for the project was accepted by the department. And then project construction was initiated in the month of July 1996. In April of 2003, there was a first time extension, five-years, to allow them through April of 2007. And then in November of 2007 a second time extension was approved for another five years through October of 2012. That brings us up to where we are today. The applicant applied for another five year extension prior to that October 17th deadline. We're finally getting it to you here about a year later.

They're requesting five years in order to complete construction of Manele residential and multi-family lots. Not so much the home, the lot's for sale. And if you look on this plan, on the left side, there's one, two, three, four, five, six different subdivisions that, that are currently under review. One of them looks like it's in final plat. It should be finished up soon. The other ones look like they're preliminary plats so I don't know how much longer, but they're still subdivisions still going through the process for the rest of the single family lots. Like I said the multi-family is all completed, built out, 53 units rather than 54 units which what they original got approved. Of the 166 single-family lots, there are 19 single-family homes. 19 of 166. So there's still 147 single family lots undeveloped that could be for sale in the next five years or so.

What I did was I went through the conditions and there are some 24 conditions. And what I did is obviously the first condition I changed the date to give them through October of 2017. To give them the five year time extension. Of course, if you guys concur. As I went through the conditions too, what I did is I struck out, like condition #7. I'll just kind of go through them. Condition #7 is the public access and parking areas shall be provided. Well, they did it. Those, that condition has been satisfied via the compliance report that they submitted to the Planning Department. And also via the unilateral agreement that was included in the compliance report. So since that condition has been satisfied, I'm requesting, the department is requesting to remove it. It's pau. There's nothing to do with it anymore. It's done.

Condition #10 is the interpretive plan. This included the various signs around the area. Well, that also has been completed by the applicant. They've provided some verification in the compliance report, and since those signs are up, went ahead and requested deletion of that condition as well.

Condition #12, I just wanted to simply verify it's Pūlama Lana'i rather than Lana'i Company. Just a clean up.

Condition #21, it's kind of a funky condition because it states that condition numbers #9 and #21 – and if you look at these reports you have in front of you, it actually refers – it says 9 and 12, but because of changes, I guess, in the last extension, it's actually conditions 8 and 11. One

of them is about accessory dwellings, not being allowed on the single family sites; and the second condition is about views from the home to the archaeological reserves. Those two conditions or those two stipulations were recorded in the unilateral agreement, back, I don't know, few years ago. So that condition has also been satisfied. The unilateral agreement has been recorded with the Bureau of Conveyances. It's there, it gets recorded, you buy a lot, you're going to know about these provisions that you can't have an accessory dwelling and you can't – you've got limit your views to the archaeological preserves. So that condition has been satisfied as well.

Condition #23 refers to a draft amended master drainage plan for the project district. This is another condition that's been satisfied by, probably even Castle & Cooke back in the day. It's been all built out. The, the, the drainage ditches are there. It's another one that's been completed.

And then condition #24, although I didn't show it here. I ended up finding it later, so I'm sorry it doesn't show in your staff report. But condition #24 refers to annual reports to the Department of Planning for various, seven different things or so. Item #F, progress report of the fog drip study. That has been accomplished by the applicant back in February 2013, and sent to the Water Resource Management Board. So that, that fog study has been completed. And then #G, progress on developing tiered water usage rates. Well the water usage rates for brackish, non-potable, irrigation water have been in effect since October of 2009. So the F and G I'm proposing to remove as well since those studies have been completed.

And then a last minute one that James Giroux shared with me on the plane ride over is, it's condition #6. I know, I make fun of James, but this is condition #6 which is a very standard condition requiring a million dollar insurance policy for every project we have in Maui. This is a very standard condition. However this condition is from 1995 or 1998. It's old, outdated. So James had some new wording for a new condition to replace condition #6 which will still require an insurance policy. Nothing's changed. It still requires a million dollar policy. Nothing has changed. The only difference in, in brief analyzing it and talking to folks here was that, I guess, the new condition requires insurance policy, the insurers to carry a rating of like A-minus or better. Just so you don't hire some fly by night insurance company and then something happens and nobody pays you out. James knows all about that. So anyway that condition is in front of you. I'm sorry, I have the document here. Let me see. What we, what we're proposing to do is you have a letter from Dean Frampton dated March 4th, 2013. And in this letter condition #3 is the new handy dandy revised insurance policy condition that Corp Counsel wants us to use now. So where we would take condition #3, and we would replace it with condition #6 that's in the approval letter. So it's just replacing one insurance policy conditions for a revised one, a newer version.

And I think that's it for now. Of course we have the applicant and consultant here. They can answer questions, I can answer questions. And I think I'll leave it at that right now. Thank you.

Mr. Ornellas: Thank you. Pūlama, do you want to make any more comments? Yes you may. With the mic first.

Ms. Shelly Barfield: I have a question.

Mr. Prutch: No presentation by the applicant.

Mr. Ornellas; Okay, hang on. So you have nothing? You guys have nothing? Okay, audience? Members? Pat, do you anything to say? Please come forward. You can use Bev's mic. Sally, would you, would you be following? Okay.

Pat Reilly: Pat Reilly, 468 Ahakea Street. I would only say this in terms of the deletions and alterations. As you can imagine it took a long time to develop these conditions. And we're asking for an extension of the same project. I have no objection if it meets your standards and the company's standards and the Planning Department standards that the specifics have been completed. But I would leave them in there and just mark them completed. Because you're asking for an extension of the whole project. And at the end of the whole ball of wax, long after I'm gone, and long after you're gone, somebody's gonna want to know what conditions were put there originally and how hard we fought to get those conditions on there and that they've all been completed. So, I would just say mark them completed. Thank you.

Mr. Ornellas: Thank you Pat. Okay, so members, do we have any questions?

Ms. Barfield: Can I add to what Pat said?

Mr. Ornellas: Yes you can Shelly.

Ms. Barfield: I was going to repeat what Pat said, however, it's like he said not to delete it, add the completion, but with the date. Because with our turn overs of five years, you're going to have to repeat all of this over and over again. So you might as well just put completed, whatever the date was, blah, blah, all that.

Mr. Ornellas: Thank you Shelly. Anybody else?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Yes Bev.

Ms. Zigmond: I have a lot of questions. I'm going to start out with a couple of comments and a couple of questions, I'll let somebody else go and then I'll come back with any other questions that aren't answered by any body else. But I'd like to make a couple of comments. As Joe said this is the third extension. It's been going on for almost 20 years. If we approve this, I would like to see it, the last extension. It seems as if perhaps in the past money was an issue. It seem like money is more free flowing these days. I would like to see this the last and final extension.

Second comment is that there were two big lapses from the time the applicant applied and it was brought before us, and to me it seems like that stops the clock for the applicant which is

in your favor. For the first extension, I think the application was lost. It went into a black hole some place for almost two years, so there's that gap there. Okay, so then it finally comes. We do the first extension. We do the second extension and the applicant being diligent applied for this third extension prior to its 90-day expiration. You know, before it expired 90-days before that. But that black hole came back, and that was, I think July of 12 and this is October of 13. And you know if I did my work that way, I wouldn't have a job.

So, this leads me to another question. In almost 20 years I have changed a lot. I have more wrinkles, I have a lot more gray hairs. The original draft EIS was done about 20 years ago, and I'm just wondering if maybe conditions have changed and maybe we need another EIS.

Mr. Ornellas: Go ahead continue. Just –. Okay, anybody else have any comments?

Ms. Kelli Gima: I have a couple of comments and questions. You know, Joe you said that we all know this project. Maybe not because in 1995 I was going on 10 years old. I mean, this is a very brief, brief history. Is there any way to get more information? I mean first of all I got my packet yesterday so I'm, you know, cramming this all in and trying to put down as much comments and questions as I can get, and trying to wrap my brain around everything because, yeah, I was 10 years old in 1995. I mean, I don't know if everyone else on the commission were here, or, but I'm speaking for myself here. It would be nice to have more information. I mean, I have so many questions and comments. I, just like what Bev was saying, I don't understand these lapses. I want to know why we're only seeing this application – I mean, this application for extension now, a year later. What is the turn around time for when that application goes in to when it comes to us at the Planning Commission? I think that would be important to know. I totally agree with Bev in terms of having possibly a new EIS because, yeah, it's been almost 20 years. And like Bev said, things have drastically changed. I'm trying to read through all my chicken scratch of notes. I apologize here. Let's see. I think one of the questions I had was about the accessory dwellings. What exactly is an accessory dwelling?

Mr. Prutch: I can answer now. Okay. First off it's a timing. When they gave me the application back in June, I guess, of last year – I'm trying to remember back – essentially it did sit on my desk for a little bit. Usually the turn around we should be able to get it here three, six months from them depending on what issues come up or what –. So I go through their compliance report, check through things. There was one specific thing I remember we had. It was back with Ralph Masuda. I think it was before I met Lynn. But when it came up I had posted, posed a question to Ralph, saying, hey there's something in here about the archaeological committee, can you elaborate, can you share some information? That took some time to get a response back. So while I'm waiting there's nothing I do. It's kind of like I ask some questions, and until I get answers, I'm not going to bring it back to you guys. So there was some discussions in there, then Lynn came along, and then Lynn kind of sped the ball up and got things moving again, and low and behold, here we are, we got the information, we moved on, and we're here. Last month of course you didn't have a meeting so we're here now. That's kind of what happened with that. It's just depends on what comes up and how long it takes to answer a question if, if we just don't get it.

As far as an accessory dwelling. An accessory dwelling is a second, it's like a second dwelling. It's an ohana. It's a grandmother's unit. Whatever you want to call it. So they have their single family house, their main house, two bedrooms, five bedrooms, whatever it is. They can't have that second ohana unit, that little two bedroom out unit. That's all it is. So it's just for a single family home on one lot, one, one dwelling unit.

I think that it. Was there another question? Oh, and then as far as the history, I mean, what I did, it's for me too. I mean, I wasn't here in 1995, even on this island, or in Hawaii. So I did include in the staff report a little bit of an information in there, about a page and a half or so of basically what the project was when it got approved. So I just listed all that – so many units, so many multi-family, trails, parking, facilities, that kind of stuff. So I just included that as a list of here's what the project was back then. And then I went into a little analysis on what's been built, and how's it's developed and what changed. That's all I can do on this myself too. Sorry about that.

Mr. Ornellas: It's that it Joe? Mich, did you want to say something?

Mr. Mich Hirano: Yes. My name is Mich Hirano with Munekiyo & Hiraga. We're a planning consultant firm. I'd just like to address the, I guess, the comment that was made by Commissioner Gizmond regarding the EIS. There – according to the state law on environment statements which is Chapter 343, there are certain triggers that requires an EIS statements. They're an environmental assessment or an environmental impact statement. In this particular case the, I guess, when the project district was established there was a trigger and that was because the zoning was probably agricultural and it was changed from agricultural to project district. The community plan was agricultural and the community plan land use designation was changed from agricultural to project district one Manele.

So the other possible trigger for an environmental assessment in this particular case could be any work within the shoreline setback. That's another trigger. So I don't think the EIS is applicable in the sense from a legal point in reference to Chapter 343. This is – the project has been substantially built out, and there's no trigger to complete the project that would trigger an EIS or a need for an EA. And the project is really an SMA time extension.

Mr. Ornellas: Okay thank you Mich.

Ms. Zigmond: Mich, thank you. The name is Zigmond.

Mr. Hirano: Zigmond.

Ms. Zigmond: Yeah.

Mr. Hirano: I'm sorry.

Ms. Zigmond: That's okay. And I, I realized those things. I had to bring it up though cause I just am so uncomfortable with another extension and how long is this going to go on. But thank you

for clarifying for those who don't know.

Mr. Ornellas: Yeah, go ahead. I don't have to, I don't have to close it, I just moved on because Sally is the only one in the audience and she said no. Unless she wants to change your mind now.

Mr. Reilly: We need to talk about that at Coffee. Well where is Ron when we need him, right? I was here. I went through the whole ball of wax. This was the project, the first project on Lana'i. This was -. When you read those 24 conditions, look at what we covered - fog drip, water shed, class AA waters. You cannot imagine the number of meetings and hours and negotiations. And frankly Lana'ians for Sensible Growth, this is where it started, right here, about this. And when you mentioned the EIS - object me if I'm wrong - Mr. Murdock specifically, and Mr. Mills specifically wanted this project to go through quickly and get those hotels built and get the houses built. We withdrew the request for an EIS up front. That was our agreement with the company. We decided not to intervene in the Land Use Commission, change of land use classifications so that this project could move forward in behalf of the community because there's a good chance the plantation was gonna close. So that was a tough decision because normally the EIS should've been done, right, but it would've taken a while. So in the LSG and the company's memorandums of understanding, those two specifically, and then the third with the archaeological committee which you read those, boy, they are years worth of discussions in each one of those to get it to that point. And bless Mrs. . . . (inaudible) . . . and bless Native Hawaiian Legal Corporation, and OHA and everybody else who help crafted these. They seem so simple. But I'm sitting there listening to this, and I think . . . (inaudible) . . . and when people say, well, I wasn't here, I wasn't here, I wasn't here. And can't help it when you're 10, right?

So all I wanna say is go through the conditions and imagine in your minds what each one of those things represent and there was an agreement. That wasn't easy. I mean, if you think what's going on in the government right now, we went through the same thing to get to this point to allow this project to go forward because we could've intervened and had an EIS and dragged the construction out for years probably. But that wasn't in the best interest of the community. So we took a chance because we knew bad things could happen if the plantation would close and would leave people hanging. So that's all I wanted to say is that these 24 things are not minor when you read what the topics are because there's a whole lot of discussion on each one and have to hammer out the language, and thank you very much.

Ms. Zigmond: I have a question.

Mr. Ornellas: Go ahead.

Ms. Zigmond: I saw a document a long time ago that was about this thick that said draft EIS specifically for this project. So can you shed some light on that?

Mr. Reilly: In fact -. I think -. Well, this was prior to Pūlama. But we had several meetings in the community as we approached the next set of developments. And there's a Mr. John Knox

there and I think he did the economic EIS, right, as this project. Mr. John Knox did the EIS for this project district and it's about that thick and it's in the library. We didn't always agree with it. And you know, when you do an EIS, the company, the corporation has to, you know, they pay for that. And because that's the requirement of the law it was triggered by law, so the corporation had to pay that EIS. So I'm not sure I can answer any specific questions, but it's no longer a draft. It is in the library and it's done. It's about 800 pages long.

Ms. Zigmond: . . .(inaudible) . . .

Mr. Reilly: No, no we didn't – we said we delayed doing it prior to the start of construction. That's what we agreed to. Because Mr. Murdock, Mr. Mills were quite adamant, I wanna get this thing up and running and built, and we knew the other side of that coin was pineapple was not going well. So that would be the new industry for Lana'i. And actually we're in a very similar situation now as we think about other industries for Lana'i. Thank you.

Mr. Ornellas: Okay, so Pat, you, you, you're basically saying that, that one was done after, after the fact? Okay.

Mr. Reilly: Yeah, concurrent with the construction the EIS was being done, right? And that was part – if you read the MOAs for LSG and the corporation that's written right in there. That's why those MOAs are kind of important. And this particular project stimulated everything from the change of pineapple to our visitor industry. It was the first big investment. One of the first big investments to the visitor industry and the change of our economy. So it's a big deal. It had to do with the ocean. It had to do with Hulopoe Beach Park. Archaeological Committee fought the water shed, the ocean, everything, so it's a big deal.

Mr. Ornellas: Alright, thank you Pat.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Yes Bev.

Ms. Zigmond: That, that sparks another question. Actually it's #6 on our list if anybody can answer what's the status of the litigation with the MOAs. Anybody have any updates on that?

Mr. Ornellas: Repeat the question.

Ms. Zigmond: The MOAs, I think they were, they're still in litigation.

Mr. Ornellas: No.

Ms. Zigmond: I remember a while back –. No, they're not?

Mr. Ornellas: No. The MOAs are in effect.

Ms. Zigmond: But there was, there was something in litigation. The last time I was on this commission because we asked for a workshop on the MOAs, and we were told that we couldn't do it because they were still in litigation.

Mr. Ornellas: No. Go ahead Lynn.

Ms. Lynn McCrory: There is litigation dealing with the condition 10, and I can't tell you what document it is. I can't tell you whether it's tied to this document. I'm thinking it's not. That it's tied to another set of documents but not these.

Ms. Zigmond: I think that the water from the high level aquifer.

Ms. McCrory: Yes.

Ms. Zigmond: That one. Okay.

Ms. McCrory: That's what's still in litigation.

Ms. Zigmond: Thank you. Should I keep going?

Mr. Ornellas: Yes ma'am.

Ms. Zigmond: Anybody else want to take a turn?

Mr. Ornellas: No. Anybody else wanna weigh in? Butch? Can you answer one question? What was – I mean, you're LSG President so the condition 10, MOA, what date was that? Do you remember? Was it 87? No, it's not this project, but just some, some clarification. Okay. Good. Okay. Alright. Thank you. Go ahead Bev.

Ms. Zigmond: Who would be the QI person like in the times past it was Clay Rumbaoa. Is there's somebody like that make sure all the conditions are being done and those kinds of things? Is that you Lynn? Okay, thank you.

I remember seeing something about getting acreage for light-industrial area, commercial, and an ag park. Can you update us on that? Where's that, please?

Ms. McCrory: I believe that was the Miki Basin where the 10 acres are to be – . Well, it wasn't 20. It was 14 acres at that point, so half, 50% of the acreage was to be sold to the public. It's not Miki Basin?

Ms. Zigmond: I wish I had those, those stuff.

Ms. McCrory: I can tell you there's no ag park.

Ms. Zigmond: I read ag park.

Ms. McCrory: No, no. I'm saying I don't know that there was one set up and structured.

Ms. Zigmond: Right. That, that's why I'm asking there. So what's ever going to happen to that because my understanding is there was an agreement for that. There was commercial 10 acres, and then there was light-industrial acreage, and I, I will find those documents and, and share those with everybody. I can't remember exactly where that is right now.

Ms. McCrory: I would appreciate it so that we have that. And then whatever there is in there we'll – we keep finding things. This is how we find them.

Ms. Zigmond: It was directly related to this project and so, again, I thought in my mind it is. And I'm not going to bet my next pay check on it because it's small enough as it is, but I'm reasonably certain and I would really like to find it, so I'm gonna find it.

Ms. McCrory: Yeah, it would've been listed as a condition that would be that piece. So other than that maybe it's in one of the MOAs. That would be the only other thing I can think of.

Ms. Zigmond: So then I move on to water and I know that there were previous estimates on the amount of water need for build out, but is that still current? John is saying yes. Okay, even with swimming pools and everything.

Mr. John Stubbart: The estimates for the single family homes are above, currently, above the estimated amounts for brackish water. The condominiums are actually on target. And that's why conservation rates and working with homeowners on their landscaping and the landscape review an approval process has been . . . (inaudible) . . .

Ms. Zigmond: Can, can somebody say what percentage of build out we are? I think I heard Joe say like 14 or 16 single homes out of 166. That's not very much.

Mr. Prutch: Yeah, there's 19 single family homes built out of 166 lots, so just over 10%, 11%.

Ms. Zigmond: So those water estimates are still the same for everything, for all water?

Ms. McCrory: And that's part of the water usage report that you now see in graph form. Those numbers.

Ms. Gima: I have a question. Looking at this last page. This is the one you're referring to? When it says the potable water demand for the Terraces Residential Project was estimated to be approximately 400,000 gallons of water per day, that's just for the Terraces alone or for the whole Manele Project District?

Mr. Prutch: It's my understanding the whole. The whole project.

Ms. Gima: Wait. So it's the –

Mr. Prutch: So the multi-family and the single family. It's the whole build out of homes.

Mr. Ornellas: Wait a minute. You guys are – some is saying it's just the Terraces, and then you're saying the whole build out and –. It's build out of the Terraces. Okay, so that's not the whole project district.

Mr. Prutch: Okay. No, just 166 and the 53. Yes.

Ms. Gima: Wait, I'm just trying to wrap my mind around this. So that's our drinking water of 400,000 gallons per day being used for the build out of the Terraces. No, I'm sorry, I'm just really confused.

Ms. McCrory: If you look at the chart, the first, where it says existing residential, that's what's in place right now. They're existing. And then below that it's says future residential. So this future residential isn't being used. It's not even being tapped. But what we're showing here is if the future residential was the same use as what's currently is existing we'd be at 410,200. And it was estimated as being that. 400,000 is what it was estimated to be. So it's basically if every one of those homes were built, plus the ones that already exists, we would be 10,200 over the estimate of 400,000.

Mr. Prutch: That of course is assuming that the next 147 lots got built out that the water usage was being the average of what they have so for the 19. Which is their projection of what could be if all 166 single family homes were built out and they were all using that average of water per day based on the 19 that are existing.

Mr. Ornellas: Isn't the, isn't the Terraces just a part of the overall project district? So you're saying that just the Terraces are going to be over 400,000 gallons per day?

Mr. Prutch: Yes. The Terraces that include those 166 single family lots and the 53 multi-family existing units. That's 400,000 per day, at build out of those 166 and 53.

Mr. Ornellas: Okay. Now isn't – the Terraces are –. I mean, I've been down there, and those Terraces are, they're, they're condos. They're not single-family lots. They're condos.

Mr. Prutch: So like I said, there are, there are 53 multi-family condos that are in existing today. That's built out.

Mr. Ornellas: Yes.

Mr. Prutch: There are 166 lots that obviously aren't developed yet. Only 19 are developed. So there's a lot of empty land out there that's going through the subdivision process to become a lot that's sellable and buildable. As they get through this stage over the next five years or so, those lots can be sold. Those lots can be purchased. Those lots can be developed with whatever single family homes someone wants to build on it. And of course, the Terraces gets built out. Yeah, it's, it's – the multi-family is completely built out, but the single family is not even

close. We're at 10% to what it's proposed to be.

Mr. Ornellas: Okay, so you're – there's some changes going on between –. Because the Terraces were not originally single family, single family units. They were all considered multi family units. He just said they're changing. They're changing to single family –

Mr. Prutch: No, no changes. Maybe, maybe there's some old names I don't know about. Okay. Yeah, which is what I said. Okay. The Terraces Residential status, okay, the Manele Residential Project which is referred to as the Terraces was granted an SMA in 2007. The Terraces project involved the construction of 166 single family lots, or homes eventually, and 54 multi family residential units. 53 of the 54 multi family residential units got built out. So the multi-family is all pau. Single family so far just 19 of them have been developed. There's still 147 lots to go to be developed if you reach capacity. And that's known as the Terraces. I guess, it's the Terraces is the name of the project.

Mr. Stubbart: And we're all used to the Terraces as the condos terraces, and there's the Terraces View, Ocean View, and then there's the Terraces, whatever they called their AOAO at the top.

Mr. Marlowe: Fairways.

Mr. Stubbart: Fairways. Thank you. And so, they have their own Terraces names. But all the lots are also in this development called the Terraces. We're just so used to calling the condos the multi family . . . (inaudible) . . .

Mr. Ornellas: Pat, you have something else to say?

Mr. Reilly: I'll defer to you and some other experts in the room, but now just to add to this, you can see where this is going. Lana'i Water Use and Development Plan and the Lana'i Advisory Committee have been meeting for 20 years, and they just finished the plan. That big. 800 pages. Lana'i Water Use and Development Plan all came from this. Now it sounds so simple. And there it is, right there before our very eyes, and this man knows it. Now I would agree with John. You're changing language because my understanding and maybe I haven't seen the last draft. And it's online. You go to Maui County Water Department you'll see the Lana'i Use and Water Development Plan. You can spend years reading that thing and you still couldn't figure it out. But it's like an accounting of water and the reason LSG asked for the Lana'i Water Advisory Committee is to help you guys know is this, is the water there. Now the County has said, and I'm sure John . . . (inaudible) . . . you know when we – that went to the State Commission on Water Resource Management and was approved. But when you build everything out on this whole island that the company has you don't have enough water yet. Desal will change that. But under the, under – when we started this, it was clear. There was not enough water to build all the houses at Koele, at Manele. Lana'i didn't have the water. And so I would say Terraces when I left was the multi family. Now if they had put names of Terraces on some of these other units, when you look at the Lana'i Water Use and Development Plan allocations, you gotta understand what you're talking about because those 400,000 in my

understanding was just for the multi family area. And you noticed we said potable and non-potable. That's why we're worried about swimming pools and spas. Do we have enough water to do it? Well, if you build out all the houses, without the desal, we probably, the county, and we all agree, I mean, these guys sat on the Water Use and Development Plan Committee for LWAC, and there was not enough water and that's why the desal was so important. When Mr. Ellison committed the desal, it changes the whole water accounting system because there was not going to be enough water. Some of those units, they were, the piping – you know, I'm not saying bad news for John – they were losing 30% of the water. They didn't know where the water was going. Potable and non potable, very important. High level aquifer, very important. It's all right here, except you can't see it. It's 30 years of work right before your very eyes. Thank you.

Mr. Ornellas: Thank you Pat. Anybody else want to weigh in? Sally? Butch? You okay? Go ahead.

Mr. Reynold Gima: Tonight was the first time I looked at the –

Mr. Ornellas: Can you tell us who you are?

Mr. Gima: My name is Reynold Gima. Tonight was the first time I looked at the document, and I'm not sure you got a really good analysis by the Planning Department because there's, there's no reference in there from my . . . (inaudible) . . . first reading review about whether this extension request is, is or in compliance with the Water Use and Development Plan. I think what your, your responsibility is, even though it's asking for a specific part of the project district, it's important that both, that the Planning Department provides you and the applicant provides to you not only the specific request, but how it fits into the larger project district. You cannot, you cannot just look at this extension request just by itself in a vacuum. You have to look at in the, the bigger picture. There's a specific water allocation for the whole project district. And so that's what the analysis should have shown is whether it's in compliance with the overall project district water allocation and if it met the compliance with water allocation for residential units. That I think would have made your job a bit easier to deal with. I mean, the water is just, you know, one part, one part of what you guys have to deliberate tonight.

Ms. Gima: Do you have an answer on that? Do you know about the compliance since you sit on LWAC?

Mr. Gima: I don't have that with me, but –

Ms. Gima: Well, I think that would be important to know.

Mr. Gima: It's, it's the applicant's and the Planning Department's responsibility to show whether the application is in compliance with applicable state, county and federal law. And in addition whether it's in compliance with our Water Use and Development Plan. I mean, there's no sense having a Water Use and Development Plan for our island if we're not going to adhere to it. The whole concept of why we want the Lana'i Water Advisory Committee to be in existence is for

the applicant to come before the Water Advisory Committee and say this is the project we're going to put before the Planning Department. And then we discuss it. And if it looks good, then the Water Advisory Committee can then make a recommendation to the Lana'i Planning Commission and say, we discussed it, it looks good, we recommend. Or, we have some questions and we have these conditions. Or no, it doesn't meet the, meet the Water Use and Development Plan, we would recommend that you reject it. So again I think, I think it's the applicant and the Planning Department's responsibility to provide you information so you guys can make an informed decision.

Mr. Ornellas: Thank you Butch. Reynold. Mr. Oshiro, do you have something to say?

Mr. Bradford Oshiro: Yeah, real, real simple question. Are you guys planning to either refurbish that back road or do something? So the construction road, because I already have a relative that passed away on it. I'd hate to see somebody else lose their life on that road.

Ms. McCrory: At this point there isn't any thing that I know of in terms of moving forward to construction, correction to the road. But that simply means I don't know of any. And in terms of this issue, we would be selling the lots. We would not be building anything.

Mr. Oshiro: I don't know if you travel that back road but it is not. It's almost like a four-wheel drive road, so coming down with a load on that road, I don't think you're gonna –

Ms. McCrory: I believe it's not a public road, number one. It's a private road so there shouldn't be people coming down that road.

Mr. Oshiro: No, what I'm saying, even with construction coming down that road. Because the person that died was driving construction truck.

Ms. McCrory: Okay. But this application we aren't doing any construction.

Mr. Oshiro: I just want to know safety wise. Are you guys gonna improve that road or what are you gonna do with it?

Ms. McCrory: I'm sure if there's – I'm sure if there's a situation where that road is needed for construction it will get improved because there's no point, if you're at a point where you need a four-wheel drive.

Mr. Oshiro: Okay. Okay. For your refurbish on the hotel right now, how you going get this material down the hotel?

Ms. McCrory: I don't have that answer for you.

Mr. Oshiro: So, you know, in other words, you going down the regular Manele Highway to go down?

Ms. McCrory: I, I don't have an answer for you. I don't know.

Mr. Oshiro: Will you find an answer please? I'd appreciate it. Thank you.

Ms. McCrory: I can find that answer. Yes.

Mr. Hirano: I'd like to –. My name is Mich Hirano with Munekiyo & Hiraga. In response – in regards to compliance with Water Use and Development Plan, in compliance with projections of water use for the project, when this project was originally proposed and had the SMA approval, the projected water use was 400,000 gallons per day. That was at that time in compliance with the Water Use and Development Plan, and the allocation for the Manele Project District. It is still within the allocation of the water for Manele Project District. And it's somewhat on target with respect to what the full build out would be in terms of that original 400,000 gallons. So those numbers haven't changed in terms of what was projected when the project was originally approved, and from the update that was provided by Pūlama Lana'i is still on target.

Mr. Ornellas: Okay, Mich, what Water Use and Development Plan you're referring to?

Mr. Hirano: The one that was approved by the County and up until that time there was a 1997 draft that was unofficially used as the Water Use and Development Plan. In that particular table there was an allocation for the Manele Project District, potable water use. That was used as a basis for determining the build out of the Project District including the, including the Manele Hotel and the residential development. That hasn't changed.

Mr. Ornellas: Okay. Huh? Okay.

Mr. Hirano: It included all the development for the Manele Project District which includes the hotel, residential development, and the residential development.

Mr. Ornellas: Okay. So as, as, as we get smarter, and the new, and the new Water Use and Development Plan that was approved by the Maui County Council a year and a half ago, shouldn't that be included? I mean, shouldn't we be using that plan instead of the 1997 plan?

Mr. Hirano: Projections, yes.

Ms. McCrory: That is –. It is the 400,000. It is what's in our letter. What we didn't say is it's the same as what's in the Water Use and Development Plan which we will correct going forward.

Mr. Ornellas: Thank you. Do we have any more questions from commissioners? Go ahead Joelle.

Ms. Joelle Aoki: I don't have a question pertaining to this Mr. Chair, but I do notice there's no new business items on the agenda. And I'd like to be sure we – I have new business item that I'd like include later when you find it appropriate sir.

Mr. Ornellas: Okay. We're still, we're still plugging through, we're still plugging through our agenda so we'll continue on with our agenda until, until we get to that point. Okay.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: I know you haven't called for a vote yet, but I just want to put this out there. I'm, I am not comfortable in making a decision tonight. I'm just thinking that we might defer this to give everybody a chance to think about things because it's a lot to think about.

Mr. Ornellas: Alright. Anybody else want to weigh in on that, that idea?

Ms. Gima: Yeah I agree with, with Beverly. Can we make a motion to defer this till our next meeting in two weeks?

Mr. Ornellas: Okay. County? Planner?

Mr. Clayton Yoshida: Again, if the inclination of the body is to defer, we again would like to know if there's any additional information that you would request from either the applicant or the department to provide. Much as for that SMA assessment for the improvements to the Manele Bay Hotel so that we would have information available at the next meeting if the commission defers so that the commission can make a decision.

Mr. Ornellas: Thank you Clayton. Is, is there a clock ticking that I'm not hearing?

Mr. Yoshida: There's no specified time frame by statutes say like there was, there is for this Council Resolution, a 120-day turn around from the time that the department receives the resolutions. There's no specific time deadline per se.

Mr. Ornellas: Okay. Thank you. I do have, I do have a few comments. I do, I did like Pat, Pat's idea about leaving, leaving the conditions lined out, but then Shelly said that we should put a date and time. Does the county record – do they assign numbers or numbers to –? For instance like number 23, the applicant shall submit a draft amended master drainage plan, and deletion recommended. I mean, this report must have a number if it's coming. Do you guys assign numbers to things like that?

Mr. Prutch: What, what we would do is, is –. Number 23 would stay in there so that none of the other numbers get messed up, just like that nine and 12 one. So 23 the condition itself on the extension approval letter would be changed and 23 would say something like, condition deleted by Lana'i Planning Commission at such and such date. And maybe a little more elaboration saying something that condition was satisfied by applicant by such and such date. So that the condition marker is still there. And if someone wants to see, oh, what was number condition 23? Well, they just go back to a previous approval letter and it will be there. So we keep it there. We just say that it's been satisfied on such and such date, and just document it in your

approval letter.

Mr. Ornellas: Okay, and so we're – and so all these approval letters or conditions that have been fulfilled, do you guys put it in a drawer in your desk, or do you file it under some sort of, some sort of a numbering system, or dewy decimal system or –?

Mr. Prutch: We use the dewy decimal system. Well, nowadays, in the old days this was just kept as a hard copy in a file, and it was put in a box, and it was put in storage. And then I got it out, and dusted it off, and there it was. Nowadays, since I've got this file, recently I've scanned all the approval letters and put them into our computer KIVA system so that everything is there for the next time this comes around, five years from now or so, or any project. The planner, like myself who wasn't here that last time, can go in and find copies of everything without having to go into storage and dig out this file that's the size of the box, and try to figure where everything is. So these conditions will be placed in KIVA which is an electronic program that anyone go to and look it up and the information, their conditions, will be there. And then of course there's always hard copies that are kept in the file forever and they're there.

Mr. Ornellas: I'm asking Clayton, our next meeting is in two weeks. I'm asking Clayton if it's enough time to go through this document again and add those on there. So – and – just nod your head. Yes or no. Go ahead Mich. Hang on, hang on.

Mr. Hirano: Mich Hirano with Munekiyo & Hiraga. If you look at the conditions Chair, condition number 20 is a requirement for a compliance report, and when that compliance report is required. A preliminary compliance report was required prior to the issuance of the grading permit. So at that time the applicant had submitted to the department a compliance report how it had met, or intends to meet all the conditions of the SMA assessment, or the SMA permit approval. When the time extension request was submitted, at that time Castle & Cooke Resorts submitted a compliance report updating those conditions. So there's a running kind of report that complies indicates when and how the applicant met all the conditions of the SMA Use Permit. It's in the application package.

Mr. Ornellas: I under, I understand Mich. All I'm saying is, is that as we, as we read through this, with the line going through them, I just wanna, I just wanna make sure we – if we're to go back five years from now, if we're to go back and re-do this, at least we can look at this and say, oh, okay. This is the, this is the report, this is where it's filed under and then we can go to KIVA and go pull it up and say, oh, okay, that's it. Because right now, if you take it, I mean, if you delete it from the report we lose all track. So if they leave it on the report, you leave it on the report – now we just had a problem with, you know, the information didn't come to us until Monday. Well, I got mine Monday evening. But anyways. And we depend on hard copies more than we depend on computers to give us this information. So this is, this is very – the hard copy is very important so when we read things we can see that, that, that the thing, condition 23 has been lined out and the date it was done and the report number if there is one. Something, something that can, that can – so instead of going through the whole box we can go to a specific. And that's what I'm asking Clayton, can we get that put on this, on this, on this application before, in two weeks?

Mr. Prutch: I'm sure we can do that. It wouldn't take too much for me to go through and just – because I have the compliance report – and just put maybe at the end of the condition, put in bold, that the condition was satisfied on such and such date via whatever document. And, and, you know, I'm recommending – I was – the department was recommending deletion of these conditions only because they've been satisfied. It's more of a clean up thing. That's all it is. If you wanted to leave the conditions in, the conditions can stay in. They don't have to go.

Mr. Ornellas: Yeah, I, I –. The way, the way –

Mr. Prutch: It's been satisfied so –

Mr. Ornellas: Yeah, the way it's lined out, yeah, that's fine. And then, and then, the deletion recommended because the condition was fulfilled. So just a little bit more information about that.

Mr. Prutch: Yeah, that would be easy to do.

Mr. Ornellas: And that way when Elijah, Kelli's son, 10 year old son, 10 years from now gets this, and he'll say what the heck are they talking about. What did mom do? So that's all I'm asking.

Mr. Prutch: That can be done, or like I said, the conditions can remain. Since they've been satisfied it doesn't change anything. It's just another condition is there. It says that they'd to have public access parking areas. It's done. I mean, the condition's satisfied.

Mr. Ornellas: Okay.

Mr. Prutch: So it won't hurt the applicant's to have the conditions there because they've already satisfied it.

Mr. Ornellas: Great.

Mr. Prutch: It's just more of a clean up on our side.

Mr. Ornellas: And then 22 states that an environmental quality control coordinator shall be designated by the applicant to administer, enforce appropriate conditions of this permit. Who that?

Mr. Prutch: They listed a Mr. A. J. Vergara has been designated as the environmental control coordinator by – this was back in CCR. Mr Vergara replaces Mr. Clay Rumbaoa. But, I don't know if that's still current. He still is.

Mr. Ornellas: Is he still doing this job? What is his qualifications to do this job?

Mr. Prutch: Let me refer to Lynn.

Mr. Ornellas: I'm sure that Lynn –

Ms. McCrory: I will have to get those for you. I can't possibly –. But there has not been really any work done on the site at all, so –

Mr. Ornellas: Okay, and obviously because you're asking for an extension.

Ms. McCrory: Otherwise they'd all be sold by now and we wouldn't be here.

Mr. Ornellas: Okay, that's true. That's true. Okay, anybody else have any – commissioners have any questions? Any more questions? So Kelli asked if – she made a motion. Did you make a motion? Can you make a motion?

Ms. Gima: I will make a motion. I make a motion to defer this until our next meeting on October 16th.

Mr. Ornellas: Thank you. Do we have a second? Go ahead.

Mr. Prutch: Hold on. If you can –

Mr. Ornellas: Wait a minute. I'll tell you what, let's finish this, and then when we have discussion we'll come back to you Joe, alright?

Ms. Zigmond: Second.

Mr. Ornellas: Thank you Bev. Any, any discussions? Go ahead Joe.

Mr. Prutch: Okay, as Clayton mentioned too, I understand wanting to defer it to give yourselves some time to research it since I didn't know you got the, got the report last night. I understand that. But also as Clayton mentioned you need to give us something to, to bring back to you. So if it's just time, that's fine. But also it sounds like you want us to – you want the department to go through the list of the conditions and where the conditions have been satisfied document that in writing so that you can see when a condition was satisfied and how. That's what you're asking us to come back with. At the same time, it also allows me more time to research it.

Ms. Gima: Would there be a time limit for when we would need to put those requests in to you by? I mean, again, I'm still trying to digest all of this and with more time I can digest it, something may come up and I'm going to be like, oh yeah, I would like to request for a copy of this. Could you guys set a time limit or when we know that we have to request to you by?

Mr. Ornellas: The next meeting is two weeks from today. Two weeks from today.

Ms. Gima: Well, I, I understand that.

Mr. Ornellas: So, you know, these guys, I mean, I know we're the nearest and dearest to your

heart, but can you spend that much time on Lana'i?

Mr. Prutch: Like I said getting the conditions of approval with a little more clarification, that I can do with no problem. That can be done within two weeks easily. If there's something else that comes up along the way and Ms. Gima wants to e-mail to myself and Clayton, I guess, depends on what it is. If it's something that we can get done within two weeks, we'll bring it back. If not, then we'll just have to try to get together what we can and bring back what we can in that allotted time. But right now we need to know what it is you want us to do, which is the conditions of approval being elaborated on. And that's my marching orders that I know.

Ms. Gima: Well, I can't – I mean, for me personally, I can't give you something off the top of my head right now given that, again, I got this yesterday trying to digest all of it all. That's why I'm asking if there's – if you tell me by next week Monday then I know, okay, I gotta go through all of this and then I'm gonna have an idea of what I would like to request, which, maybe nothing, but maybe five different things, I don't know.

Mr. Prutch: I'm just trying to look at the calendar. You know what, I mean, I'm probably going to be one that's most likely going to be responding . . .(inaudible) . . . I would say – I don't know – I would say if you were able to get something to me a week before the meeting. Let's say the 9th. If you can have whatever questions to me by then. And then it depends, I mean, if this a humongous questions and it's going to take me longer, then I'll just have to bring that back to you and say I wasn't able to get that answer in the amount of time I had. But I'll try to do whatever I can to get whatever answers I can for you. Just, if you can give me a weeks time I think that would be a sufficient.

Ms. Zigmond: Brad also had a question about the road. And then there was the question about qualifications for A. J., right? So those, those are some trivial pieces but –. I'm sorry. And I will have that information on the light industrial area and the ag park.

Mr. Ornellas: Just a little, I went to the laundry and they have that big screen up and it gives information to its employees. A big 40 something inch T.V. screen and they're always running. And I did notice that there was one saying to its employees, to Pūlama employees, do not use that road. So, if I'm not mistaken is it barricaded?

Ms. McCrory: Yes.

Mr. Ornellas: Okay. Alright. So continue to do that, and okay. A road is a road, and somebody would use it. Go ahead Joelle.

Ms. Aoki: If, if I could just digress a little bit on the road. I believe the concern for the road is because when construction started to pick up down at Manele, it started to endanger the lives of the public that use that road and the heavy use on that road. We had one runaway truck with a full of double, piggy back loads that lost its brakes on the main Manele Road. So then they came back and the company said, we're going to have all the construction vehicles utilize the construction road, and then during, on Mother's Day, when they were called into work, we had

the death of a community member because of the way the road is constructed. So I believe it is appropriate to address because it will affect the construction and development in the Manele Bay project area. And just to bring that to your attention because we lost a community member and we need to learn from those incidences and move forward in a positive matter insuring the safety of all of our workers and our community and people using the road. And so I believe that, that may be a little bit information for you to why the concern for the road. Because if we do extend the SMA request that, that would be a concern that may be addressed. Maybe even restructuring the road to change the grading because that that's a steep grade that a lot of heavy loads that are piggy backing could lose their brakes, and not an appropriate runaway ramp was constructed at the time.

Mr. Ornellas: Okay. Alright. Thank you Joelle. Thank you for the comments. Joe, when you say you're gonna – it's going to be added to this report, not a separate piece of paper with – just added to this?

Mr. Prutch: I'm not quite sure yet how I'm going to structure it, but I thought I would add to this.

Mr. Ornellas: Okay. That's all I'm asking. Yeah, because it's easier to read. As you're reading the whole, whole list of 24, and then you can see what was done.

Mr. Prutch: Yeah, I kind of have it as within the conditions or after the conditions on this.

Mr. Ornellas: Thank you. Thank you. Anybody – any other questions? Any discussions? Oh, go ahead.

Ms. Aoki: I had one more Mr. Chair. So let's say we, we, we postpone until the next meeting which is two weeks from now, but then we don't get the paperwork. It's takes one week. Let's say it takes us a week to review the documents – because I myself did not get this packet till yesterday. It takes us a week to get the questions to the Planning Department and week for them to respond. We're going to be back where we're at again. We need more time to review it in just my personal opinion, the, the next month, you know, in November. And not wanting to postpone longer, but this may have wake any further questions and a little smoother process for us all having more knowledge. . . (inaudible) . . .

Mr. Ornellas: Alright.

Mr. Yoshida: Yeah, I guess, if you can articulate the specific needs that information you need for next meeting tonight. Maybe if you could get it to us by the end of the week so we could try to include it whatever we can get in the packet so you would have time to review it prior to the meeting.

Mr. Prutch: I guess the question is Clayton is when, when will this report be mailed back out to them? Will it be the 9th?

Mr. Ornellas: It would be a week before the meeting. So we usually get it – we usually get, we

usually get it by Thursday. So, Leilani mails it out on Wednesday, one week prior to the meeting, and then mail gets here. I mean, they had technical difficulties this time. That's the reason why everybody got their packets late.

Mr. Prutch: Okay, so yes, to what Clayton –

Mr. Ornellas: Can we, can we, can we do it for the 7th? I mean, it gives everybody a weekend to regurgitate this because we've got other –. I mean, most of the people have other meetings involved this week.

Mr. Prutch: That's fine. But like I said, if it's complicated, I may not get an answer.

Mr. Ornellas: Understood. Can, can, when we email is it – is it any kind of violation of the sunshine if we copy all the members as far as you e-mailing to –

Mr. Giroux: . . . (inaudible) . . .

Mr. Ornellas: But we can't copy? We can't cc?

Mr. Giroux: The recent ruling out of OIP, one of the, one of the issue is the, the communication between the members when it's not during an agendized meeting, it creates an issue. In order to avoid any possibility that you guys get sucked in to some type of sunshine law nightmare it would be more advisable that you just send it straight to the Planning Department. The Planning Department then can basically when it disseminates the information, disseminate it altogether and to everybody. Even when that happens, there shouldn't be discussion between the members about that information. So what you want to do is have a clean transmittal to – and use the department as the clearing house. So the information should go from your computer straight to Joe – oh, Clayton – they collect the information, they put together a package, and then they disseminate it all at one time. And even when that happens, there shouldn't be discussion between the members about that information until the meeting.

Mr. Ornellas: Okay, so let me ask you a question then. Does, any, any – can two commissioners – two commissioners talk? I mean, not talking about the –

Mr. Giroux: And I again I want to caveat this with you don't want to violate the spirit of the sunshine law. The answer is yes. Two members of the commission can speak about board business. There's not to be any discussion about voting or committing to vote. Okay? And again I'm going to caveat the serial communication is you can't have two people speak and talk about something, and then remove one person and then bring another person into that conversation. That's a serial conversation. That's going to have three members, and that would be seen as a violation of the sunshine law.

Mr. Ornellas: Let me ask you a question. If Kelli is gonna submit some questions to Clayton, can I be copied?

Mr. Giroux: Technically the answer is yes.

Mr. Ornellas: Thank you.

Mr. Giroux: But, again, the caveat is is that you're, you're – the more this goes on, the more you're gonna run into the chances and problems that the sunshine law is going to address. So don't look for ways to get around the sunshine law, look for ways to comply.

Mr. Ornellas: But I also want to make sure that I, I have an understanding of what questions are going to, to the Planning Department. So that way I can have some, some idea. If you're going to get 40 questions, then obviously they're not going to get it done in, in three days, or two weeks, in one week, so, you know, then maybe I can talk to him and say, well, I'd have to, I'd have to, could make a decision as far as what I think is important and to get it on there based on our discussion tonight so –.

Mr. Giroux: As the chair you do have the ability to discuss with Clayton about order – issues of order and of the process. So part of that discussion would be that, you know, what do you want to prioritize as far as what's going to be on, on the agenda. But again the caveat is, is that you don't want to be having cross communications because that is what's gonna create the problems.

Mr. Ornellas: Go ahead Joelle.

Ms. Aoki: Mr. Chair, I know we still have a motion on the floor, but I have a, I have a, I would like to discuss something under new business that will alleviate this later because I believe that if we got these packets earlier we would be avoiding a lot of these issues.

Mr. Ornellas: Okay. That's later okay. Let's just take care of what's on the floor now. So anybody else have any questions or discussions about the motion to defer this issue to the October 16th meeting? Anymore?

Ms. Aoki: Yes Mr. Chair. Again, if we the information to the Planning Department in one week and they turn around and get the information back to us, they will be getting the information back to us just before the meeting. And it will not be appropriate time for us to review the information. I'm highly suggesting that we defer till November if that is the case. If we can get it back within one week prior to the meeting, then there should be no problem. But if we cannot be assured that we have it received in our hands within seven days of the next meeting, then I would highly suggest we defer to the November meeting.

Mr. Ornellas: Duly noted. Getting back to the, getting back to the vote. All those in favor of deferring this until the October 16th meeting please say aye. All against. Nobody voting?

Ms. Aoki: Mr. Chair, so I believe we need a question, we need an answer to our question from the Planning Department.

Mr. Ornellas: Okay, I'll go back. The question is are we going to – the vote is are we going to defer this issue to the October 16th meeting? That's the vote. That's what Kelli –. Amend it to what? No, I'm not going to take that. Let us vote on this issue, and if you're to, if you're going to disapprove it, then we make a – Joelle can make another motion.

Ms. Aoki: Mr., Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Aoki: There's a discussion still going on before you took, you asked for a vote, and the discussion is still ongoing. So the discussion is will Planning Department be able to respond to our request within the time limit to get the paperwork into our hands within seven days prior to the next meeting? So please Clayton, sir, could you answer the question?

Mr. Ornellas: Joelle, let me, let me ask you, tell you one thing. You never get it, the packet, seven days in advance. It's mailed seven days in advance and we get our packets usually on Thursdays. So it gives you Friday, the weekend and the, Monday, Tuesday of the following week.

Ms. Aoki: That's fine. It doesn't have to be seven days Mr. Chair, but I would like it before the day before. Period. I got it –

Mr. Ornellas: Okay, they've already explained that there was a glitch and they're sorry and it's not going to happen again, so let's move on. We can't, we can't put this crap back in the horse.

Ms. Aoki: Mr. Chair, again, you've asked us for discussion, I've given you my discussion. I would like to know if the Planning Department is able to respond within seven days prior. It doesn't mean we'll get it within seven days. So we get before a day before. Please.

Mr. Ornellas: Joe, Joe said that if he gets it by Monday, the 7th, he'll be able to do it, depends on how much stuff he gets.

Ms. Zigmond: Okay, Mr. Chair, I'm thinking that it's just a lot easier to amend. For like Kelli amend, and let's go with November because you know what it's not necessarily fair to the Planning Department to say you're going to get it us in a timely fashion which we need because what if they do have 40 questions and they're all important.

Ms. Gima: I'm gonna amend.

Mr. Ornellas: Kelli, go ahead.

Ms. Gima: I'm gonna to amend my motion. I make a motion to defer this to the November Lana'i Planning Commission meeting, November 20th.

Mr. Ornellas: Okay, are you gonna change your –

Ms. Zigmond: And I second that.

Mr. Ornellas: Okay. All those in favor of --? I mean, we're gonna discussion this anymore? Okay. Anybody – all those in favor of, of the November 20th, moving this issue to the November 20th say aye. All against? Unanimous.

It was moved by Commissioner Kelli Gima, then seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: to defer until the November 20th, 2013 Lana'i Planning Commission meeting.

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe, B. Oshiro, B. Zigmond

Excused: P. Felipe)

Mr. Ornellas: Okay we gotta get, we gotta be done by 8:30, so we going take a five minute break. Be back at ten till. Thank you.

(The Lana'i Planning Commission recessed at 7:45 p.m. and reconvened at 7:50 p.m.)

Mr. Ornellas: Okay, recess is over. Back to the play ground. Alright. Alright since we, since we're done with one, let's go to D2.

Mr. Yoshida: Yeah, Mr. Chair, although the commission has voted to defer the matter until the November meeting, can we still set somewhat of a deadline for the questions from the members so we can do whatever research or document gathering that we need to do?

Mr. Ornellas: Joe, what would you be comfortable with?

Mr. Prutch: I think originally we were planning on the 7th, the Monday, so you had the weekend to kind of go through and have some questions if you had them. That was, of course, assuming we were trying to go for the 16th. I still think if you can get it done by then if that gives you enough time to look through it this weekend, come up with your questions, throw them our way on Monday and then we've got a whole month to answer everybody's questions and get everything finished up. If you need more time, we can accommodate, but that's just what I'm sticking with because that's what we had discussed earlier. If you need more time, let us know, we can figure it out.

Mr. Ornellas: The 7th.

Mr. Prutch: We had mentioned the 7th based on trying to get here on the 16th, but the 9th would be, the 9th would be fine if that accommodates you guys.

Mr. Ornellas: Any objections to having your questions to Joe by, by the 9th of October?

Mr. Prutch: Ship them to Clayton. E-mail them to Clayton and then I'll get them. But, yes, by the 9th would be adequate for me if that's okay with you guys. Does everybody agree on that?

Mr. Ornellas: You guys okay with that? So be it. You've got it, the 9th.

Mr. Prutch: Thank you, thank you.

2. MS. LYNN MCCRORY, Senior VP of Government Affairs, PŪLAMA LĀNA'I's September 5, 2013 letter to the Commission on Water Resource Management, Department of Land and Natural Resources regarding Growing Sod for Koele Golf Course. (J. Prutch)

This is for information purposes only.

Mr. Ornellas: Alright, let's move on the D2. *(Chair John Ornellas read the above project description into the record.)* Joe, you want to lead off? And this is just for information only.

Mr. Prutch: I don't have much to say on this except that they are, I guess, growing sod on an agricultural lot to be able to be used on at the Koele golf course. And unfortunately that's really all I have on this so I'll go ahead and just defer to Lynn to present any more information or answer questions.

Mr. Ornellas: Go ahead Lynn.

Ms. McCrory: Okay. Thank you. Lynn McCrory. When the first issue came up, just to give you a background, replacing the grass and the sod area on Koele golf course. When we looked back through the entitlement the water amount would not sustain the grass growing. So we then said what else can we do because we needed to do the replacement. We want to change configuration on some of the holes. There's some lake areas that the water doesn't stay in. We want to change those, remove those, because the water just evaporates even though it is R1 water that is used there.

So the first thing we did was to say, well, we have some ag land, is it possible we can grow a crop, and the crop is sod. So if we were growing sod that we would sell to some else, this is the same premise except we're growing it for ourselves. So what I did was just set through a whole series of things to make sure it was even possible we could do this. So one of the first people I called was Dave Taylor over at the Maui County Board of Water Supply and he promptly told me you're on ag land growing the crop, you can do this. I then called Bill Tam over at Commission on Water Resource Management and talked to him about it, and he said, okay, fine, send me a letter of what you're looking to do. I don't see any issue that you have, but, please take, just send it to me. So the letter I sent to Bill Tam. I then went to one of our attorneys. Took all of the entitlement documents, all the MOAs, that deal with Koele golf course

and asked him to review them to make sure that there was nothing in one of the legal documents of entitlement that said we couldn't do this. No issue, there's, there's nothing. I then went to Munekiyo & Hiraga and said what kind of permits do I need to grow sod on the sod farm, and they had that answer. Then in August I received the letter from Bill Tam requesting further information, and then that was submitted to him. I met with Charley Ice who I understand is very important to this community, and went over my response letter that was going to go in to Bill Tam, and said, do you want anything else on this? Is there anything else that you think is important? So we finished that, and we put the letter in.

So the point of the letters as Bill is looking at it is to keep the Water Use and Development Plan updated. So if there's an item in there that's for agriculture as the line item, we're going to pulling in this particular case which John will then go over and tell you we revised it one more time. The letter says 200,000 gallons per day for a period of time, seasonally adjusted for the winter months when we shouldn't need as much. But it's a way of saying, okay, we're going to pull this from one category listed on the Water Use and Development Plan and use it for growing sod.

As we go forward we'll be doing the same thing with other projects. We'll be doing the same thing in terms if we cease the project. So at all points in time what Bill was looking for was that the Water Use and Development Plan was a living document. So the first letter is in and the information is there. And I'm going to turn it over to John to tell you our latest reiteration after going forward.

Mr. Stubbart: We did have a chance to meet with the LWAC and with the water group on, last week. Lynn came over and we got advice from the members that were attending. My concern was that they had asked for more water to grow sod, and I told them they couldn't have it. They were looking at 400,000 plus gallons per day, and we just, we don't have that available. Even the numbers in the book here. But right now based on our current capacity of the wells are things I look very concerned.

So we cut that down from what our demands our, what my safety margins are that I like to keep. And we were looking at 200,000 gallons a day for them to use for the sod farm on a temporary basis. Since then and I've had discussions with the development team and they indicated that they'd be shutting down portions of the golf course to renovate. And so that water that normally goes up to the golf course would no longer be going up and so that's the R1 water that is used on the golf course now. So if we pipe that water down that would give them the extra water they need to grow the grass as quickly as possible. The longer we draw it out, then the longer they're using my margins, that's our water. But the margins that I have in the well that we currently have in the system.

And then we looked at brackish water. This is . . . (inaudible) . . . and so it's salt tolerant. And we looked at what water we could provide if they needed it on the brackish sources. And currently based on our capacity of the wells, and I really only used two of them rather than the four. I said they could use 150,000 gallons of the brackish water from those sources on a temporary basis. So that they have a total of, from all the three different sources, they have a

potential of 200,000, 400,000, 650,000 gallons a day. This would allow them to grow their grass quickly, get their materials set. That would allow the Koele golf course construction to occur quickly, and then they move on from there.

The infrastructure, the piping that they would have to put in to get the water to the sod farm would all be piping and infrastructure that we would be looking at for future irrigation and agricultural purposes in the Manele and Palawai areas. So the investments in pipelines would be beneficial in the long term for the future ag in those areas. How many miles of pipe? Oh, there's several. They're looking at, in order to this, and that's why I looked at the infrastructure and reuse of the pipe. It's like probably about 12 miles of pipe from the three different areas. And we would, I'm requesting on the upside of the pipe to be available for the future irrigation. So they may only need a six inch pipe. But I mean I do want to look at a bigger pipe for a future investment in the irrigation system. So we're looking at the long term utility corridors and the long term pipeline distribution systems. And so far those developments . . . (inaudible) . . . agreeable to those requests.

Ms. McCrory: So as you can see you'll get a revised letter what we sent to William Tam . . . (inaudible) . . . planning commission. When we have more final numbers as to what's going to come from potable, what's going to come from brackish and what's going to come from R1. Although R1 I don't think they're that concerned about. But we'll put everything in the letter and then you'll be able to see how that is. And then whenever they stop growing it, there will be a subsequent letter that will take that out so it won't show anymore. It will be gone from the Water Use and Development Plan. Thank you.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev.

Ms. Zigmond: John, what is the current allotment in ag for water according to the Water Use and Development Plan?

Mr. Stubbart: There's –

Ms. Zigmond: You don't have them memorized?

Mr. Stubbart: There's a 500,000 allocation for agricultural. And that's specific to the agricultural park which was a question that was asked and – earlier I think, Bev – and so that hasn't been not – there we go. Thank you. So that never got –. It's a reserve but it's never been allocated to a specific location yet. And so that's in our plan. We also have another 42 – we have another 142,000 gallons that is used or planned to be used in the future as agricultural activity was expanding in the Water Use and Development Plan. So as time went on they were, they were allocated additional uses for agricultural activity. Nothing like what we are looking at now, but –. So we had a 120,000 for Miki Basin project. And we had also looked at making up in conservation water that was already being – that was being used, but then through conservation we've been saving water. And so that's practice that we want to continue where we were losing

a lot of water at the Miki Basin and Palawai.

Ms. Zigmond: So let me interrupt you. The current allotment for ag park is the 500,000 plus the 142,000?

Mr. Stubbart: Yes.

Ms. Zigmond: Okay.

Mr. Stubbart: Well, yes. For ag, it's identified as agricultural activities.

Ms. Zigmond: How much is currently being used?

Mr. Stubbart: Well, it's only being used for the farm lots, down on that system. Right off the top of my head, it's not very much. I'd say 1,000. Not, they don't have 10's of 1,000s. It's Alberta's farm and Leroy and in town, right here.

Ms. Zigmond: Is there a meter, or will there be a meter?

Mr. Stubbart: Yes. They will have a meter and they will be paying the going rates.

Ms. Zigmond: And I guess I have a –

Mr. Stubbart: Which is more of . . . (inaudible) . . . water. R1 has a rate. Potable and then the brackish rate.

Ms. McCrory: The other thing is the sequencing in terms of the use will be the R1 brackish, potable, so in that order, that's how it's going to be used.

Mr. Stubbart: Yeah, good point. First in is the R1, second in is brackish, last is potable. And the reverse so potable will be first out. So if they have rain, and they're using less water, then that's the sequence of where they'll be putting water into their system, their irrigation system for the sod.

Ms. Zigmond: I understand that this is just for information only and it's not getting approval, but I was wondering if we would be able to get like maybe semi-annual reports on how much water is being used on that. Is that possible?

Mr. Stubbart: Sure.

Mr. Oshiro: How long is this project going take?

Ms. McCrory: It was three years estimate at the 200,000. But with determining how we can do this much quicker will probably be somewhere just over a year. So you'll have less water used. More water use, but less potable water.

Mr. Ornellas: Go ahead Kelli.

Ms. Gima: I have a question. I just want to clarify something because my understanding is potable water is not used for irrigating the golf course. But because this is being grown on ag land with the intent for the golf course, but because it's grown on ag land, then that's not an issue?

Ms. McCrory: That's correct.

Ms. Gima: Okay.

Ms. McCrory: Because it's considered to be a crop.

Ms. Gima: Okay.

Ms. McCrory: So if we grew the sod and sold it to whoever wanted to grow sod, we would be okay in doing that. It's the same premises.

Ms. Gima: Okay.

Mr. Stubbart: I think key difference is the idea of using the, our ground water, our fresh ground water on a long term basis, years and years and years on the golf course was not what we wanted. In the provisions for the construction of the Koele Golf Course, this is a shorter term project. And, yeah, on the legal side fits, but it's still is in accordance with the rules that we have for the Koele golf course.

Ms. Gima: Yeah, and I just wanted to ask so that's on the record so that people do understand that. Now let's say grow the sod, plant it, and then it dies. So then we start this all back up again, or it won't die?

Ms. McCrory: It, it shouldn't die.

Ms. Gima: It shouldn't die.

Mr. Stubbart:. . . (inaudible) . . .

Ms. Gima: It's on the record. He didn't speak in the mic. Speak in the mic John.

Ms. Zigmond: It sounds like a threat to me.

Ms. McCrory: No. You, you have the R1 water that will then be turned back on to the golf course that will then be irrigating the golf course as it's doing right now. I mean, that's – once you shut the golf course down, all the R1 water becomes available. So we're just going to see this white pipe running down Kaumalapau Road.

Mr. Oshiro: Quick, one more quick question.

Mr. Ornellas: Go ahead.

Mr. Oshiro: Employees up there, they going be pushed down to Manele or they just going be furloughed?

Ms. McCrory: Probably to the sod farm, to work the sod farm.

Mr. Ornellas: Go ahead Joelle.

Ms. McCrory: And there's a number of projects in this town just in terms of land scape.

Ms. Aoki: Was there any research done on the crop success in that particular parcel there located to the former truck station?

Ms. McCrory: I don't know. I honestly don't.

Ms. Aoki: I believe some of the old timers may have some information on that.

Ms. McCrory: Tell me something's buried again.

Ms. Aoki: No, I don't there's anything buried there, but I do know that they didn't, they didn't turn over that field very often and I don't why. But I also do know that my parents never took us to that particular spot to pick pineapple because it wasn't growing very well, so I was just curious.

Mr. Stubbart: I only know that the guys that are in charge of the project have those soil experts and everything to grow the sod, and the proper irrigation. That's a different kind of crop I would expect that they would have the appropriate soil testings to make sure this grows quickly.

Ms. Aoki: I think that's why they ended up dumping all the boulders there, you know, when they went to clear it, there was tons and tons of boulders. Because we, our family leased that land previously and that's what they told us it gave back, the returns on the crops were not very profitable so it became the area where they dumped all the boulders from the plantation in general so just curious.

Ms. McCrory: It just may be the grass needs different things, and the roots don't grow that deep. So it's maybe that – maybe it's just that. I don't know. They spend a fair amount of time trying to decide where they wanted to put it. And they had a couple of locations and they settled on this one.

Mr. Ornellas: Stacie?

Ms. Stacie Koanui Nefalar: I'm not knowledgeable in pipes, but does that mean bigger pipes mean more water?

Mr. Stubbart: Yes. The idea is long term we will be having lots of agricultural. We're back to this idea of sustainability so the object isn't to build homes or to do all the other things, but have sustainability. So now if we're going to have not to import beef, pigs or chickens, then we're going to have agricultural activities to have feed for the pigs, chickens and cattle. And we're going to grow our food here, the idea is a sustainable model. So when I look at the investments and looking at the long term, not just this project, but if we're going to make an investment, we need to make an investment into the agricultural system for the long term. So if you're going to bury a pipe, you want to bury one that's going to look at having five or six million gallons going into agricultural activity in the Palawai and Miki Basin.

Ms. Koanui Nefalar: And just a comment that just because it's ag land and you can use potable water doesn't mean you should or you need to.

Ms. McCrory: And that's why when we looked at it and realized it's not going to be enough we have to look at other alternatives and then came up with the three. So you're going to have R1 water used first, and then brackish water will be used, and then potable water. So it's the least amount. And if they don't need to use it, they're not going to use it.

Mr. Ornellas: Thank you. Any members in the audience want to weight in this subject? Please come up. State your name and who you're married to.

Ms. Sally Kaye: Sally Kaye, a Lana'i resident. I just wanted to tell this group that the meeting between Pūlama and there are only two members available. In fact John should be giving this presentation tonight because he is in fact the, the LWAC representative, but he couldn't attend. And, and, and the presentation went very well. I think we asked good questions. This is now the second time that, that the company in various iterations has used LWAC as we always hoped it would be which is kind of a dress rehearsal. Here's what we think we want to do, here's the water impact, and then we ask questions back and then there's a better, more intelligent conversation when they get to you. Bev will probably remember. I don't know if anyone else does that the first time this occurred was when they wanted, Castle & Cooke, wanted a second pool at Manele, and everyone went crazy. What? A second pool. And so we asked their consultants to come, and there was a net water gain because if you take that much grass out of irrigation and just put it in a pool which is not always being filled. So I will tell you that, and I'm the reason I'm up here today, it works, LWAC functioned very well, it was a productive conversation. But they forgot to tell you the most important thing. And that is at the end of the day the golf course will use 10 to 20 % less water. And there you have a significant water gain. So any questions?

Mr. Ornellas: Any, any questions for Sally? Thank you Sally.

Ms. Kaye: I would defer to Butch if he wants to say anything more about the organization.

Mr. Ornellas: Thank you Sally. Any more questions for the, for the company? I have just a few and then I'll hurry this up. I need to know what's your definition of agriculture is. Is pine trees considered agriculture? Is the stables considered agriculture? So I need -. I mean, we don't

know, right now, today, we don't know how much water is actually being used for agriculture here on this island. Because first of all we don't have meters all over the place.

Mr. Stubbart: Yeah we do.

Mr. Ornellas: We have meters? So we know exactly how much water we're using for agriculture? And then your definition of agriculture comes into play.

Mr. Stubbart: We have meters on all known water users. So . . . (inaudible) . . . farm, our nursery out here, the nursery down the hill, the farm lots over the community farm, all that, those activities are all metered and I could compile them and give you some information.

Mr. Ornellas: Okay. So you, you, so you can tell us how water is being used for the drip irrigation system for the pine trees along Kamalapau Highway?

Mr. Stubbart: Yes. They are on a meter.

Mr. Ornellas: Okay.

Mr. Stubbart: If you consider that agriculture.

Mr. Ornellas: That's my first question. What do you consider agriculture since we're using that term very loosely. We don't know what, what your definition of agriculture is.

Mr. Stubbart: I don't know what it would be in the –

Mr. Hirano: I would say that the trees that are being grown, that are growing on the highways are landscaping not agriculture. I mean, that's one sort of distinction.

Mr. Ornellas: Okay.

Ms. McCrory: I would think I would agree with that. If you just look around town and say if you're watering anything in town it would be the same basis.

Mr. Ornellas: Alright, the reason why I'm asking this is because we had these discussions a few years ago I was told that those trees were considered, were under the classification of agriculture as, as, as well as the stables. So, so, that's the reason why I asked the question about what is your def – what is Pūlama's definition of agriculture. You've got two weeks. Just teasing. I'm just teasing. And so, you can, can you provide that information to LWAC as far as how much – at the next LWAC meeting, how much water is being used based on, based on what you guys come up with? Alright, great. Thank you. And you use the term "they're" so are you distinguishing yourself as a water, as a utilities director from –? I mean, is that what you're – when you use the word "they're?" You know, they're the ones who gotta do this, and they're the ones that gotta do that.

Mr. Stubbart: Yes. We're a PUC regulated entity and for two of the, the potable water, Lana'i Water Company, and for the brackish. And so they are approaching us as a customer, and so I have to look at the resources and the capability. And that's why I denied their request early on – and yes, I'm still here – but, continue to work with him on how to go about doing that. And they came back with alternate suggestions and then we came to a conclusion. So, yes, I am speaking to you guys as I'm sitting here as the utility director.

Mr. Ornellas: Okay, great. Thank you very much for that clarification. Desal, you expect to get that up and running within the next couple of years. So as soon as the desal is up and running, will you be removing our potable water and that brackish water and all that stuff from, and use strictly the desal water for the sod farm or any other? I mean, because you guys presented that all agriculture is gonna be done, most agriculture is gonna be done with desal water. So you guys will take this, once it's up and running, you guys will then use that water.

Mr. Stubbart: We'll be moving about 1.2 million gallons a day up to the Palawai area. For what purpose it will be for? It has to be determined. But it's agricultural purposes. The sod farm in its existence at that time, I don't know if it will be there at all.

Mr. Ornellas: If it is, you will make that, that connection?

Mr. Stubbart: I would probably, yeah, I'll have the pump running from that area with the pumps in place, so we would expect that to happen.

Mr. Ornellas: Okay.

Mr. Stubbart: But what it does free us is the water that was going down there to Manele will now be available as a resource for the higher level activities. The Palawai all the way through town.

Mr. Ornellas: Alright. Okay. And then how old is this map?

Mr. Stubbart: . . . (inaudible) . . .

Mr. Ornellas: L-15. Yeah, they did. Okay. Can you update it and then can –? Can you get us the planning commission, one of those, a big size, so I can put it with the rest of our maps that I've collected over the years? That way when we talk about water and wells we can pull out that map and –. Okay, thank you. And that's all I have. Anybody else have any more questions for the company? Okay.

Ms. Gima: I just a quick question. When we know that – well, we didn't know – but when the meeting is going to be done at 8:30, can we request to start a little bit earlier so we're not having to jam pack everything into two and half hours instead of three hours.

Mr. Ornellas: Okay. Can – let the department –. Can we start, can we start earlier like at five o'clock instead of six forever?

Mr. Yoshida: If the members can commit to being here at five.

Ms. Gima: I think five thirty would be –

Mr. Ornellas: Alright any objections to five thirty? Starting the meetings at five-thirty? Okay, hearing none, can we, can you guys, Leilani? Clayton, can you add that to the –? So we'll start –? I mean, James, are we gonna interrupt any important stuff at five-thirty if you come half hour early? No? You okay?

Mr. Giroux: As long as it's agreed to by the committee and as long as it's posted, that's fine. And I think we haven't had any problems getting here, by five-thirty, I mean, as far as staff flying in.

Mr. Ornellas: Alright, so hearing no objections, the next meeting will start at five-thirty. Next week –. Two weeks. You have one week for sunshine law, so agendas gotta be posted one week. Okay, so five-thirty it is for the next meeting on the 16th. Okay, and then, yes sir?

3. Discussion on amending the Special Management Area Rules as suggested by the Chair

Action and/or direction on any specific proposals will be taken at a subsequent meeting after those proposals have been agendized.

E. DIRECTOR'S REPORT

1. Commissioners' Reports on the 2013 Hawaii Congress of Planning Officials (HCPO) Conference conducted on September 18-20, 2013 in Kona, Big Island

2. 2014 Regular Meeting Schedule

The Commission may choose to approve or amend the meeting schedule.

3. Open Lana'i Applications Report

4. Agenda Items for the October 16, 2013 Lana'i Planning Commission meeting

Mr. Yoshida: I guess as we are approaching the 8:30 limit, maybe if we could just deal with items two and four for now, and defer the rest till the next meeting on 16th. Item two is a proposed meeting schedule. I'm sorry, if that's okay with the members. Is that okay with the members?

Mr. Ornellas: Yes, go ahead.

Mr. Yoshida: Item two is our meeting schedule.

Ms. Zigmond: Clayton? Clayton, I have a quick question, please, on the, on the schedule. It looks like the third Wednesday of the month, and that's fine. But a question is when we start having the community plan come before us aren't we going to have to meet more often?

Mr. Yoshida: Okay, that, that will be item four.

Ms. Zigmond: Sorry.

Mr. Yoshida: Okay, item two is, so Leilani can start talking to the Housing and Human Concerns people here about reserving this meeting room on specific dates for 2014. So is the proposed meeting schedule, regular meeting schedule okay? Okay, so moving on to item four. For the next agenda, now that the Lana'i CPAC had their last meeting on September 25th on the community plan update, the ball is going to be transferred to this body. I think it will be best for people from Long Range Planning to meet with this body at a meeting and come to some general consensus as to how they're going to approach the community plan update. Again, if you look at the application, open application report, we are getting quite a few applications from Pūlama, you know, that we need to process, including the desal plant.

So, the next meeting, you know, meet with Long Range, and talk about the scheduling for the community plan update by the commission. And the items that we deferred from today's – the rest of the deferred from today's meeting.

Mr. Ornellas: Okay, so, so for the next meeting, adding to the agenda would be E1.

Mr. Yoshida: . . . (inaudible) . . .

Mr. Ornellas: Yes. Go ahead Joelle. Okay, so –

Mr. Yoshida: Yeah, again, we apologize to the member for the packets. It's just our county postal meter broke down. And Leilani did e-mail those reports to you last week, so they were done, but Leilani dropped them off on Wednesday afternoon, and when she went back to the mail room on Friday afternoon the packets were still in the mail room. So on Saturday, Leilani took the packets to the post office to mail, but it's – it's just one of those occurrences with our county's postal meter.

Ms. Zigmond: And if I can just put on the record, Leilani, please, that was not anything at all about you because we know you work very hard. Now we're hearing that you worked on Saturday and we really do appreciate all of your efforts. So and in reviewing my past materials, I noticed, I think it was about this time, eight years ago you started in here, yeah? So thank you for sticking it out because it can't be an easy job. Thank you.

Mr. Ornellas: Joelle?

Ms. Aoki: So yes, I think we got it covered on the new agenda item. I was going to request – and again this isn't directed at you, Leilani, or anyone knowing that there was a malfunction in your mail room. But maybe in the future to avoid long drawn out meetings with a lack of information prior to the meeting, should this occur again, maybe we may want to consider, which I saw in our e-mail, the postponement of the meeting if the packets get here on the day of or the day before, for majority, because that would not be appropriate to have a meeting and have everyone's time consumed that way without, with the lack of information, moving forward into this review of the CPAC plan. Just in the case that if there's a storm, we're approaching winter, we know how it goes right?

F. NEXT REGULAR MEETING DATE: OCTOBER 16, 2013

Mr. Ornellas: Okay. Thank you. Alright, we have, we have already a start for our, our agenda for the 16th. Anybody else that have agenda items please, please send them off to –. That will be on the next agenda. That was item number D3. So we will discuss rule changes to the SMA, Lana'i SMA. So, any other questions? Any thing else from anybody? Yes, Bev? You're okay. Alright. Shelly, I haven't heard –. Oh, Shelly left. She escaped. Alright, so let's adjourn this meeting. Any objections to adjournment? I guess not. Thank you very much for all coming. Aloha.

G. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:30 p.m.

Respectively submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

PRESENT:

Joelle Aoki
Shelly Barfield
Kelli Gima
Stacie Koanui Nefalar
Stuart Marlowe
John Ornellas
Bradford Oshiro
Beverly Zigmond

ABSENT:

Priscilla Felipe

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Planning Division
Joseph Prutch, Staff Planner
James Giroux, Deputy Corporation Counsel, Department of Corporation Counsel